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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for  
Denial of License Application:

VICHAI KEVIN YANG

Respondent.

BGC Case No. BGC-HQ2014-00006SL  
CGCC Case No. CGCC-2014-0306-8B

**DECISION AND ORDER**

Hearing Date: June 23, 2015  
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060(b), in Sacramento, California, on June 23, 2015.

Ronald Diedrich, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Vichai Kevin Yang (Yang) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (1) Copies of the Statement of Reasons; Statement to Respondent; Business and Professions Code sections 19870 and 19871; CCR section 12050; October 23, 2014 Certificates of Service by Certified Mail Service, Receipt for Certified Mail, and signed Domestic Return Receipts; and Completed Notice of Defense, Bates Nos. 001-024;
- (2) Copies of the following Notices from the Commission: (a) March 24, 2015 Notice of Hearing and Prehearing Conference, with Attachments A and B, and Proof of Service; (b) May 6, 2015 Conclusion of Prehearing Conference; and (c) June 11, 2015 email from Pamela Mathauser to Ronald

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Diedrich regarding phone call from Vichai Kevin Yang, Bates Nos. 025-047;

- (3) Copy of the June 15-16, 2015 email correspondence among Seng Yang of the Merced Poker Room, Joy Calkin and Jeanine Velasquez of the Bureau of Gambling Control, and Ronald Diedrich, regarding Vichai Kevin Yang's employment at the Merced Poker Room, Bates No. 048;
- (4) Copies of the December 26, 2012 Application for Initial Regular Work Permit/Temporary Work Permit; Work Permit Questionnaire; Authorization to Release Information; Request for Live Scan Service; copy of driver's license; and Certificate of Naturalization, Bates Nos. 049-056;
- (5) Copies of the Unofficial Transcripts of the Commission's: (a) October 10, 2013 meeting; and (b) March 6, 2014 meeting, Bates Nos. 057-067;
- (6) Copy of the June 6, 2013 Lawweb Message Response identifying that Vichai Kevin Yang is also known as Kai Khu Yang, as well as his 2010 conviction in the case of *People v. Yang* (Super. Ct. Sacramento County, 2009, No. 2009228963) that also resulted in a Failure to Appear, Bates Nos. 068-070;
- (7) Copy of the Sacramento County Superior Court records regarding Vichai Kevin Yang's 2010 conviction for violating Vehicle Code section 21453, subdivision (a), failure to stop at red signal before entering the crosswalk, an infraction, in the case of *People v. Yang* (Super. Ct. Sacramento County, 2009, No. 2009228963) that also resulted in a Failure to Appear, Bates Nos. 071-076;
- (8) Copy of the Colusa County Sheriffs Department's incarceration records for Inmate #1510002642, Kai Khu Yang (a.k.a. Vichai Kevin Yang), in the case of *People v. Yang* (Super. Ct. Colusa County, 2001, No. CR40705), Bates Nos. 077-078;

- 1 (9) Copy of the Colusa County Sheriffs Department's Report, Case No.  
2 CCSO2001000531, regarding the arrest in 2001 of Kai Khu Yang (a.k.a.  
3 Vichai Kevin Yang) for violating Penal Code section 148, in the case of  
4 *People v. Yang* (Super. Ct. Colusa County, 2001, No. CR40705), Bates  
5 Nos. 079-080;
- 6 (10) Copy of the October 22, 2013 memorandum from Special Agent Stephanie  
7 Gomez to Special Agent in Charge James Parker regarding the  
8 circumstances that lead to the arrest in 2001 of Kai Khu Yang (a.k.a.  
9 Vichai Kevin Yang) for violating Penal Code section 148, in the case of  
10 *People v. Yang* (Super. Ct. Colusa County, 2001, No. CR40705), Bates No.  
11 081;
- 12 (11) Copy of the Bureau of Gambling Control Telephone Log regarding call to  
13 Colusa County Superior Court regarding the 2001 case of *People v. Yang*  
14 (Super. Ct. Colusa County, 2001, No. CR40705), Bates No. 082; and
- 15 (12) Copies of Vichai Kevin Yang's August 28, 2013 and October 8, 2013  
16 statements regarding the circumstances that lead to his arrest in 2001 for  
17 violating Penal Code section 148, in the case of *People v. Yang* (Super. Ct.  
18 Colusa County, 2001, No. CR40705), Bates Nos. 083-085.

19 The matter was submitted on June 23, 2015.

#### 20 FINDINGS OF FACT

- 21 1. On or about December 26, 2012, Yang filed an Application for Initial Regular Work  
22 Permit/Temporary Work Permit (Application) to the Commission.
- 23 2. On or about December 28, 2012, the Commission granted Yang a Temporary Work  
24 Permit.
- 25 3. At its October 10, 2013 meeting, the Commission requested that the Bureau try to  
26 obtain more information regarding Yang's background prior to making a determination on  
27 Yang's Application.
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1           4. On or about January 27, 2014, the Bureau submitted a Work Permit Employee  
2 Background Investigation Report to the Commission, recommending the denial of Yang's  
3 Application.

4           5. At its March 6, 2014 meeting, the Commission voted to send the matter of Yang's  
5 Application to an evidentiary hearing.

6           6. On or about March 6, 2014, the Executive Director of the Commission set the matter  
7 for an administrative hearing to be conducted pursuant to Business and Professions Code sections  
8 19870 and 19871 and CCR section 12050(b)(2).

9           7. On or about January 15, 2015, the Bureau filed a Statement of Reasons with the  
10 Commission, recommending the denial of Yang's Application.

11           8. On or about February 9, 2015, the Bureau served the Statement of Reasons on Yang  
12 via certified mail.

13           9. On or about February 27, 2015, Yang submitted a Notice of Defense to the  
14 Commission and the Bureau requesting an evidentiary hearing.

15           10. On or about March 25, 2015, the Commission served a Notice of Hearing and  
16 Prehearing Conference on Yang and the Bureau.

17           11. On or about May 5, 2015, the noticed Prehearing Conference was held before  
18 Presiding Officer Jason Pope, Attorney III of the Commission. Ronald Diedrich, Deputy Attorney  
19 General, attended on behalf of the Bureau. Yang attended without representation.

20           12. On or about May 6, 2015, the Commission served a Conclusion of Prehearing  
21 Conference letter on Yang and the Bureau.

22           13. On or about June 11, 2015, Yang informed Pamela Mathauser, Senior Legal Analyst  
23 with the Commission, that he will not be participating in the evidentiary hearing scheduled for  
24 June 23, 2015.

25           14. The Commission heard Case No. CGCC-2014-0306-8B on June 23, 2015. The  
26 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General  
27 Ronald Diedrich. Yang failed to appear throughout the pendency of the hearing.

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1           15. It is a waste of government time and resources when an applicant requests an  
2 evidentiary hearing, submits a Notice of Defense, and then fails to attend the hearing.

3           16. The failure of an applicant to attend the hearing on his or her application may affect  
4 the applicant's ability to apply for and/or receive a work permit, registration or license from the  
5 Commission and/or from other jurisdictions.

6           17. On or about May 22, 2001, Yang was convicted of violating Penal Code section  
7 148(a)(1), resisting, delaying or obstructing an officer, a misdemeanor, in the case of *People v.*  
8 *Yang* (Super. Ct. Colusa County, 2001, No. CR40705). Yang was sentenced to 12 months'  
9 probation, and ordered to attend a work program and pay a fine.

10           18. Yang's criminal conviction for resisting, delaying or obstructing an officer is a serious  
11 crime that reflects poorly on his character and integrity.

12           19. On or about April 25, 2001, Reporting and Arresting Officer William Salata  
13 completed a Colusa County Sheriffs Department Domestic Violence report. The short synopsis  
14 of the report provides that "Suspect [Yang] refused repeated orders to stand back, suspect [Yang]  
15 repeatedly attempted to grab his wife, and resisted arrest." The Colusa County Sheriffs  
16 Department Domestic Violence report is a reliable and accurate record regarding the  
17 circumstances surrounding Yang's arrest for violating Penal Code section 148(a)(1).

18           20. On or about October 8, 2013, Yang submitted a written statement to the Bureau  
19 explaining the circumstances surrounding the April 25, 2001 incident that led to his May 22, 2001  
20 conviction as follows:

21           Yang's wife was having an affair with a male co-worker. When Yang got home,  
22           sometime between 12:00 a.m. and 2:00 a.m., the male co-worker hid in the bathroom.  
23           Yang's wife and the male co-worker acted as though they did not know each other. Yang  
24           called the police. The police officer arrived and let Yang's wife's male co-worker leave  
25           without preparing a report. Yang requested that the police officer prepare a report. The  
26           police officer denied the request. Yang "got mad" and told the police officer to leave.  
27           The police officer then arrested Yang.

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1           21. On or about October 10, 2013, during a Commission meeting, Yang appeared and  
2 spoke during the Commission's consideration of his Application as follows:

3           Yang's wife threatened to leave, but since Yang only has one car, he could not let her  
4 leave. She tried to get her purse and walk away but Yang tried to block her once. While  
5 the police officer was talking, Yang's wife grabbed the key and ran outside. Yang  
6 believed that she was going to drive the car. Yang tried to stop his wife from taking the  
7 car. Yang followed her outside and was not listening to the police officer. Yang's wife  
8 went back into the house and the police officer arrested Yang for following his wife. Yang  
9 never hit the police officer.

10           22. On or about October 22, 2013, Stephanie Gomez, Special Agent of the Bureau,  
11 prepared a Memorandum to James Parker, Special Agent in Charge of the Bureau, regarding her  
12 investigation into the details surrounding the April 25, 2001 arrest of Yang. The Memorandum  
13 provides as follows:

- 14           (i)       Stephanie Gomez spoke with the arresting officer, William Salata, on October 21,  
15                   2013. Deputy Salata specifically recalled his encounter and arrest with Yang.  
16                   According to Deputy Salata, he responded to a domestic violence call at the Twin  
17                   Palms Trailer Park #5 by himself, in the middle of the night. Upon his arrival,  
18                   Deputy Salata found Yang attempting to attack a woman inside the trailer. Deputy  
19                   Salata provided specific commands to Yang, who was disobedient and  
20                   uncooperative. Deputy Salata put himself between Yang and the woman, and  
21                   ended up being physically attacked by Yang.
- 22           (ii)       Deputy Salata and Yang wrestled for a long time inside the trailer, during which  
23                   Yang continued to disobey commands given by Deputy Salata. Deputy Salata  
24                   recalled that he had to practically pull Yang's arm out of his shoulder in order to  
25                   restrain and arrest him. Deputy Salata referred to Yang as a dangerous person. He  
26                   subsequently arrested and booked Yang into the Colusa County jail for violation of  
27                   Penal Code section 148(a), obstructing and restricting a public officer.

1           23. Deputy Salata's recollection of the details surrounding the April 25, 2001 arrest of  
2 Yang appears credible and reliable.

3           24. Yang's written statement to the Bureau is brief and omits many of the details he  
4 provided in his oral statement to the Commission. His written statement to the Bureau lacks  
5 completeness and demonstrates a lack of candor, which reflects poorly on his character, honesty  
6 and integrity.

7           25. Yang's account of the circumstances surrounding his April 25, 2001 arrest in his  
8 written statement to the Bureau and oral statement to the Commission demonstrates a lack of  
9 accountability for his actions in the domestic incident and his resisting arrest, which reflects  
10 poorly on his character and integrity.

11           26. Yang's written statement to the Bureau and his oral statement to the Commission  
12 are materially different and contradictory. In his written statement to the Bureau, Yang wrote that  
13 he was arrested after "getting mad" and telling the police officer to leave. In his oral statement to  
14 the Commission, Yang states that he was arrested for following his wife after he tried to prevent  
15 her from leaving. Yang's conflicting statements to the Bureau and the Commission demonstrate a  
16 lack of honesty, which reflects poorly on his character, honesty and integrity.

17           27. Yang's oral statement to the Commission and the synopsis in the Colusa County  
18 Sheriff's Department Domestic Violence report are materially different and contradictory. In his  
19 oral statement to the Commission, Yang states that he followed his wife and tried to block her  
20 from leaving once. In the Colusa County Sheriff's Department Domestic Violence report, Deputy  
21 Salata wrote that "suspect [Yang] repeatedly attempted to grab his wife." As a result, Yang's oral  
22 statement to the Commission is misleading and dishonest, which reflects poorly on his character,  
23 honesty and integrity.

24           28. Yang's oral statement to the Commission and Deputy Salata's recollection of the  
25 incident are materially different and contradictory. In his oral statement to the Commission,  
26 Yang states that he tried to block his wife once from taking the car and that he never hit the police  
27 officer. Deputy Salata states that Yang was attempting to attack a woman inside the trailer; that  
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1 he intervened; that he was physically attacked by Yang; that he and Yang wrestled for a long time  
2 inside the trailer; and that he had to practically pull Yang's arm out of his shoulder in order to  
3 restrain and arrest him. As a result, Yang's oral statement to the Commission is misleading and  
4 dishonest, which reflects poorly on his character, honesty and integrity.

5 29. Failing to attend the hearing, Yang did not present or submit any information or  
6 evidence in favor of granting his Application.

7 30. All documentary evidence submitted by the parties that is not specifically addressed in  
8 this Decision and Order was considered but not used by the Commission in making its  
9 determination on Yang's Application.

10 31. The matter was submitted for Commission consideration on June 23, 2015.

#### 11 LEGAL CONCLUSIONS

12 32. Division 1.5 of the Business and Professions Code, the provisions of which govern the  
13 denial of licenses on various grounds, does not apply to licensure decisions made by the  
14 Commission under the Gambling Control Act. Business and Professions Code section 476(a).

15 33. Public trust and confidence can only be maintained by strict and comprehensive  
16 regulation of all persons, locations, practices, associations, and activities related to the operation  
17 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
18 equipment. Business and Professions Code section 19801(h).

19 34. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
20 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or  
21 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

22 35. The Commission has the responsibility of assuring that licenses, approvals, and  
23 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
24 operations are conducted in a manner that is inimical to the public health, safety, or welfare.  
25 Business and Professions Code section 19823(a)(1).

26 36. An "unqualified person" means a person who is found to be unqualified pursuant to  
27 the criteria set forth in Section 19857. Business and Professions Code section 19823(b).

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1           37. The Commission has the power to deny any application for a license, permit, or  
2 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
3 section 19824(b).

4           38. The burden of proving his or her qualifications to receive any license from the  
5 Commission is on the applicant. Business and Professions Code section 19856(a).

6           39. An application to receive a license constitutes a request for a determination of the  
7 applicant's general character, integrity, and ability to participate in, engage in, or be associated  
8 with, controlled gambling. Business and Professions Code section 19856(b).

9           40. In reviewing an application for any license, the Commission shall consider whether  
10 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the  
11 license will undermine public trust that the gambling operations with respect to which the license  
12 would be issued are free from criminal and dishonest elements and would be conducted honestly.  
13 Business and Professions Code section 19856(c).

14           41. No gambling license shall be issued unless, based on all of the information and  
15 documents submitted, the commission is satisfied that the applicant is a person of good character,  
16 honesty, and integrity. Business and Professions Code section 19857(a).

17           42. The department may object to the issuance of a work permit by a city, county, or city  
18 and county for any cause deemed reasonable by the department, and if the department objects to  
19 issuance of a work permit, the work permit shall be denied. Business and Professions Code  
20 section 19912(c).

21           43. Application for a work permit for use in any jurisdiction where a locally issued work  
22 permit is not required by the licensing authority of a city, county, or city and county shall be  
23 made to the department, and may be granted or denied for any cause deemed reasonable by the  
24 commission. Business and Professions Code section 19912(d).

25           44. An application for a work permit shall be denied by the Commission if the applicant is  
26 found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of Business and  
27 Professions Code section 19857. CCR section 12105(a)(2).

28

1 45. The criteria set forth in CCR section 12105 shall constitute grounds for objection to  
2 the issuance of a work permit by a city, county, or city and county pursuant to Business and  
3 Professions Code section 19912. CCR section 12105(d).

4 46. Upon issuance of a denial of a regular work permit by the Commission, the temporary  
5 work permit previously issued shall become void and shall not be used thereafter. CCR section  
6 12120(b).

7 47. Yang has not met his burden of proving that he is a person of good character,  
8 honesty, and integrity. Therefore, Yang is unqualified for the issuance of a work permit pursuant  
9 to Business and Professions Code section 19857(a) and CCR section 12105(a)(2).

10 48. Yang did not attend the administrative hearing, or submit any information or evidence  
11 in favor of granting his Application. As a result, Yang did not meet his burden of demonstrating  
12 why a work permit should be issued pursuant to Business and Professions Code section 19856(a)  
13 and CCR section 12060(i).

14 49. Sufficient cause exists in this matter for the Bureau to object to the issuance of a work  
15 permit to Yang by a city, county, or city and county pursuant to Business and Professions Code  
16 section 19912(c).

#### 17 NOTICE OF APPLICANT'S APPEAL RIGHTS

18 Yang has the following appeal rights available under state law:

19 CCR section 12064, subsections (a) and (b) provide, in part:

20 An applicant denied a license, permit, registration, or finding of suitability, or whose  
21 license, permit, registration, or finding of suitability has had conditions, restrictions,  
22 or limitations imposed upon it, may request reconsideration by the Commission  
23 within 30 calendar days of service of the decision, or before the effective date  
24 specified in the decision, whichever is later. The request shall be made in writing to  
25 the Commission, copied to the Bureau, and shall state the reasons for the request,  
26 which must be based upon either newly discovered evidence or legal authorities that  
27 could not reasonably have been presented before the Commission's issuance of the  
28 decision or at the hearing on the matter, or upon other good cause which the  
Commission may decide, in its sole discretion, merits reconsideration.

Business and Professions Code section 19870, subdivision (e) provides:

A decision of the commission denying a license or approval, or imposing any  
condition or restriction on the grant of a license or approval may be reviewed by  
petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of

1 the Code of Civil Procedure shall not apply to any judicial proceeding described in  
2 the foregoing sentence, and the court may grant the petition only if the court finds  
3 that the action of the commission was arbitrary and capricious, or that the action  
4 exceeded the commission's jurisdiction.

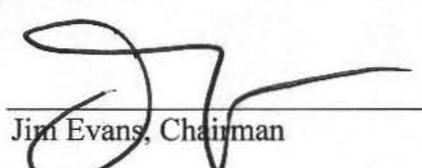
5 CCR section 12066, subsection (c) provides:

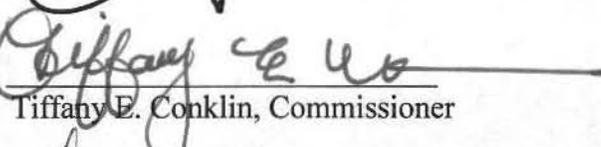
6 A decision of the Commission denying an application or imposing conditions on license  
7 shall be subject to judicial review as provided in Business and Professions Code section  
8 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
9 filing the petition shall be affected by failure to seek reconsideration.

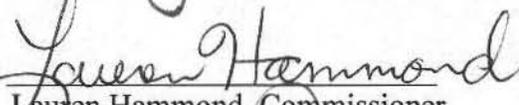
10 ORDER

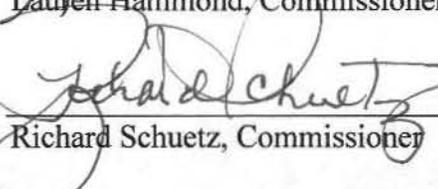
- 11 1. Vichai Kevin Yang's Application for Initial Regular Work Permit is DENIED.<sup>1</sup>  
12 2. Vichai Kevin Yang may not apply to the Commission or Bureau for any type of  
13 license, registration or work permit for one (1) year after the effective date of this Order.  
14 3. No costs are to be awarded.  
15 4. Each side to pay its own attorneys' fees.

16 This Order is effective on August 10, 2015.

17 Dated: July 9 2015 Signature:   
18 Jim Evans, Chairman

19 Dated: July 9, 2015 Signature:   
20 Tiffany E. Conklin, Commissioner

21 Dated: July 9, 2015 Signature:   
22 Lauren Hammond, Commissioner

23 Dated: July 9, 2015 Signature:   
24 Richard Schuetz, Commissioner

25  
26  
27  
28 <sup>1</sup> Pursuant to CCR section 12128(b)(2) the Commission cancelled Yang's temporary work permit.