

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for
Denial of Application for a Work Permit:

LIPPINE NOP

Respondent.

BGC Case No. BGC-HQ2016-00005SL
CGCC Case No. CGCC-2016-0526-08-7A

DECISION AND ORDER

Hearing Date: January 18, 2017
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, in Sacramento, California, on January 18, 2017.

Ronald Diedrich (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.

Elijah Zuniga (Zuniga) represented Respondent Lippine Nop (Nop).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Nop, Zuniga, and Diedrich on July 20, 2016.

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

- (1) Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code, §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; August 16, 2016, Certificate of Service by Certified Mail Service, with signed Return Receipt, and Notice of Defense, dated June 6, 2016, Bates Nos. 001-035;
- (2) Notices sent by the Commission:
 - a. January 21, 2016, letter from Executive Director Stacey Luna Baxter

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notifying Lippine Nop that she is ineligible to hold a temporary work permit, Bates No. 036;

- b. May 31, 2016, letter from Deputy Director, Licensing Division, Katherine Ellis, notifying Lippine Nop that the Commission voted to refer consideration of her application to a hearing, Bates Nos. 037-038;
- c. July 20, 2016, Notice of Hearing [and Prehearing Conference], with Attachments A & B, and Proof of Service, Bates Nos. 039-054;
- d. October 4, 2016, Conclusion of Prehearing Conference, Bates Nos. 055-058;

(3) Partial Transcript of the May 26, 2016 Commission meeting as it pertains to Lippine Nop, Bates Nos. 059-065;

(4) The Commission’s December 2, 2014, Decision and Order in the case of *In the Matter of the Statement of Reasons for Denial of Application for a Work Permit: Lippine Nop*, BGC Case No. BGC-HQ2014-00010SL, CGCC Case No. CGCC-2014-0508-7, effective January 2, 2015, Bates Nos. 066-074;

(5) Application for Initial Regular Work Permit/Temporary Work Permit, with attachments, submitted by Lippine Nop to the Bureau on January 12, 2016, which is dated January 7, 2016, Bates Nos. 075-085;

(6) Bureau’s March 2016 Work Permit Employee Background Investigation Report, Level III, for Lippine Nop, Bates Nos. 086-095;

(7) May 13, 2016, letter from Gary Baird, President of Empire Sportsmen’s Association, and May 16, 2016, letter from Srinivas Cherukuri, General Manager of Operations of Empire Sportsmen’s Association, in support of Lippine Nop, Bates Nos. 096-097; and

(8) The eight exhibits that the Commission accepted into evidence at the November 12, 2014, hearing for the case of *In the Matter of the Statement*

1 *of Reasons for Denial of Application for a Work Permit: Lippine Nop,*
2 BGC Case No. BGC-HQ2014-00010SL, CGCC Case No. CGCC-2014-
3 0508-7, with the index of those exhibits, which was received by the
4 Commission, Bates Nos. 098-186.

5 During the evidentiary hearing, Presiding Officer Jason Pope also accepted into
6 evidence the following exhibit offered by the Commission:

- 7 (1) Audio recording from November 12, 2014 evidentiary hearing on Nop's
8 October 11, 2012 Application for Initial Regular Work Permit/Temporary
9 Work Permit.

10 The matter was submitted on January 18, 2017.

11 FINDINGS OF FACT

12 1. On or about October 11, 2012, Nop submitted an Application for Initial Regular Work
13 Permit/Temporary Work Permit to the Commission (2012 Application).

14 2. On or about December 2, 2014, the Commission denied Nop's 2012 Application in the
15 case of *In the Matter of the Statement of Reasons for Denial of Application for a Work Permit:*
16 *Lippine Nop*, CGCC Case No. CGCC-2014-0508-07. The Decision and Order denying Nop's
17 2012 Application was effective on January 2, 2015. The Decision and Order provided that Nop
18 "may not apply for a license, registration, or work permit for one (1) year after the effective date
19 of this Order."

20 3. On or about January 7, 2016, Nop submitted a new Application for Initial Regular
21 Work Permit/Temporary Work Permit (2016 Application) to the Bureau to work at Empire
22 Sportsmen's Association (Empire), a licensed gambling establishment located in Modesto,
23 California.

24 4. On or about January 21, 2016, the Commission declined to issue Nop a temporary
25 work permit pursuant to CCR section 12122(c)(3).¹

26 ¹ CCR section 12122(c)(3) provides that the Executive Director of the Commission shall issue a temporary
27 work permit, but only if the application or the results of the investigation of the applicant does not disclose that the
28 applicant has had an application for a gambling license or work permit denied. On December 2, 2014, Nop had an
application for work permit denied by the Commission.

1 5. At its May 26, 2016 meeting, the Commission voted to refer consideration of Nop's
2 2016 Application to a Gambling Control Act (GCA) evidentiary hearing.

3 6. On or about May 31, 2016, the Commission sent a letter, via certified mail, to Nop
4 informing her that the Commission referred consideration of her 2016 Application to a GCA
5 evidentiary hearing.

6 7. On or about June 6, 2016, Nop submitted a Notice of Defense to the Commission and
7 the Bureau requesting an evidentiary hearing on the consideration of her 2016 Application.

8 8. On or about July 20, 2016, the Commission served a Notice of Hearing on Nop,
9 Zuniga, and Diedrich.

10 9. On or about August 16, 2016, the Bureau filed a Statement of Reasons with the
11 Commission and served the Statement of Reasons on Nop and Zuniga via certified mail. In its
12 Statement of Reasons, the Bureau recommends the denial of Nop's 2016 Application.

13 10. On or about October 4, 2016, the noticed Prehearing Conference was held before
14 Presiding Officer Jason Pope, Attorney III of the Commission. Ron Diedrich, Deputy Attorney
15 General, attended on behalf of the Bureau. Elijah Zuniga attended on behalf of Respondent
16 Lippine Nop, who was not present. The Commission served a Conclusion of Prehearing
17 Conference letter on Nop, Zuniga, and Diedrich.

18 11. The Commission heard Case No. CGCC-2016-0526-08-7A on January 18, 2017. The
19 Bureau was represented throughout the hearing by Deputy Attorney General Ronald Diedrich.
20 Respondent Lippine Nop appeared and was represented throughout the hearing by Elijah Zuniga.

21 12. On or about April 22, 2003, Nop was convicted of violating Michigan Penal Code
22 section 750.356D4, retail fraud, third degree, a misdemeanor, in the case *City of Holland v.*
23 *Lippine Nop* (Mich. 58th Judicial Dist., 2003, No. HL-01-0040355-SM). Nop was sentenced to 30
24 days in jail suspended sentence, and ordered to pay a fine and costs and not to enter Meijers store
25 for one year.

26 13. According to the Holland Police Department Incident Report, Nop had stolen a carton
27 of Marlboro Reds (cigarettes) and Tide detergent. Nop's sister had stolen CD's, a thermos lunch
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1 box, sandals and a purse.

2 14. According to the statement of Officer Ludema, Nop's sister was observed replacing
3 her old sandals with new sandals, selecting a black purse and removing the price tag, and placing
4 a carton of cigarettes in Nop's purse. Nop admitted that she was aware of the cigarettes in her
5 purse and that they were stolen as Nop and her sister left the store. Nop purchased several food
6 items but did not pay for the detergent on the lower rack of the cart.

7 15. On or about June 18, 2013, in response to a written inquiry from the Bureau requesting
8 details surrounding Nop's retail fraud conviction, Nop wrote that while grocery shopping one
9 night at a supermarket similar to Wal-Mart with her younger sister (who was 17 years old at the
10 time), her sister stole a pair of shoes. Nop was unaware that her sister had stolen a pair of shoes
11 until they were confronted afterward. When they were confronted, Nop took the blame and said
12 that the shoes were hers.

13 16. During the November 12, 2014 evidentiary hearing on her 2012 Application, Nop
14 testified that she was aware that the carton of cigarettes and box of detergent were stolen. Nop
15 also testified that the following portion of her written statement to the Bureau on or about June
16 18, 2013 was factually incorrect: "I was unaware [that my sister stole a pair of shoes] until we got
17 confronted and I felt horrible so I said they were mine and I took the blame."

18 17. Nop's written statement to the Bureau on or about June 18, 2013 is inconsistent with
19 her admissions to Officer Ludema at the time of the retail fraud incident and her testimony during
20 the November 12, 2014 hearing. Nop testified during the November 12, 2014 hearing, that she
21 changed the facts surrounding the retail fraud conviction in her statement to the Bureau because
22 she was nervous and embarrassed.

23 18. During the November 12, 2014 hearing, Nop also testified that she saw her sister
24 wearing new (unpurchased) sandals and place cigarettes in Nop's purse. Nop gave her a look but
25 did not want to confront her because she did not want to embarrass her sister and because it was
26 too late (since they were already in line at the register).

27 19. During the January 18, 2017 hearing, Nop testified that she did not pay for the
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1 detergent because she wanted to save money. This was the first time that Nop admitted to
2 attempting to steal the detergent.

3 20. Nop's recitations of the circumstances surrounding her retail fraud conviction in her
4 June 18, 2013 written statement to the Bureau and during the November 12, 2014 hearing lack
5 honesty and demonstrate a lack of integrity.

6 21. Nop submitted a letter written by Gary Baird (Baird), President of Empire, in support
7 of her Application. Baird acknowledged that Nop had made mistakes when she was younger, but
8 expressed a desire to rehire Nop.

9 22. Nop also submitted a letter written by Srinivas Cherukuri (Cherukuri), General
10 Manager of Operations with Empire, in support of her Application. Cherukuri describes Nop as
11 extremely trustworthy, respectful, a team player, and a person with top notch customer service
12 skills who gets along well with her co-workers. Cherukuri states that Nop would be a great asset
13 to Empire.

14 23. There was no evidence presented that Nop has had any subsequent criminal
15 convictions.

16 24. There was no evidence presented of any alleged misconduct or disciplinary action
17 against Nop during her employment at Empire.

18 25. All documentary and testimonial evidence submitted by the parties that is not
19 specifically addressed in this Decision and Order was considered but not used by the Commission
20 in making its determination on Nop's 2016 Application.

21 26. The matter was submitted for Commission consideration on January 18, 2017.

22 LEGAL CONCLUSIONS

23 27. 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 28. 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
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1 of lawful gambling establishments and the manufacture and distribution of permissible gambling
2 equipment. Business and Professions Code section 19801(h).

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

7 30. An “unqualified person” means a person who is found to be unqualified pursuant to
8 the criteria set forth in Section 19857. Business and Professions Code section 19823(b).

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

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

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

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

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

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

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1 37. Nop demonstrated a lack of honesty and integrity by lying to the Bureau in her June
2 18, 2013 written response to the Bureau's inquiries regarding the circumstances surrounding her
3 retail fraud conviction. Nop also demonstrated a lack of honesty and integrity by providing
4 inconsistent statements to the Bureau and the Commission (during the November 12, 2014
5 hearing and the January 18, 2017 hearing) regarding the factual circumstances surrounding her
6 retail fraud conviction. As a result, Nop has failed to meet her burden of demonstrating that she
7 is a person of good character, honesty and integrity. Therefore, Nop is unqualified for licensure
8 pursuant to Business and Professions Code section 19857(a).

9 NOTICE OF APPLICANT'S APPEAL RIGHTS

10 Nop has the following appeal rights available under state law:

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

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

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

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

24 CCR section 12066, subsection (c) provides:

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

ORDER

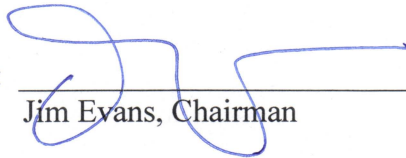
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2 1. Lippine Nop's January 7, 2016 Application for Initial Regular Work
3 Permit/Temporary Work Permit is DENIED.

4 2. No costs are to be awarded.

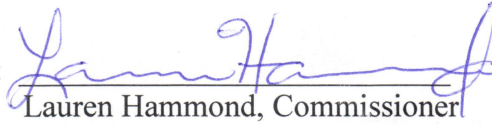
5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on March 27, 2017.


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8 Dated: 2/23/17

Signature: 
Jim Evans, Chairman

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10 Dated: 2/23/17

Signature: 
Lauren Hammond, Commissioner

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12 Dated: 2/23/17

Signature: 
Trang To, Commissioner