

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Initial
Work Permit for:

DANIEL THOMAS

Respondent.

BGC Case No. BGC-HQ 2017-00010SL
CGCC Case No. CGADS-2017-0608-7B

DECISION AND ORDER

Hearing Date: December 6, 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 December 6, 2017.

Timothy Muscat, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control, Department of Justice, State of California (Bureau).

Daniel Thomas (Thomas) represented himself at the hearing.

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

- (a) 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 Thomas;
- (d) Conclusion of Prehearing Conference letter dated November 2, 2017.

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 with attachments, Bates Nos. 001-019;
- (2) The Bureau's Work Permit Employee Background Investigation Report with attachments, Bates Nos. 020-029;

- 1 (3) California Department of Justice Criminal History Inquiry re: Daniel
2 Mathew Thomas, dated July 1, 2016, Bates Nos. 030-032;
- 3 (4) California Department of Justice Database Inquiries Request for Daniel
4 Mathew Thomas, dated June 30, 2016, Bates Nos. 033-039;
- 5 (5) Application for Initial Regular Work Permit/Temporary Work Permit,
6 dated June 8, 2016; Work Permit Questionnaire dated June 8, 2016, Bates
7 Nos. 040-050;
- 8 (6) Cripple Creek Police Department Report, Case No. 15CC-0157 re: Daniel
9 Mathew Thomas, dated March 27, 2015, Bates Nos. 051-059;
- 10 (7) County Court, Teller County, Colorado, Guilty Plea and Waiver of Rights;
11 Stipulation and Order for Deferred Judgment and Sentence; and Sentence
12 Order court documents re: Daniel Mathew Thomas, dated October 5, 2015,
13 Bates Nos. 060-068.

14 The matter was submitted on December 6, 2017.

15 FINDINGS OF FACT

- 16 1. On or about June 13, 2016, Thomas submitted an Application for an Initial Regular
17 Work Permit/Temporary Work Permit and a Work Permit Questionnaire (Application).
- 18 2. On Thomas' Application, he disclosed that he was arrested in March 2015 and
19 convicted of misdemeanor third degree assault. Thomas included paperwork relating to the case
20 and conviction with his Application.
- 21 3. On or about June 20, 2016, the CGCC issued Respondent a temporary work permit,
22 number GEWP-002488.
- 23 4. On April 13, 2017, the Bureau submitted to the Commission a Work Permit Employee
24 Background Investigation Report, Level III, recommending that Thomas' Application be denied.
- 25 5. On or about May 25, 2017, the Commission's Executive Director cancelled Thomas'
26 work permit pursuant to title 4 of the California Code of Regulations, section 12128, subdivision
27 (b)(2).
28

1 6. On or about June 8, 2017, the Commission's Executive Director referred
2 consideration of Thomas' Application to an evidentiary hearing pursuant to title 4 of the
3 California Code of Regulations, section 12060, subdivision (a).

4 7. On or about June 8, 2017, Thomas submitted a Notice of Defense to the Commission.

5 8. The Commission heard Case No. CGCC-2017-0608-7B on December 6, 2017.

6 9. The Bureau was represented throughout the pendency of the hearing by Deputy
7 Attorney General Timothy Muscat and Thomas represented himself.

8 10. On or about October 5, 2015, Thomas was convicted of assault in the third degree
9 causing injury, a misdemeanor, in the case of *People of Colorado v. Daniel M. Thomas*. The
10 conviction stemmed from an incident where Thomas punched a coworker while working in a
11 cardroom in Colorado.

12 11. Due to his conviction Respondent received a 12-month unsupervised deferred
13 sentence and was required to complete a mental health evaluation, 48 hours of community
14 service, ordered to pay a fine, and had a restraining order issued against him.

15 12. At the hearing, Thomas testified that his conviction stemmed from an incident that
16 occurred while he worked as a floor supervisor at a gaming establishment in Colorado. Thomas
17 testified that he punched a dealer in the back. The punch caused the dealer to fall forward onto
18 the table in front of customers.

19 13. Thomas testified that he had friction with this dealer because the dealer wanted a
20 promotion that Thomas received. Thomas testified that on the day at issue, the dealer used foul
21 language to a customer and was derogatory towards Thomas.

22 14. Thomas testified that at the time the incident occurred, he had only been working as a
23 supervisor for three months and had little to no training. Thomas resigned three days after the
24 incident.

25 15. Thomas testified that he began working in the gaming industry in approximately
26 December 2005 and has no other incidents of workplace misconduct.

27 16. Thomas testified that as part of his sentence, he underwent monthly random testing
28

1 for alcohol through the court and passed each test. Thomas testified that his court ordered mental
2 health evaluation determined that he did not need anger management classes.

3 17. Thomas testified that he learned a lot from this incident and regrets that he did not
4 walk away or get a higher-level manager to intervene.

5 18. The incident at issue appears to be an isolated incident, albeit, a very concerning one
6 because it involved workplace violence by a supervisor at a gambling establishment. Further, the
7 incident occurred in front of customers.

8 19. Thomas appeared to be credible and forthcoming while testifying. Thomas admitted
9 the conduct at issue and accepted responsibility for his actions. However, because the incident
10 occurred only two years ago, it is too soon for the Commission to determine that such an incident
11 won't recur.

12 20. Should Thomas reapply in the future, he will need to demonstrate that he has not
13 engaged in any similar misconduct or acted in a way to pose a threat to the public or to the
14 effective regulation of controlled gambling.

15 21. The matter was submitted for Commission consideration on December 6, 2017.

16 LEGAL CONCLUSIONS

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

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

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

28

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

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

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

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

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

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

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

25 11. 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 whose prior
27 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to
28

1 the public interest of this state, or to the effective regulation and control of controlled gambling,
2 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
3 in the conduct of controlled gambling or in the carrying on of the business and financial
4 arrangements incidental thereto. Business and Professions Code section 19857(b).

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

9 13. Thomas failed to meet his burden of demonstrating that he is a person whose prior
10 activities, habits, and associations do not pose a threat to the public interest of this state, or to the
11 effective regulation and control of controlled gambling, or create or enhance the dangers of
12 unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled
13 gambling or in the carrying on of the business and financial arrangements incidental thereto
14 pursuant to Business and Professions Code section 19857(b) and CCR section 12105(a)(2).

15 NOTICE OF APPLICANT'S APPEAL RIGHTS

16 Thomas has the following appeal rights available under state law:

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

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

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

25 A decision of the commission denying a license or approval, or imposing any
26 condition or restriction on the grant of a license or approval may be reviewed by
27 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
28 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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

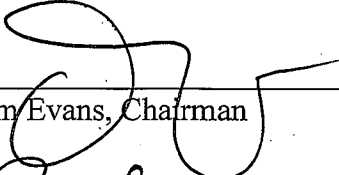
A decision of the Commission denying an application or imposing conditions on license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected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

ORDER

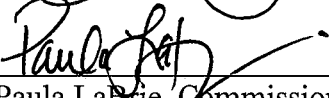
1. David Thomas' Application for Initial Regular Work Permit is DENIED.
2. Each side to pay its own attorneys' fees.

This Order is effective on 2/12/18.

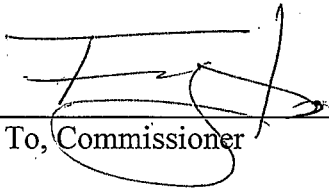
Dated: 1/11/18

Signature: 
Jim Evans, Chairman

Dated: 1/11/2018

Signature: 
Paula LaBrie, Commissioner

Dated: 1/11/18

Signature: 
Trang To, Commissioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28