

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

WILLIAM ANDREW KARR

Respondent.

BGC Case No. BGC-HQ 2015-00017SL  
CGCC Case No. CGADS-GEWP-002142

**DECISION AND ORDER**

Hearing Date: April 26, 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 April 26, 2016.

Neil D. Houston, 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.

William A. Karr (Respondent) represented himself 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 A and B;
- (b) Application for Initial Regular Work Permit;
- (c) Work Permit Employee Background Investigation Report;
- (d) February 24, 2016, letter regarding Conclusion of Prehearing Conference;
- (e) Notice of Defense, dated June 20, 2015;
- (f) January 14, 2016 Statement of Reasons;

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, Bates Nos. 001-020;

- 1 (2) Notice of Defense, dated June 20, 2015, Bates Nos. 021-022;
- 2 (3) Notices from the Commission: (a) June 15, 2015 letter from Katherine Ellis
- 3 providing notice that Respondent's application was referred to an
- 4 evidentiary hearing; (b) November, 2, 2015 Notice of Hearing and
- 5 Prehearing Conference, with Attachments A and B; (c) February 24, 2016,
- 6 Conclusion of Prehearing Conference, Bates Nos. 023-047;
- 7 (4) Respondent's Application for Initial Regular Work Permit, executed April
- 8 1, 2014, Bates Nos. 048-054;
- 9 (5) Applicant's correspondence to Patricia Tajima, providing additional
- 10 background information to the Bureau, Bates Nos. 055-060;
- 11 (6) Work Permit Employee Background Investigation Report, Level III, June
- 12 2015, with attachments A, B, and C, Bates Nos. 061-075;
- 13 (7) Court records Re: *People v. William Andrew Karr*, Merced County
- 14 Superior Court Case No. MF43239, date of citation April 4, 2006, Bates
- 15 Nos. 076-096;
- 16 (8) Court records Re: *People v. William Andrew Karr*, Merced County
- 17 Superior Court Case No. MF44474, date of citation September 9, 2006,
- 18 Bates Nos. 097-119;
- 19 (9) Court records Re: *People v. William Andrew Karr*, Merced County
- 20 Superior Court Case No. MF203879, date of citation April 25, 2005, Bates
- 21 Nos. 120-158; and
- 22 (10) February 12, 2016 Letter to Respondent forwarding Disclosure pursuant to
- 23 California Code of Regulations, Title 4, section 12060, subdivision (e),
- 24 without attachments, Bates Nos. 159-161.

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

- 27 (A) Four Photographs of Respondent's children and twelve character
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1 references by Sai Saechao, Glendell Sutter, Martin Fletcher, Lloyd Ballenger, Jeri Allgood,  
2 Michelle Paskin, Kelly Brown, Daniel Brown, Barbara Showalter, Hayden Gifford Smith, Seth  
3 Larson, and Sara Karr.

4 The matter was submitted on April 26, 2016.

#### 6 FINDINGS OF FACT

7 1. On or about May 5, 2014, the Bureau received Respondent's application for a regular  
8 work permit as a dealer at Poker Flats Casino. On the basis of Respondent's application, the  
9 Commission issued Respondent temporary work permit number GEWP-002142.

10 2. On Respondent's Work Permit Questionnaire, he indicated that he had been convicted  
11 of one misdemeanor within the past 10 years. Respondent disclosed that on September 6, 2006,  
12 he was arrested in Merced, California for driving under the influence. Respondent identified the  
13 disposition of the case as "paying/saving to pay fine balance." Respondent signed the  
14 questionnaire under penalty of perjury on April 1, 2014.

15 3. While Respondent's background investigation was proceeding at the Bureau, the  
16 Commission extended Respondent's temporary work permit to August 24, 2015.

17 4. During its investigation, the Bureau learned that Respondent was convicted of three  
18 misdemeanor offenses, two of which he did not disclose on his application for a regular work  
19 permit.

20 5. On July 20, 2005, Respondent was convicted by the Merced County Superior Court of  
21 violating California Vehicle Code section 23103.5, reckless driving, a misdemeanor (Reckless  
22 Driving Conviction). Respondent was sentenced to 36 months of probation, ordered to pay court  
23 fines, complete 25 hours of community service, and complete a 6 week court appointed program.  
24 Respondent completed the court ordered program on April 17, 2006 and paid the fines in full.  
25 Respondent did not disclose this conviction on his Work Permit Questionnaire.

26 6. On June 28, 2007, Respondent was convicted by the Merced County Superior Court  
27 for violating California Vehicle Code section 23152(A), driving under the influence (DUI  
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1 Conviction), a misdemeanor. Respondent was sentenced to 36 months of probation, and ordered  
2 to pay court fines and serve 45 days in jail. Respondent disclosed this conviction on his Work  
3 Permit Questionnaire.

4 7. On May 8, 2008, Respondent was convicted by the Merced County Superior Court of  
5 violating California Penal Code section 242, battery, a misdemeanor (Battery Conviction).  
6 Respondent was sentenced to 18 months of probation and ordered to pay court fines, complete 50  
7 hours of community service, and attend Anger Management/Substance Abuse Counseling.  
8 Respondent did not disclose this conviction on his work permit questionnaire.

9 8. The Bureau verified with the Merced County Revenue and Reimbursement Unit that  
10 Respondent owed an outstanding balance of \$2,276 for his DUI Conviction and Battery  
11 Conviction and the balance was referred to the Franchise Tax Board for collection. However,  
12 Respondent provided the Bureau with an installment agreement verifying that he setup a payment  
13 plan with the Franchise Tax Board.

14 9. The Bureau completed its background investigation and issued a Work Permit  
15 Employee Background Investigation Report dated June 2015. On the basis of Respondent's  
16 convictions and failure to fully disclose them in his application, the Bureau recommended that the  
17 Commission deny Respondent's application for a regular work permit.

18 10. On June 10, 2015, the Commission, cancelled Respondent's temporary work permit  
19 as required by California Code of Regulations, Title 4, section 12128, Subdivision (b)(2);

20 11. On or about June 15, 2015, the Commission's Executive Director referred  
21 consideration of Respondent's application to an evidentiary hearing pursuant to Title 4 of the  
22 California Code of Regulations, section 12060, Subdivision (a).

23 12. On or about June 20, 2015, Respondent submitted a Notice of Defense to the  
24 Commission.

25 13. The Commission heard Case No. CGADS-GEWP-002142 on April 26, 2016. The  
26 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General Neil  
27 Houston. Respondent William Andrew Karr represented himself.

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1           14. According to the Police Report and court documents offered by the Bureau and  
2 admitted into evidence, Respondent was involved in an accident with a freightliner big rig on  
3 April 25, 2005. Respondent submitted to a breath test and his blood alcohol level was found to be  
4 .10% and .09% from two consecutive tests. This incident resulted in Respondent being convicted  
5 of reckless driving, a misdemeanor, on July 20, 2005.

6           15. Respondent testified that he was twenty years old when the April 2005 accident  
7 occurred. Respondent testified that he was drinking alcohol at a cousin's house before the  
8 accident. Respondent had just found out that his girlfriend (now wife) was pregnant, which led  
9 him to mask his stress with drinking. Respondent testified that the accident occurred when he left  
10 his cousin's house.

11           16. According to the Police Report and court documents offered by the Bureau and  
12 admitted into evidence, Respondent was involved in a verbal altercation with Kendall Rogitz and  
13 Michelle Paskin at his home on April 4, 2006. Respondent was ultimately convicted of battery for  
14 throwing a plastic bottle at Ms. Rogitz<sup>1</sup> on May 8, 2008.

15           17. Respondent testified that he did not disclose his Reckless Driving Conviction because  
16 he mistakenly thought the incident occurred in 2004 and that it was outside of the 10 year period  
17 for disclosure. However, the actual date of the citation was April 25, 2005, the date of conviction  
18 was July 20, 2005, and Respondent signed his Work Permit Questionnaire on April 1, 2014.  
19 Respondent also testified that he completed everything that was required by the court, and  
20 believed the case was closed.

21           18. Respondent testified that he did not disclose his Battery Conviction because he did not  
22 realize that he was convicted of battery until the Bureau told him. Respondent testified that he had  
23 a very good attorney, his attorney told him it was a good disposition, and Respondent accepted it.  
24 Respondent's attorney did not explain to Respondent what the final charges were.

25 \_\_\_\_\_  
26 <sup>1</sup> Ms. Rogitz and Ms. Paskin's statements in the police report alleged that Respondent was  
27 holding his girlfriend hostage and attempted to chase Ms. Rogitz and Ms. Paskin with a knife.  
28 However, all charges related to those allegations were dropped. Further, Respondent testified that  
this information in the police report was incorrect. Additionally, Ms. Paskin provided a letter of  
reference for Respondent.

1           19. Respondent testified that he also did not disclose his Battery Conviction because he  
2 believed that the case was sealed. Respondent testified that it took approximately two years for  
3 his court case to be resolved due to multiple extensions. At the conclusion of the case,  
4 Respondent's understanding was that he had completed all requirements required by the court, he  
5 could set up a payment plan for his fines, and the case was dismissed. Respondent testified that  
6 the judge told him that the case would be sealed and would have no effect on his future job  
7 prospects.

8           20. Respondent testified that he has undergone background checks for two other positions  
9 of employment and neither investigation found that he was convicted of battery, which confirmed  
10 in Respondent's mind that he was not convicted of a misdemeanor in relation to the 2006 incident  
11 with Ms. Rogitz.

12           21. Respondent testified that after his 2007 DUI Conviction, his license was reissued by  
13 the DMV with a condition he make payments toward the fine owed. Thereafter, Respondent  
14 became unemployed and was unable to continue paying the fines. As a result, Respondent's  
15 license was suspended until the fine was paid in full.

16           22. Respondent testified that he recently voluntarily paid the full amount owed on the  
17 fines from his convictions to the Franchise Tax Board after receipt of his tax 2015 refund but was  
18 unable to provide documentation of the payment. Respondent intends to begin the process of  
19 obtaining a valid license.

20           23. Respondent testified that in 2008, after all of his court cases were resolved, he felt  
21 very relieved. Respondent testified that he married his girlfriend, and in approximately 2009, after  
22 the birth of his second child, he quit drinking except for an occasional glass of wine. Respondent  
23 testified that he does not go to bars or hang out with people who drink alcohol. Respondent  
24 testified that in 2011 his third child was born.

25           24. Respondent testified that his life has improved since he stopped drinking. Respondent  
26 testified that he has a good family and many close family members and friends. Respondent  
27 stated that he is very remorseful that he let his family and friends down by his past actions.  
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1           25. Respondent testified that he “turned his life around” and focuses on being a good  
2 father to his three children. Respondent testified that he and his wife are separated, but are living  
3 in the same home until he is able to work again. Respondent testified that he is currently the  
4 primary caregiver for his children.

5           26. During the hearing, Dana Fredrickson testified on Respondent’s behalf. Mr.  
6 Fredrickson testified that he is a patron/player at the Poker Flats Casino and met Respondent  
7 while Respondent was working there. Mr. Fredrickson testified that his kids play with  
8 Respondent’s kids and Respondent is an exceptional dad. Mr. Fredrickson testified that he has  
9 never witnessed Respondent drink alcohol. Mr. Fredrickson described Respondent as being  
10 honest and giving. As an example, Mr. Fredrickson stated that he witnessed Respondent purchase  
11 food for a homeless man, despite Respondent being out of work. Mr. Fredrickson testified that  
12 Respondent appears to love his job and was a very hard worker, which was noticeable to the  
13 patrons.

14           27. Respondent submitted as evidence 12 letters of recommendation, including one from  
15 Michelle Paskin, one of the individuals involved in the 2006 altercation that led to Respondent’s  
16 Battery Conviction. Each letter describes Respondent as a person of good character and model  
17 employee, and recommends the approval of his Application.

18           28. Respondent has had no further incidents with the law since his conviction in 2008.  
19 Respondent has not resumed drinking despite going through a number of stressful events in recent  
20 years, such as losing his Driver’s License, being the primary caregiver for three kids, having  
21 marital problems, and being out of work after his temporary work permit was cancelled.  
22 Respondent appears to have matured considerably since his prior arrests, which occurred when he  
23 was between the age of twenty and twenty two. Respondent is now a responsible parent.

24           29. The testimony of Dana Fredrickson, and the content of the twelve letters of reference  
25 are favorable toward Respondent’s character and in support of his Application. The testimony and  
26 written declaration and letters are persuasive that Respondent is hard-working, dependable and a  
27 valuable employee; and that he is generally honest, trustworthy and has strong integrity.  
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1 regulation of all persons, locations, practices, associations, and activities related to the operation  
2 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
3 equipment. Business and Professions Code section 19801(h).

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

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

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

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

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

22 8. An "unqualified person" means a person who is found to be unqualified pursuant to  
23 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"  
24 means a person who is found to be disqualified pursuant to the criteria set forth in Business and  
25 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

5 11. 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 whose prior  
7 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to  
8 the public interest of this state, or to the effective regulation and control of controlled gambling,  
9 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities  
10 in the conduct of controlled gambling or in the carrying on of the business and financial  
11 arrangements incidental thereto. Business and Professions Code section 19857(b).

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

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

20 14. Respondent met his burden of demonstrating that he is a person of honesty and  
21 integrity. Therefore, Respondent is qualified for the issuance of a work permit pursuant to  
22 Business and Professions Code section 19857 and Title 4 CCR section 12105.

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

24 Respondent William Karr has the following appeal rights available under state law:

25 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

26 An applicant denied a license, permit, registration, or finding of suitability, or whose  
27 license, permit, registration, or finding of suitability has had conditions, restrictions,  
28 or limitations imposed upon it, may request reconsideration by the Commission  
within 30 calendar days of service of the decision, or before the effective date

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specified in the decision, whichever is later. The request shall be made in writing to 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.

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 the Code of Civil Procedure shall not apply to any judicial proceeding described in 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.

Title 4, CCR section 12066, subsection (c) provides:

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

ORDER

1  
2 1. William Karr's Application for Initial Regular Work Permit is APPROVED  
3 subject to the following condition: Within 60 days of this Order, Respondent must provide proof  
4 to the Bureau that he paid the full balance owed to the Franchise Tax Board for his court fines.

5 2. Each side to pay its own attorneys' fees.

6 This Order is effective on 5/24/16.

7 Dated: May 24, 2016

8 Signature: Tiffany E. Conklin  
Tiffany E. Conklin, Commissioner

9 Dated: 5/24/16

10 Signature: Lauren Hammond  
Lauren Hammond, Commissioner

11 Dated: 5/24/16

12 Signature: Trang To  
Trang To, Commissioner

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14  
15 Chairman Evans disagrees with the decision to approve William Karr's Application for Initial  
16 Regular Work Permit.

17 Dated: 5/24/16

18 Signature: Jim Evans  
Jim Evans, Chairman