

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Work Permit for:

JASON OWEN SNARR

Applicant.

CGCC Case No. CGCC-2020-0109-13B
BGC Case No. BGC-HQ2020-00001-OSL

DECISION AND ORDER

Hearing Date: June 10, 2020
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 10, 2020.

Colin Wood, Deputy Attorney General, State of California, represented complainant Stephanie K. Shimazu, Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Tracey Buck-Walsh represented Applicant Jason Owen Snarr at the hearing. Applicant was also present.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference letter with attachments, the Bureau's Statement of Reasons, Applicant's signed Notice of Defense, and the Commission's 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; Statement to Respondent; excerpt of the California Business and Professions Code and California Code of Regulations, Certificate of Service by Certified Mail; and Notice of Defense, dated January 21, 2020, Bates Nos. 001-024;

(2) Procedural documents and Notices from the Commission:

a. January 10, 2020, Referral of Initial Work Permit Application to an Evidentiary

1 Hearing, Bates Nos. 025-026;

2 b. March 13, 2020, Notice of Hearing and Proof of Service, Bates Nos. 027-055;

3 c. April 15, 2020, Conclusion of Prehearing Conference, Bates Nos. 056-062;

4 d. May 5, 2020, Scheduling Hearing through Zoom video web conferencing, Bates
5 Nos. 063-064.

6 (3) Application for Initial Regular Work Permit/Temporary Work Permit dated January
7 10, 2018, and Work Permit Questionnaire dated January 22, 2018, Bates Nos. 065-069;

8 (4) Bureau Work Permit Initial Background Investigation Report, Level III with
9 attachments, dated November 2019, Bates Nos. 070-091;

10 (5) Commission letters dated from January 31, 2018 to December 27, 2019, to Applicant
11 and Nineteenth Hole re Temporary Work Permit; Commission Licensing Division Memorandums
12 dated December 10, 2019, that includes updated memo, without attachments; and Notice of
13 Defense signed January 21, 2020, Bates Nos. 092-123;

14 (6) License History for Applicant and Bureau Certification dated January 17, 2020, Bates
15 Nos. 124-125;

16 (7) Certified Court Documents with Non-Certified Police Report for conviction February
17 4, 2003; Non-Certified Court Documents for conviction June 24, 2019, Bates Nos. 126-168;

18 (8) Proof of Enrollment in Alternate Work Program, SR-22 and Proof of Payment toward
19 fines for Applicant, Bates Nos. 169-174;

20 (9) Correspondence, Telephone Contact Sheets, E-mails between the Bureau and
21 Applicant, Bates Nos. 175-335;

22 (10) April 10, 2020, Letter to Applicant providing Bureau disclosure documents and
23 witnesses, Bates Nos. 336-337.

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

26 (A) Respondent's Hearing Brief, Bates Nos. APP000001-APP000008;

27 (B) December 29, 2019 Letter of Support by Stephen Scudero, Bates Nos. APP000009;

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1 (C) May 8, 2020 Letter of Support by Thomas Jenkins, Bates Nos. APP000010;

2 (D) Facebook Post by Raider Jay.¹

3 The matter was submitted on Wednesday, June 10, 2020.

4 FINDINGS OF FACT

5 1. Applicant was hired by the Nineteenth Hole Casino (NHC), a licensed gambling
6 establishment in Antioch, California, as a bartender in approximately June 2017.

7 2. On or about January 25, 2018, Applicant submitted an application for Initial Regular
8 Work Permit/Temporary Work Permit and a Work Permit Questionnaire, signed January 18, 2018
9 (collectively, Application) to allow for him to also work as a card dealer for NHC.

10 3. On or about January 31, 2018, the Commission issued Applicant a temporary work
11 permit, number GEWP-002696. Thereafter, the Commission issued several additional 120-day
12 temporary work permits while Applicant's Application for a regular work permit was under
13 review by the Bureau.

14 4. On or about November 12, 2019, the Bureau submitted to the Commission a Work
15 Permit Initial Background Investigation Report ("Bureau Report"), recommending that
16 Applicant's Application be denied on the basis that he was convicted of a misdemeanor in 2003
17 and 2019, provided misleading information to the Bureau regarding the circumstances leading to
18 the 2003 conviction, and failed to fully disclose his employment history.

19 5. On or about November 22, 2019, the Commission's Executive Director notified
20 Applicant that his Temporary work Permit was cancelled pursuant to title 4 of the California
21 Code of Regulations, section 12128, subdivision (b)(2).

22 6. At its January 9, 2020 meeting, the Commission referred consideration of Applicant's
23 Application to an evidentiary hearing to be held pursuant to California Code of Regulations, title
24 4, Division 18, Chapter 1, section 12054, subdivision (a)(2).

25 7. On or about January 24, 2020, Applicant submitted a Notice of Defense requesting an
26 evidentiary hearing. The evidentiary hearing proceeded on June 10, 2020.

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28 ¹ This document was not submitted prior to the hearing and therefore is not identified by bates stamps.

1 2003 Conviction

2 8. At the hearing, the Bureau presented evidence that Applicant was convicted of a
3 misdemeanor on February 4, 2003, for violating Penal Code section 496d, for receiving a stolen
4 vehicle in *People v. Jason Snarr*, Contra Costa County Superior Court Case No. 02-277707-06.
5 Applicant was not required to disclose the 2003 conviction on his Application because it was
6 outside the specified 10-year period. He was age 18 at the time of arrest.

7 9. The Bureau position as expressed through the Bureau Report and Statement of
8 Reasons is that Applicant provided false and inconsistent information to the Bureau regarding the
9 incident leading to the 2003 conviction.

10 10. During the course of the Bureau's investigation, Applicant sent multiple E-mail
11 messages describing the incident that led to his 2003 conviction. Applicant stated that he
12 borrowed his friend Eric's car to pick up a female friend who was stranded at a party and felt
13 unsafe. The car was co-owned by Eric and his girlfriend. Applicant drove the borrowed vehicle
14 from Concord to Richmond to pick his friend up. Applicant was pulled over after he picked his
15 friend up because the car had an expired registration. The officer found that Applicant did not
16 have a driver's license. Applicant was initially dishonest with the officer, stating that he took the
17 car from a friend's house nearby, hoping the officer would let him go. However, Applicant
18 ultimately told the officer the truth about who owned the vehicle and how Applicant came to
19 drive it.

20 11. According to Applicant's written messages to the Bureau and the police report, the
21 officer attempted to reach Eric to verify that Applicant had permission to use the car.² The officer
22 could not reach Eric, but was able to reach Eric's girlfriend using information he found on an
23 employment application in the vehicle. Eric's girlfriend told the officer that the car had been
24 stolen. Applicant stated that Eric's girlfriend reported the car stolen because she did not know
25 Applicant and was fighting with Eric at the time.

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27 ² Evidence was admitted indicating that the key to the car at issue was "shaved," which is
28 indicative of a vehicle being stolen. The state of the vehicle and key is not discussed in further detail
because it is not contested that the shaved key was related to a prior theft of this same vehicle and
Applicant had no involvement in that crime.

1 12. Inconsistent information is contained within the content of Applicant’s written
2 messages to the Bureau and a statement Applicant signed the morning after the incident (“2003
3 Statement”). Applicant testified that he did not prepare the 2003 Statement, it was presented to
4 him and he was asked to sign it.

5 13. The version of events set forth in the 2003 Statement conflicts with other information
6 in the police report, such as the fact that the officer attempted to contact Eric for Applicant, which
7 supports Applicant’s version of events that he quickly told the officer the true circumstances of
8 how he came to drive the vehicle. Therefore, little weight is given to this document.

9 14. Understandably, the Bureau was concerned by the different versions of events
10 presented in the 2003 Statement and his more recently written messages. However, Applicant
11 consistently explained that his initial dishonesty with law enforcement explains the differences.
12 While the dishonest statement to law enforcement in 2003 is concerning, the applicant has been
13 forthcoming about the incident during the licensure process, regrets his decision, and has been
14 transparent with the Commission.

15 2019 Conviction

16 15. Applicant was also convicted of a misdemeanor on June 24, 2019 for violation of
17 Vehicle Code section 23152, subdivision (a), driving under the influence of an alcoholic
18 beverage, in *People v. Jason Snarr*, Contra Costa County Superior Court Case No. 4-196199-4.
19 The conviction occurred after Applicant submitted his Application.

20 16. Applicant completed the class he was ordered to take as a result of the DUI
21 conviction.

22 Employment History

23 17. On Applicant’s Application, he was required to disclose 3 years of employment
24 history. The Application was signed on January 22, 2018, but Applicant only disclosed
25 employment beginning in August 2015 for work at NHC and Black Angus Restaurant.

26 18. Applicant’s testimony at the hearing was consistent with his past written statements to
27 the Bureau regarding the reasons that he did not accurately identify his past employment on the
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1 Application. Applicant testified that he did not disclose employment with Budee, Cash4Gold, and
2 Il Fornaio because he could not recall the exact dates of employment and mistakenly believed it
3 was outside of the three year period requested on the Application.

4 19. Applicant should have taken extra steps to verify the dates of his past employment
5 prior to submitting his Application. However, Applicant provided the information upon request
6 and was forthcoming about the employment history at Budee and Il Fornaio, volunteering to the
7 Bureau that he was terminated from those positions and the circumstances of the separation. The
8 only source of the derogatory employment information was the Applicant.

9 20. Applicant's testimony regarding the incomplete employment history was credible.

10 Letters of Support

11 21. Applicant admitted letters of support by Stephen Scudero and Thomas Jenkins. Mr.
12 Scudero is a Designated Agent for NHC and states that Applicant has been employed there for
13 three and a half years and has been an exemplary employee. Mr. Jenkins is the Service Chair of
14 the Antioch Rotary Club and wrote that Applicant volunteered two Saturdays in March.

15 22. All documentary and testimonial evidence submitted by the parties that is not
16 specifically addressed in this Decision and Order was considered but not used by the Commission
17 in making its determination on the Application.

18 The matter was submitted for Commission consideration on June 10, 2020.

19 **LEGAL CONCLUSIONS**

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

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

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

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

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

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

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

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

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

25 32. 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 33. No gambling license shall be issued unless, based on all of the information and
2 documents submitted, the commission is satisfied that the applicant is a person whose prior
3 activities and criminal record, if any, reputation, habits, and associations do not pose a threat to
4 the public interest of this state, or to the effective regulation and control of controlled gambling,
5 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
6 in the conduct of controlled gambling or in the carrying on of the business and financial
7 arrangements incidental thereto. Business and Professions Code section 19857(b).

8 34. The commission shall deny a license to any applicant who is disqualified for failure of
9 the applicant to provide information, documentation, and assurances required by this chapter or
10 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
11 supplying of information that is untrue or misleading as to a material fact pertaining to the
12 qualification criteria. Business and Professions Code section 19859(b)

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

17 36. Applicant met his burden of demonstrating that he is a person of good character
18 honesty and integrity and that his past activities, habits, and associations do not pose a threat to
19 the public interest of this state, or to the effective regulation and control of controlled gambling,
20 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
21 in the conduct of controlled gambling or in the carrying on of the business and financial
22 arrangements incidental thereto pursuant to Business and Professions Code section 19857 and
23 19859.

24 37. For the foregoing reasons, Applicant is qualified for a work permit under Title 4 CCR
25 section 12105(a)(2).

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

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

An applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, 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 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.

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ORDER

1. Jason Owen Snarr's Application for Initial Regular Work Permit is GRANTED.
2. Each side to pay its own attorneys' fees.

This Order is effective on July 9, 2020.

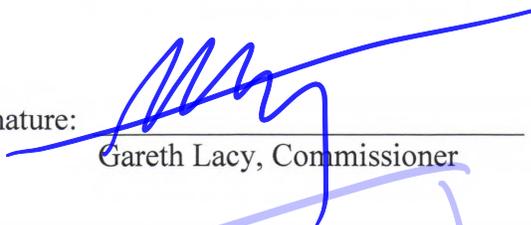
Dated: July 9, 2020

Signature: 
Jim Evans, Chairman

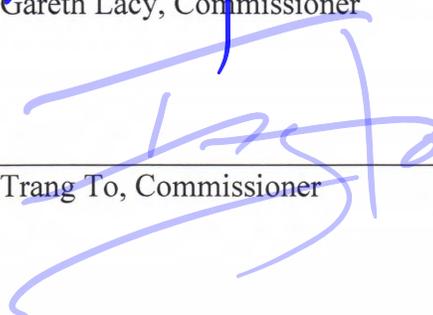
Dated: July 9, 2020

Signature: 
Paula LaBrie, Commissioner

Dated: July 9, 2020

Signature: 
Gareth Lacy, Commissioner

Dated: July 9, 2020

Signature: 
Trang To, Commissioner