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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

MARIO REYES

Respondent.

BGC Case No. BGC-HQ2015-00006SL  
CGCC Case No. CGCC-2015-DSWP002169

**DECISION AND ORDER**

Hearing Date: July 14, 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 July 14, 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.

Mario Reyes (Reyes) failed to appear and was not represented at the hearing.

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 Reyes and the Bureau on April 8, 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 April 23, 2015 Certificate of Service by Certified Mail Service, with signed Receipt for Certified Mail, Bates Nos. 001-016;
- (2) Copy of the Notice of Defense, Bates Nos. 017-018;
- (3) Copies of the following Communication/Notices from the Commission: (a) July 15, 2014 Approval of Temporary Work Permit (GEWP-002169),

1 Bates No. 019; (b) October 20, 2014 Extension of Temporary Work Permit  
2 #GEWP-002169 – Mario Reyes, Bates No. 020; (c) November 26, 2014  
3 Cancellation of Temporary Work Permit, Bates No. 021; (d) February 3,  
4 2015 Referral of Initial Work Permit Application to an Evidentiary Hearing  
5 – Mario Reyes, Bates Nos. 022-023; (e) April 8, 2015 Notice of Hearing  
6 and Prehearing Conference, with Attachments A & B, Bates Nos. 024-034;  
7 (f) April 9, 2015 email correspondence, with attachments, between  
8 Stephanie Clark and Patty Brandt, Bates Nos. 035-041; and (g) June 4,  
9 2015 Conclusion of Prehearing Conference, Bates Nos. 042-043;

10 (4) Copies of the July 20, 2014<sup>1</sup> Application for Initial Regular Work  
11 Permit/Temporary Work Permit, dated June 23, 2014, with Work Permit  
12 Questionnaire, copy of California Driver's License, and Request for Live  
13 Scan Service, for Mario Reyes, Bates Nos. 044-049;

14 (5) Certified copy of the court records regarding Mario Reyes' misdemeanor  
15 conviction for violation of Penal Code § 273.5, spousal battery, in the case  
16 of *People v. Reyes* (Super. Ct. Santa Barbara County, 2009, No. 1312812),  
17 Bates Nos. 050-053;

18 (6) Certified copy of the court records regarding the Criminal Protective Order  
19 – Domestic Violence, issued in the case of *People v. Reyes* (Super. Ct.  
20 Santa Barbara County, 2009, No. 1312812), Bates Nos. 054-059; and

21 (7) Certified copy of the (subsequently redacted) Santa Maria Police  
22 Department's records and reports, Case No. 2009R11116, regarding the  
23 incident that gave rise to Mario Reyes' arrest and eventual conviction in  
24 the case of *People v. Reyes* (Super. Ct. Santa Barbara County, 2009, No.  
25 1312812), Bates Nos. 060-069.

26  
27 <sup>1</sup> The July 20, 2014 date, which apparently refers to the date that the Bureau received the Application for  
28 Initial Regular Work Permit/Temporary Work Permit, contains a typographical error. The Application for Initial  
Regular Work Permit/Temporary Work Permit was received by the Commission on July 2, 2014.

1 The matter was submitted on July 14, 2015.

2 FINDINGS OF FACT

3 1. On or about June 23, 2014, Reyes submitted an Application for Initial Regular Work  
4 Permit/Temporary Work Permit and Work Permit Questionnaire (collectively, Application) to the  
5 Commission.

6 2. On or about July 15, 2014, the Commission granted Reyes a Temporary Work  
7 Permit (GEWP-002169).

8 3. On or about October 20, 2014, the Commission granted a 120 day extension of Reyes'  
9 Temporary Work Permit.

10 4. On or about November 26, 2014, the Commission cancelled Reyes' Temporary Work  
11 Permit pursuant to CCR section 12128(b)(2).

12 5. On or about February 3, 2015, the Executive Director of the Commission referred  
13 consideration of Reyes' Application to an evidentiary hearing pursuant to CCR section 12060(a).

14 6. On or about February 18, 2015, Reyes submitted a Notice of Defense to the  
15 Commission requesting an evidentiary hearing.

16 7. On or about April 8, 2015, the Commission served a Notice of Hearing and Prehearing  
17 Conference on Reyes and the Bureau.

18 8. On or about April 23, 2015, the Bureau filed a Statement of Reasons with the  
19 Commission and served the Statement of Reasons on Reyes via certified mail. In its Statement of  
20 Reasons, the Bureau recommends the denial of Reyes' Application.

21 9. On or about June 2, 2015, the noticed Prehearing Conference was held before  
22 Presiding Officer Jason Pope, Attorney III of the Commission. Ronald Diedrich, Deputy Attorney  
23 General, attended on behalf of the Bureau. Reyes did not attend the Prehearing Conference.

24 10. On or about June 4, 2015, the Commission served a Conclusion of Prehearing  
25 Conference letter on Reyes and the Bureau.

26 11. The Commission heard Case No. CGCC-2015-DSWP002169 on July 14, 2015. The  
27 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General  
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1 Ronald Diedrich. Reyes failed to appear throughout the pendency of the hearing.

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

5 13. On or about October 13, 2009, Reyes was convicted of violating Penal Code section  
6 273.5, spousal battery, a misdemeanor, in the case of *People v. Reyes* (Super. Ct. Santa Barbara  
7 County, 2009, No. 1312812). Reyes was sentenced to 3 years' probation, and ordered to attend a  
8 work program, avoid intoxicating liquor, pay a fine, and make a monetary contribution to Shelter  
9 Services for Women.

10 14. Reyes' conviction of violating Penal Code section 273.5, spousal battery, is a  
11 misdemeanor involving moral turpitude.

12 15. Reyes' October 13, 2009 conviction for violating Penal Code section 273.5 is within  
13 the 10-year period immediately preceding the June 23, 2014 submission of his Application.

14 16. Reyes has not been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of  
15 the Penal Code for his October 13, 2009 conviction for violating Penal Code section 273.5.

16 17. Failing to attend the hearing, Reyes did not present or submit any information or  
17 evidence in favor of granting his Application.

18 18. All documentary evidence submitted by the parties that is not specifically addressed in  
19 this Decision and Order was considered but not used by the Commission in making its  
20 determination on Reyes' Application.

21 19. The matter was submitted for Commission consideration on July 14, 2015.

## 22 LEGAL CONCLUSIONS

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

26 21. Public trust and confidence can only be maintained by strict and comprehensive  
27 regulation of all persons, locations, practices, associations, and activities related to the operation  
28

1 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
2 equipment. Business and Professions Code section 19801(h).

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

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

10 24. A “disqualified person” means a person who is found to be disqualified pursuant to  
11 the criteria set forth in Section 19859. Business and Professions Code section 19823(b).

12 25. The Commission has the power to deny any application for a license, permit, or  
13 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
14 section 19824(b).

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

17 27. The Commission shall deny a license to any applicant who is disqualified for  
18 conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within  
19 the 10-year period immediately preceding the submission of the application, unless the applicant  
20 has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.  
21 Business and Professions Code section 19859(d).

22 28. An application for a work permit shall be denied by the Commission if the applicant  
23 meets any of the criteria for mandatory disqualification under Business and Professions Code  
24 section 19859. CCR section 12105(a)(1).

25 29. Reyes has been convicted of a misdemeanor involving moral turpitude within the 10-  
26 year period immediately preceding the submission of his Application, and Reyes has not been  
27 granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. Therefore,  
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1 Reyes is disqualified from the issuance of a work permit pursuant to Business and Professions  
2 Code section 19859(d) and CCR section 12105(a)(1).

3 NOTICE OF APPLICANT'S APPEAL RIGHTS

4 Reyes has the following appeal rights available under state law:

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

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

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

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

24 CCR section 12066, subsection (c) provides:

25 A decision of the Commission denying an application or imposing conditions on license  
26 shall be subject to judicial review as provided in Business and Professions Code section  
27 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
28 filing the petition shall be affected by failure to seek reconsideration.

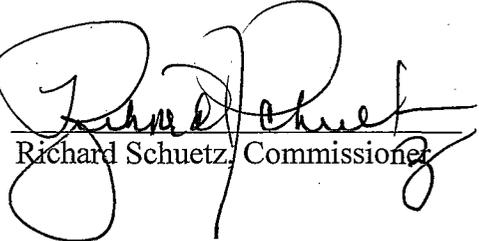
ORDER

1. Mario Reyes' Application for Initial Regular Work Permit is DENIED.<sup>2</sup>
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on August 31, 2015.

6 Dated: July 30, 2015 Signature:   
7 Tiffany E. Conklin, Commissioner

9 Dated: July 30, 2015 Signature:   
10 Lauren Hammond, Commissioner

12 Dated: July 30, 2015 Signature:   
13 Richard Schuetz, Commissioner

<sup>2</sup> Pursuant to CCR section 12128(b)(2) the Commission cancelled Reyes' temporary work permit.