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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons:

CHRISTOPHER AARON TUCK

Respondent.

BGC Case No. BGC-HQ2014-00017SL
CGCC Case No. CGCC-2014-1120-7C

DECISION AND ORDER

Hearing Date: August 3, 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 August 3, 2015.

Timothy Muscat (Muscat), 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.

John Nejedly (Nejedly) represented respondent Christopher Tuck (Tuck).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Nejedly and Muscat on April 7, 2015.

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 12060; and Certificate of Service by Certified Mail with signed Return Receipt dated May 30, 2015, Bates Nos. 001-018;
- (2) Copy of the Completed Notice of Defense dated March 2, 2015, Bates Nos. 019-020;
- (3) Copies of the California Gambling Control Commission Notice of Hearing

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and Prehearing Conference letter dated April 7, 2015, Bates Nos. 021-032;

(4) Copy of the California Gambling Control Commission Conclusion of Prehearing Conference letter dated July 3, 2015, Bates Nos. 033-034;

(5) Copies of Christopher Tuck's Application for Initial Regular Work Permit/Temporary Work Permit, dated October 22, 2013; and the California Department of Justice, Bureau of Gambling Control (Bureau), Work Permit Employee Background Investigation Report, Level III dated October 14, 2014, Bates Nos. 035-042;

(6) Copy of the police records by the Antioch Police Department regarding Christopher Tuck's arrest on October 13, 2008, Bates Nos. 043-059;

(7) Copies of the court records regarding the criminal complaint filed in the case of *People v. Christopher Tuck* (Super. Ct. Contra Costa County, 2009, No. 04-160685-4) and conviction upon a plea of no contest of a misdemeanor violation of Penal Code section 484-theft, on or about April 20, 2009; Copies of the court records regarding Christopher Tuck's citations, on December 9, 2007, for violating Vehicle Code section 14601.1, driving while driver's license suspended or revoked, an infraction, Vehicle Code section 16028, subdivision (a), failure to provide evidence of financial responsibility, an infraction, and Vehicle Code section 23222, subdivision (a), driving while in possession of an open alcoholic beverage container, an infraction, and his conviction for these infractions in the Contra Costa County Superior Court, Docket No. 2533412; Copies of the court records regarding Christopher Tuck's citations, on August 6, 2010, for violating Vehicle Code section 14601.1, driving while driver's license suspended or revoked, an infraction, and Vehicle Code section 5200, failure to properly display license plate, an infraction, and his conviction for both infractions in the Contra Costa County Superior Court, Docket No.

1 3607959; Copies of the court records regarding Christopher Tuck's
2 citations, on October 21, 2010, for violating Vehicle Code section 14601.1,
3 driving while driver's license suspended or revoked, an infraction, Vehicle
4 Code section 16028, subdivision (a), failure to provide evidence of
5 financial responsibility, an infraction, and Vehicle Code section 5200,
6 failure to properly display a license, an infraction, and his conviction for
7 these infractions in the Contra Costa County Superior Court, Docket No.
8 3703089; Copies of the court records regarding Christopher Tuck's
9 citations, on October 8, 2012, for violating Vehicle Code section 14601.1,
10 driving while driver's license suspended or revoked, an infraction, and
11 Vehicle Code section 4000, subdivision (a), failure to register a vehicle, an
12 infraction, and his conviction for these infractions in the Contra Costa
13 County Superior Court, Docket No. 1901594, Bates Nos. 060-080;

14 (8) Copy of letter from Bureau of Gambling Control to Christopher Tuck,
15 dated April 8, 2014, requesting additional information regarding arrests and
16 convictions, including his theft conviction on April 20, 2009; Copy of e-
17 mail from Bureau of Gambling Control to Christopher Tuck, dated April
18 22, 2014, requesting additional information; Copy of letter and e-mail from
19 Bureau of Gambling Control to Christopher Tuck, dated April 30, 2014,
20 again requesting additional information regarding arrests and convictions;
21 Christopher Tuck's e-mail response to these requests for information from
22 the Bureau, dated April 21, May 5, May 12, and June 5, 2014; Supporting
23 e-mails from Christopher Tuck, Bates Nos. 081-092; and

24 (9) Copy of e-mail from Bureau of Gambling Control to Christopher Tuck,
25 dated July 18, 2014, requesting additional information regarding arrests,
26 convictions, and outstanding court fines, and fine information, Bates Nos.
27 093-110.

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1 The matter was submitted on August 3, 2015.

2 FINDINGS OF FACT

3 1. On or about October 28, 2013, Tuck submitted an Application for Initial Regular
4 Work Permit/Temporary Work Permit (Application) to the Bureau.

5 2. On or about October 30, 2013, the Commission granted Tuck a Temporary Work
6 Permit.

7 3. On or about June 11, 2014, the Commission cancelled Tuck's Temporary Work
8 Permit.

9 4. At its November 20, 2014 meeting, the Commission voted to refer the matter of
10 Tuck's Application to an evidentiary hearing.

11 5. On or about November 21, 2014, the Executive Director of the Commission referred
12 the consideration of Tuck's Application to an evidentiary hearing pursuant to CCR section
13 12050(b)(2).

14 6. On or about March 2, 2015, Tuck submitted a Notice of Defense to the Commission
15 requesting an evidentiary hearing.

16 7. On or about April 7, 2015, the Commission served a Notice of Hearing and Prehearing
17 Conference on Nejedly and Muscat.

18 8. On or about May 28, 2015, the Bureau filed a Statement of Reasons with the
19 Commission and served the Statement of Reasons on Tuck via certified mail and Nejedly via
20 United States mail. In its Statement of Reasons, the Bureau recommends the denial of Tuck's
21 Application.

22 9. On or about June 30, 2015, the noticed Prehearing Conference was held before
23 Presiding Officer Jason Pope, Attorney III of the Commission. Timothy Muscat, Deputy
24 Attorney General, appeared on behalf of the Bureau. John Nejedly appeared on behalf of Tuck.

25 10. On or about July 3, 2015, the Commission served a Conclusion of Prehearing
26 Conference letter on Nejedly and Muscat.

27 11. The Commission heard Case No. CGCC-2014-1120-7C on August 3, 2015. The
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1 Bureau was represented throughout the hearing by Deputy Attorney General Timothy Muscat.
2 Tuck was represented throughout the hearing by John Nejedly.

3 12. On or about February 27, 2008, Tuck was convicted of violating the following in
4 Pittsburg Superior Court, Docket No. 2533412: (1) Vehicle Code section 23222(a), driving while
5 in possession of an open alcoholic beverage container, an infraction; (2) Vehicle Code section
6 16028(a), failure to provide evidence of financial responsibility, an infraction; and (3) Vehicle
7 Code section 14601.1, driving while driver's license suspended or revoked, an infraction. Tuck
8 was ordered to pay a fine.

9 13. On or about April 20, 2009, Tuck was convicted of violating Penal Code section
10 484/488, theft/petty theft, a misdemeanor, in the case of *People v. Christopher A. Tuck* (Super.
11 Ct. Contra Costa County, 2009, No. 04-160685-4). Tuck was sentenced to five days in jail, two
12 years' probation, and ordered to pay a fine and restitution.

13 14. The circumstances surrounding Tuck's April 20, 2009 conviction for theft/petty theft
14 involve his stealing a total of six items of clothing from three stores in a shopping mall on or
15 about October 13, 2008. While at the police station following his arrest, Tuck admitted to
16 stealing the six items of clothing.

17 15. On or about May 14, 2014, Tuck's misdemeanor conviction for violating Penal Code
18 section 484/488, theft/petty theft, was set aside and dismissed pursuant to Penal Code sections 17
19 and 1203.4.

20 16. On or about June 5, 2014, Tuck wrote an e-mail to the Bureau explaining the
21 circumstances surrounding his April 20, 2009 conviction for theft/petty theft. Tuck wrote as
22 follows: "I took my younger cousin to lunch then we went by the mall afterwards a coat was
23 stolen and since I was the one over 18 and brought him there I was hit with the charge. Didn't
24 want my cousin to get into trouble and I didn't think it would have any effect on me later
25 (obviously that isn't the case)."

26 17. Tuck's June 5, 2014 explanation of the circumstances surrounding his April 20, 2009
27 conviction for theft/petty theft is dishonest for the following reasons: (1) Tuck was with a 29 year
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1 old friend, not with his underage cousin that day; (2) Six clothing items were stolen, not one coat;
2 and (3) Tuck was the individual who stole the six items of clothing.

3 18. During this hearing, Tuck admitted that he stole the six items of clothing and that he
4 lied about the circumstances surrounding his April 29, 2009 conviction for theft/petty theft in his
5 June 5, 2014 e-mail to the Bureau. Tuck stated that his reason for lying to the Bureau was
6 because he wanted to keep the job for which he had applied.

7 19. On or about November 22, 2010, Tuck was convicted of the following in Pittsburg
8 Superior Court, Docket No. 3607959: (1) Vehicle Code section 5200, failure to properly display a
9 license plate, an infraction; and (2) Vehicle Code section 14601.1, driving while driver's license
10 suspended or revoked, an infraction. Tuck was ordered to pay a fine.

11 20. On or about April 5, 2011, Tuck was convicted of the following in Pittsburg Superior
12 Court, Docket No. 3703089: (1) Vehicle Code section 5200, failure to properly display a license
13 plate, an infraction; (2) Vehicle Code section 16028(a), failure to provide evidence of financial
14 responsibility, an infraction; and (3) Vehicle Code section 14601.1, driving while driver's license
15 suspended or revoked, an infraction. Tuck was ordered to pay a fine.

16 21. On or about January 30, 2013, Tuck was convicted of the following in Walnut Creek
17 Superior Court, Docket No. 1901594: (1) Vehicle Code section 14601.1, driving while driver's
18 license suspended or revoked, an infraction; and (2) Vehicle Code section 4000(a), failure to
19 register a vehicle, an infraction. Tuck was ordered to pay a fine.

20 22. During the hearing, Tuck testified that he lost his driver's license in 2007, and that he
21 has not had a driver's license since.

22 23. Tuck has been convicted on four occasions from 2008 to 2013 for driving while his
23 driver's license was suspended or revoked. During the hearing, Tuck testified that these
24 convictions were the result of the exercise of poor judgment.

25 24. Tuck was honest and forthcoming in testifying that he had driven without a current
26 driver's license on other occasions without getting caught.

27 25. Tuck's multiple driving convictions, and the occasions where Tuck drove without a
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1 current driver's license without getting caught, demonstrate not only extremely poor judgment,
2 but also a pattern of flagrant disregard for the law and legal authority.

3 26. Tuck submitted three letters in support of his Application.

- 4 a. Brian Klarman, Card Room Manager and Key Employee with the Nineteenth
5 Hole cardroom, states that Tuck worked at the Nineteenth Hole for ten months;
6 that Tuck is ambitious, professional and very good with customers and his
7 peers; and that Tuck is a genuinely good person and employee.
- 8 b. Deputy Sheriff J. Dombrowski states that has known Tuck for over 15 years;
9 that Tuck has good character and impeccable integrity; that Tuck is a hard
10 worker, personable, dedicated, and mature; and that Tuck learns quickly from
11 his mistakes and is a fast learner.
- 12 c. Gerald G. Wilson, Jr., Executive Director of Delta Veterans Group and Tuck's
13 uncle, states that Tuck suffered greatly upon the death of Tuck's older uncle in
14 2007; that Tuck demonstrated his dedication and willingness to help his fellow
15 man while helping build a stage for a local Disabled American Veterans
16 chapter; and that Tuck has served very well as an unpaid volunteer helper to
17 the Executive Director of a non-profit organization called Delta Veterans
18 Group.

19 27. The content of all three letters is favorable toward Tuck's character and in support of
20 his Application. The letters are persuasive that Tuck is hard-working, dedicated and a dependable
21 and valuable employee.

22 28. Given his numerous traffic violations for driving while his driver's license was
23 suspended or revoked, the portion of the letter from Deputy Sheriff J. Dombrowski that Tuck
24 "learns quickly from his mistakes" is not persuasive.

25 29. As a result of his dishonest June 5, 2014 e-mail to the Bureau, Tuck has demonstrated
26 that he is not a person of honesty and integrity.

27 30. Tuck was candid and forthright during the hearing, and appeared remorseful and
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1 genuinely dedicated to making positive changes in his life. However, given the brief amount of
2 time since Tuck's June 5, 2014 dishonest e-mail to the Bureau, and the January 30, 2013
3 convictions for driving while his driver's license was suspended or revoked and failing to register
4 his vehicle, not enough time has passed for Tuck to have demonstrated a sufficient level of
5 rehabilitation from his dishonest and criminal transgressions.

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

9 32. The matter was submitted for Commission consideration on August 3, 2015.

10 LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

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

11 42. Tuck has failed to meet his burden of demonstrating that he is a person of honesty and
12 integrity. Therefore, Tuck is unqualified for the issuance of a work permit pursuant to Business
13 and Professions Code section 19857(a) and CCR section 12105(a)(2).

14 NOTICE OF APPLICANT'S APPEAL RIGHTS

15 Tuck has the following appeal rights available under state law:

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

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

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

24 A decision of the commission denying a license or approval, or imposing any
25 condition or restriction on the grant of a license or approval may be reviewed by
26 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
27 the Code of Civil Procedure shall not apply to any judicial proceeding described in
28 the foregoing sentence, and the court may grant the petition only if the court finds
that the action of the commission was arbitrary and capricious, or that the action
exceeded the commission's jurisdiction.

1 CCR section 12066, subsection (c) provides:

2 A decision of the Commission denying an application or imposing conditions on license
3 shall be subject to judicial review as provided in Business and Professions Code section
4 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
5 filing the petition shall be affected by failure to seek reconsideration.

6 ORDER

7 1. Christopher Aaron Tuck's Application for Initial Regular Work Permit is DENIED.¹

8 2. Christopher Aaron Tuck may not apply to the Commission or Bureau for any type of
9 license, registration or work permit for one (1) year after the effective date of this Order.

10 3. CCR Section 12122(c)(3) shall not prohibit Christopher Aaron Tuck from applying for
11 a temporary work permit following one (1) year after the effective date of this Order.

12 4. CCR Section 12122(c)(3) shall not prevent the Commission from issuing a temporary
13 work permit to Christopher Aaron Tuck at a regularly scheduled Commission meeting following
14 one (1) year after the effective date of this Order.

15 5. No costs are to be awarded.

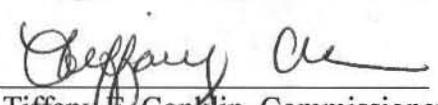
16 6. Each side to pay its own attorneys' fees.

17 This Order is effective on October 1, 2015.

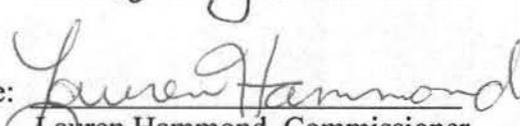
18 Dated: 8/27/15

19 Signature: 
20 Jim Evans, Chairman

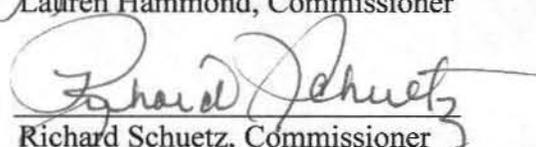
21 Dated: Sept. 1, 2015

22 Signature: 
23 Tiffany E. Conklin, Commissioner

24 Dated: 8/27/15

25 Signature: 
26 Lauren Hammond, Commissioner

27 Dated: Aug. 27, 2015

28 Signature: 
Richard Schuetz, Commissioner

¹ Pursuant to CCR section 12128(b)(2) the Commission cancelled Tuck's temporary work permit.