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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for Denial of Application for Initial Regular Work Permit/Temporary Work Permit Regarding:

KANNITHA PHONN

Respondent.

BGC Case No. BGC-HQ 2015-00012SL
CGCC Case No. CGADS-GEWP-002096

DECISION AND ORDER

Hearing Date: February 17, 2016
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 February 17, 2016.

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.

Kannitha Phonn (Phonn) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) November 2, 2015 Notice of Hearing and Prehearing Conference, with attachments, served by certified mail, return receipt requested;
- (b) December 28, 2015 Statement of Reasons;
- (c) January 7, 2016, letter regarding Conclusion of Prehearing Conference.

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

- (1) Statement of Reasons filed and served by the Bureau;
- (2) Notice of Defense;
- (3) Notices from the Commission: (a) April 27, 2015 Notice of Cancellation of Temporary Work Permit; (b) April, 29, 2015 Referral of Work Permit

1 Application to an Evidentiary Hearing; (c) November 2, 2015, Notice of
2 Hearing and Prehearing Conference, with Attachments A and B; (d)
3 January 7, 2016, Conclusion of Prehearing Conference;

4 (4) Phonn's Application for Initial Regular Work Permit/Temporary Work
5 Permit, executed January 9 and 10, 2014, with Work Permit Questionnaire,
6 California Driver's License, Certificate of Naturalization, and Request for
7 Live Scan Service;

8 (5) Copy of Felony Complaint filed in *The People of the State of California v.*
9 *Kannitha Phonn* (Sacramento Superior Court Case No. 15F00583)
10 ("*People v. Phonn*"), charging Phonn with felony violations of Penal Code
11 section 487, subdivision (a) (Grand Theft), and Penal Code section 503
12 (Embezzlement);

13 (6) Certified Copy of the court records showing criminal case information in
14 *People v. Phonn*, including case disposition on pleas of no contest to
15 felony violations of Penal Code section 487, subdivision (a) (Grand Theft),
16 and Penal Code section 503 (Embezzlement), dated January 6, 2016.

17 The matter was submitted on February 17, 2016.

18 FINDINGS OF FACT

19 1. On or about January 14, 2014, the Bureau received Phonn's Application for
20 Initial/Temporary Work Permit and a Work Permit Questionnaire. Phonn signed the Application
21 for Initial/Temporary Work Permit on January 9, 2014 and the Work Permit Questionnaire on
22 January 10, 2014. Both documents were signed under penalty of perjury.

23 2. On Phonn's Work Permit Questionnaire, he stated that he worked at Capitol Casino
24 from January 2006 to January 2014, and he left Capitol Casino for a "better opportunity."

25 3. On or about August 2, 2014, Capitol Casino notified the Bureau that Phonn was
26 placed on leave due to allegations that he took \$22,000 from his player's account.

27 4. On March 27, 2015, the Bureau notified Phonn of its intention to recommend to the
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1 California Gambling Control Commission that Phonn's Application be denied.

2 5. On April 10, 2015, the Bureau submitted to the Commission a Work Permit Employee
3 Background Investigation Report, Level III, recommending that Phonn's Application be denied.

4 6. On or about April 27, 2015, the Commission's Executive Director notified Phonn that
5 his Temporary work Permit was cancelled pursuant to title 4 of the California Code of
6 Regulations, section 12128, subdivision (b)(2).

7 7. On or about April 29, 2015, the Commission's Executive Director referred
8 consideration of Phonn's Application to an evidentiary hearing pursuant to title 4 of the
9 California Code of Regulations, section 12060, subdivision (a).

10 8. On or about May 7, 2015, Phonn submitted a Notice of Defense to the Commission.

11 9. On or about July 1, 2015, Phonn was convicted on his plea of nolo contendere to two
12 felonies, a violation of Penal Code section 487 subdivision (a) (Grand Theft), and a violation of
13 Penal Code section 503 (Embezzlement), in the *People v. Phonn*. Respondent's two felony
14 convictions are based upon allegations that he stole from Capitol Casino in Sacramento,
15 California, where Phonn was employed as a card dealer during commission of the crimes. Phonn
16 was sentenced to 180 days in jail, five years of probation, and ordered to pay fines and restitution
17 to the owner of the Capitol Casino in the amount of \$22,000.

18 10. The Commission heard Case No. CGADS-GEWP-002096 on February 17, 2016. The
19 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
20 Ronald Diedrich. Phonn failed to appear throughout the pendency of the hearing or make any
21 contact with the Commission or the Bureau.

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

25 12. Failing to attend the hearing, Phonn did not present or submit any information or
26 evidence in favor of granting his Application.

27 13. The matter was submitted for Commission consideration on February 17, 2016.
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1 LEGAL CONCLUSIONS

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

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

9 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
10 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
11 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
12 CCR section 12060(i).

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

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

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

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

27 8. An "unqualified person" means a person who is found to be unqualified pursuant to
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1 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
2 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
3 Professions Code section 19859. Business and Professions Code section 19823(b).

4 9. The Commission has the power to deny any application for a license, permit, or
5 approval for any cause deemed reasonable by the Commission. Business and Professions Code
6 section 19824(b).

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

10 11. No gambling license shall be issued unless, based on all of the information and
11 documents submitted, the commission is satisfied that the applicant is a person whose prior
12 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to
13 the public interest of this state, or to the effective regulation and control of controlled gambling,
14 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
15 in the conduct of controlled gambling or in the carrying on of the business and financial
16 arrangements incidental thereto. Business and Professions Code section 19857(b).

17 12. The Commission shall deny a license to any applicant who is disqualified for
18 conviction of a felony, including a conviction by a federal court or a court in another state for a
19 crime that would constitute a felony if committed in California. Business and Professions Code
20 section 19859(c).

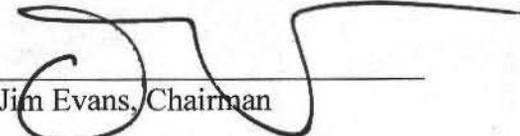
21 13. An application for a work permit shall be denied by the Commission if the applicant
22 meets any of the criteria for mandatory disqualification under Business and Professions Code
23 section 19859 or is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of
24 Business and Professions Code section 19857. Title 4 CCR section 12105(a)(2).

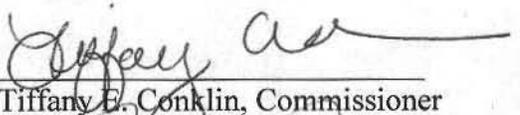
25 14. Phonn was convicted of two felonies. Therefore, Phonn is disqualified from the
26 issuance of a work permit pursuant to Business and Professions Code section 19859(c) and Title 4
27 CCR section 12105(a)(1).
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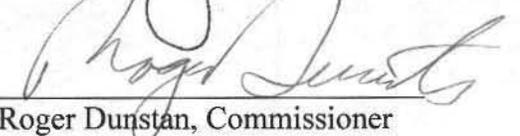
ORDER

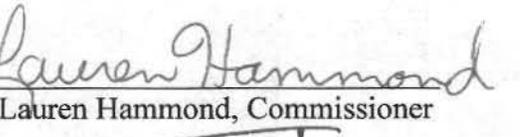
1. Kannitha Phonn's Application for Initial Regular Work Permit is DENIED.
2. Each side to pay its own attorneys' fees.

This Order is effective on 4/11/16.

Dated: 3-10-16 Signature: 
Jim Evans, Chairman

Dated: 3/10/2016 Signature: 
Tiffany E. Conklin, Commissioner

Dated: 3-10-16 Signature: 
Roger Dunstan, Commissioner

Dated: 3-10-16 Signature: 
Lauren Hammond, Commissioner

Dated: 3-10-16 Signature: 
Trang To, Commissioner

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