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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:

JENNIFER DOMINGOS-VITAL
Respondent.

BGC Case No. BGC-HQ2017-00002SL
CGCC Case No. CGADS-GEWP-002436

DECISION AND ORDER

Hearing Date: June 13, 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(b), in Sacramento, California, on June 13, 2017.

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.

Jennifer Domingos-Vital (Respondent) represented herself at the hearing.

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

- (a) February 14, 2017 Notice of Hearing and Prehearing Conference letter with attachments;
- (b) Statement of Reasons filed and served by the Bureau;
- (c) Notice of Defense signed by Respondent;
- (d) May 10, 2017 Conclusion of Prehearing Conference letter.

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

- (1) Statement of Reasons and Statement to Respondent filed and served by the Bureau, and Notice of Defense signed by Respondent, Bates Nos. 001-022;
- (2) Notices from the Commission: (a) November 10, 2016 Notice of Cancellation of

1 Temporary Work Permit, Bates No. 023; (b) November 29, 2016 Referral of Initial
2 Work Permit Application to an Evidentiary Hearing, Bates Nos. 024-025; (c)
3 February 14, 2017 Notice of Hearing and Prehearing Conference with attachments,
4 Bates Nos. 026-039; (d) March 23, 2017 Updated Notice of Hearing and
5 Prehearing Conference, Bates No. 040; (e) May 10, 2017 Conclusion of
6 Prehearing Conference, Bates Nos. 041-045;

7 (3) Redacted copies of Respondent's Application for Initial Regular Work
8 Permit/Temporary Work Permit, Work Permit Questionnaire with attachments,
9 and Bureau's Reconciliation Form, Bates Nos. 046-053;

10 (4) A redacted copy of the Bureau's October 2016 Work Permit Employee
11 Background Investigation Report, Bates Nos. 054-061;

12 (5) A redacted copy of the certified copy of the City of Atascadero Police Department
13 Incident Report, report number 042387, Bates Nos. 062-065;

14 (6) A redacted copy of the certified copy of the San Luis Obispo County Sheriff
15 Incident Report, case number 060100218, Bates Nos. 066-068;

16 (7) Redacted copies of records of the San Luis Obispo County Superior Court records
17 for the case of *People of the State of California v. Jennifer Raquel Domingos*
18 (Super. Ct. San Luis Obispo, 2004, No. M000362163), Bates Nos. 069-078;

19 (8) Redacted copies of records regarding Respondent's criminal history, Bates Nos.
20 079-089.

21 During the administrative hearing, Presiding Officer Jason Pope accepted into evidence
22 the following exhibits offered by Ms. Vital:

23 (A) June 12, 2003 letter regarding good service from John Van de Kamp and 2002
24 letter of thanks from Wendy Cronin;

25 (B) Letters of thanks to Respondent from Charles Meux and Gini Herbert ;

26 (C) Letter by Rosa Fernandez, Department of Social Services, In Home Support
27 Services, stating that Respondent left her employment with that agency in good
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1 standing;

2 (D) Professional and character reference letters relating to Respondent's prior
3 employment caring for Dolly Bader by Jennifer Schuerfeld, Wallace Ohles, John
4 Bertoni, and June Bertoni;

5 (E) Character reference by Respondent's family friend, Lasca Gaylord;

6 (F) Professional and character references relating to Respondent's employment at
7 Outlaws Casino by Dora Brown, Brooke Lutz, Alex Brown, and Brian Ellis;

8 (G) Character reference by Respondent's mother, Lori Domingos;

9 (H) April 12, 2017 Letter from San Luis Obispo Superior Court stating that case
10 M000362163 was purged pursuant to GC68152;

11 (I) Statement by Respondent.

12 The matter was submitted on June 13, 2016.

13 FINDINGS OF FACT

14 1. On or about February 23, 2016 Respondent submitted an Application for
15 Initial/Temporary Work Permit and a Work Permit Questionnaire ("Application") requesting a
16 work permit to work as a food and beverage server at Outlaws Card Parlor in Atascadero,
17 California.

18 2. On Respondent's Application, question 4, part II, she denied having been convicted
19 within the prior 10 years of a misdemeanor involving dishonesty or moral turpitude.

20 3. On Respondent's Application (Work Permit Questionnaire), question B, section 4,
21 Respondent denied being convicted of a misdemeanor within the prior 10 years.

22 4. Respondent signed her Application on February 8, 2016 under penalty of perjury.

23 5. On the basis of Respondent's Application, the Commission issued Respondent
24 temporary work permit number GEWP-002436.

25 6. On approximately October 26, 2016, the Bureau submitted to the Commission a Work
26 Permit Employee Background Investigation Report, Level III, ("Report") recommending that
27 Respondent's Application be denied on the basis that Respondent was convicted of a crime of
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1 dishonesty or moral turpitude within the 10-year period immediately preceding submission of her
2 Application.

3 7. On or about November 10, 2016, the Commission's Executive Director notified
4 Respondent that her Temporary work Permit was cancelled pursuant to title 4 of the California
5 Code of Regulations, section 12128, subdivision (b)(2).

6 8. On or about November 29, 2016, the Commission's Executive Director referred
7 consideration of Respondent's Application to an evidentiary hearing pursuant to title 4 of the
8 California Code of Regulations, section 12060, subdivision (a).

9 9. On or about December 9, 2016, Respondent submitted a Notice of Defense to the
10 Commission.

11 10. The Commission heard Case No. CGADS-GEWP-002436 on June 13, 2017. The
12 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
13 Ronald Diedrich. Respondent represented herself at the hearing.

14 11. At the hearing, the Bureau admitted evidence that on June 27, 2006, Respondent was
15 convicted, upon a plea of no contest, of violation of Vehicle Code section 31, providing false
16 information to a peace officer, a misdemeanor.

17 12. The Bureau admitted an August 23, 2004 incident report by The City of Atascadero
18 Police Department relating to Respondent's conviction. The report states that police arrived to
19 Respondent's apartment building in search of an individual with outstanding warrants
20 ("suspect"). According to the report, Respondent and the suspect told the officer that they were
21 dating. The report states that Respondent provided false information to an officer about the
22 suspect's name and regarding the fact that he received mail at her apartment.

23 13. On August 31, 2004, charges were filed against Respondent in the San Luis Obispo
24 County Superior Court for violation of Penal Code Section 148(A)(1) for resisting, obstruction, or
25 delay of a peace officer in San Luis Obispo County Municipal Court, case number M00362163.

26 14. On or about October 14, 2004 a warrant was issued for Respondent's arrest for failure
27 to appear at a scheduled court hearing in San Luis Obispo County Municipal Court, case number
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1 M00362163.

2 15. On January 8, 2006 an officer of the San Luis Obispo County Sheriff's Office located
3 Respondent, placed her under arrest, and transported her to the San Luis Obispo County Jail.

4 16. On or about June 27, 2006, Respondent was convicted, upon a plea of no contest, of
5 violating Vehicle Code section 31, providing false information to a peace officer, a misdemeanor.

6 17. The Bureau admitted evidence that in April 2016, a Bureau employee contacted
7 Respondent to inquire about the failure to disclose the June 2006 conviction on her Application.
8 In an email response sent on April 25, 2016, Respondent denied receiving the conviction at issue.

9 18. Respondent testified that she moved shortly after the August 2004 incident.
10 Respondent testified that she never received any documents from the police officer or the court
11 notifying her of a court date or that charges against her were filed in relation to the August 2004
12 incident.

13 19. Respondent testified that when she was arrested on October 14, 2004, the arresting
14 officer told her she was being arrested on an outstanding warrant, but the officer did not provide
15 any additional details. After Respondent was arrested, she learned from a bondsman that the
16 warrant was for failure to appear in court in relation to the August 2004 incident.

17 20. Respondent testified that she recalled appearing in court numerous times in relation to
18 the August 2004 incident. Respondent stated that at the last hearing she attended she was
19 represented by a Public Defender.

20 21. Respondent testified that the narrative in the incident report was entirely false, with
21 the exception of the statement that a piece of mail belonging to the suspect was found in her home
22 during a consensual search. Respondent testified that she found the piece of mail outside of the
23 apartment and brought in inside for safekeeping until she could give it to the suspect. The
24 envelope was addressed to the suspect at his father's address. Respondent testified that she never
25 dated the suspect and never told police officers that she was dating him.

26 22. Respondent testified that the Public Defender representing her advised her to plead no
27 contest and the conviction would be similar to a traffic ticket. Respondent testified that at her last
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1 court hearing, she understood that she was being convicted.

2 23. Respondent testified that her prior employer conducted a background search and the
3 Live Scan results did not show that Respondent had any convictions. Respondent also testified
4 that she did not think of the incident as resulting in a conviction because she was not sentenced to
5 jail time and only had to pay a fine.

6 24. Respondent answered “I don’t know” when asked why she didn’t disclose the
7 conviction on her Application.

8 25. Respondent was initially dishonest with the Bureau when asked about the conviction.

9 26. Respondent was convicted of a crime of dishonesty or moral turpitude in the 10-year
10 period immediately preceding the admission of her Application.

11 27. Respondent was inconsistent and somewhat evasive in parts of her testimony. For
12 instance, Respondent testified that she knew at her final court hearing that she was being
13 convicted, but later testified that she didn’t think of the August 2004 incident as resulting in a
14 conviction. Further, Respondent repeatedly referred to the court process as “ridiculous” and gave
15 testimony that was wholly inconsistent with the information contained in the police report. Also,
16 Respondent testified that she had no way to contact the suspect to ask him to testify on her behalf.
17 However, Respondent was aware of personal details about the suspect’s family, such as his
18 father’s address and the fact that his father married and moved.

19 28. Respondent did not offer an explanation or show any remorse for having provided
20 incorrect information on her Application or for initially denying the existence of the conviction to
21 the Bureau.

22 29. However, the Commission does not need to make a determination regarding
23 Respondent’s general character, honesty, and integrity because at the time Respondent submitted
24 her Application, she was disqualified from the issuance of a work permit due to conviction of a
25 misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately
26 preceding the submission of the application.

27 30. All documentary and testimonial evidence submitted by the parties that is not
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1 specifically addressed in this Decision and Order was considered but not used by the Commission
2 in making its determination on Respondent's Application.

3 31. The matter was submitted for Commission consideration on June 13, 2017.

4 LEGAL CONCLUSIONS

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

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

12 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
13 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
14 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
15 CCR section 12060(i); Business and Professions Code section 19856(a).

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

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

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

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1 which must be based upon either newly discovered evidence or legal authorities that
2 could not reasonably have been presented before the Commission's issuance of the
3 decision or at the hearing on the matter, or upon other good cause which the
4 Commission may decide, in its sole discretion, merits reconsideration.

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

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

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

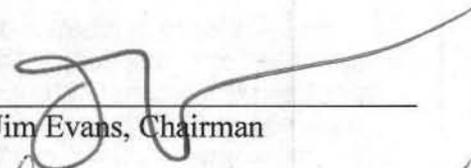
14 A decision of the Commission denying an application or imposing conditions on license
15 shall be subject to judicial review as provided in Business and Professions Code section
16 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
17 filing the petition shall be affected by failure to seek reconsideration.
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ORDER

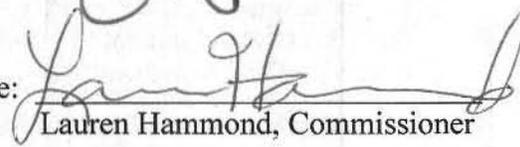
1. Jennifer Domingos-Vital's Application for Initial Regular Work Permit is DENIED.
2. Each side to pay its own attorneys' fees.

This Order is effective on 8/15/17.

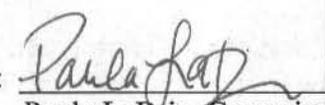
Dated: 7-13-17

Signature: 
Jim Evans, Chairman

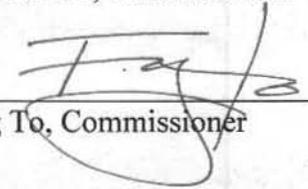
Dated: 7-13-17

Signature: 
Lauren Hammond, Commissioner

Dated: 7-13-17

Signature: 
Paula LaBrie, Commissioner

Dated: 7-13-17

Signature: 
Trang To, Commissioner

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