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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval  
of Work Permit Regarding:

IVAN CRUZ

Respondent.

BGC Case No. BGC-HQ2021-00008SL  
CGCC Case No. CGCC-2021-0107-9D

**DECISION AND ORDER**

Hearing Dates: September 2, 2021  
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, and held via Zoom video conference, on September 2, 2021.

Jeremy Stevens, Deputy Attorney General, State of California (DAG Stevens), represented complainant Nathan Davalle, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Ivan Cruz (Cruz) attended on his own behalf without representation.

During the evidentiary hearing, Presiding Officer Kate Patterson took official notice of the Notice of Agenda, the Commission's Conclusion of Prehearing Conference letter, the Commission's Notice of Hearing with attachments (A) Cruz's Application, and (B) the Bureau's background investigation report, and Cruz's signed Notice of Defense.

During the evidentiary hearing, Presiding Officer Kate Patterson accepted into evidence the following exhibits offered by the Bureau pursuant to a stipulation between the parties:

- (1) Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, §12060; and June 24, 2021, Certificate of Service by Certified Mail Service, Bates Nos. BGC001-021;
- (2) Notice of Defense, Bates Nos. BGC022-023;

- 1 (3) Notices from the Commission:
- 2 (a) January 8, 2021, Referral of Work Permit Application to an Evidentiary
- 3 Hearing – Ivan Cruz, Bates Nos. BGC024-025;
- 4 (b) Mach 30, 2021, Notice of Hearing and Prehearing Conference, with
- 5 Attachments A & B, Bates Nos. BGC026-045; and
- 6 (c) July 21, 2021, Conclusion of Prehearing Conference, Bates Nos.
- 7 BGC046-053;
- 8 (4) February 2, 2018, Application for Initial Regular Work Permit/Temporary
- 9 Work Permit, dated January 19, 2018, with Work Permit Questionnaire, for
- 10 Ivan Cruz, Bates Nos. BGC054-058;
- 11 (5) BGC Initial Background Investigation Report, Level III, for Ivan Ury Cruz,
- 12 Pinnacle Casino dated October 2020, with attachments, Bates Nos.
- 13 BGC059-072;
- 14 (6) CGCC Licensing Division Memorandum dated January 9, 2020, Bates
- 15 Nos. BGC073-076, and CGCC Licensing Division memorandum dated
- 16 January 7, 2021, Bates Nos. BGC077-080;
- 17 (7) Commission Letters, Bates Nos. BGC081-089;
- 18 (8) License History and Certification of Records, Bates Nos. BGC090-091;
- 19 (9) Correspondence, Bates Nos. BGC092-161;
- 20 (10) CES Report and Attachments, Bates Nos. BGC162-219;
- 21 (11) Monterey County Superior Court, Wrongful Termination Case Summary
- 22 (*Ivan Cruz v. Bankers Casino* (Super. Ct. Monterey County, No.
- 23 19CV000393)), Bates Nos. BGC220-222;
- 24 (12) Bankers Casino Surveillance Video 1, Bates No. BGC223; and
- 25 (13) Bankers Casino Surveillance Video 2, Bates No. BGC224.

26 During the evidentiary hearing, Presiding Officer Kate Patterson accepted into evidence the

27 following exhibit offered by Cruz pursuant to a stipulation between the parties:

28

1 (A) Documents from Cruz, consisting of the following:

- 2 (1) A letter providing a list of documents to be introduced into evidence  
3 and witnesses that will testify during the evidentiary hearing, Bates No.  
4 APP000001;
- 5 (2) Declaration of John F. Klopfenstein, Esq., attorney for Cruz in the case  
6 *Cruz v. Bankers Casino*, Monterey County Super. Ct., Case No.  
7 19CV000393, Bates Nos. APP000002-03;
- 8 (3) Letter of reference from Jeremy Cancio, Bates No. APP000004;
- 9 (4) Letter of reference from Kevin Hwa, Bates No. APP000005; and
- 10 (5) Pages 5, 6 and 7 of the City of Salinas Police Department report in Case  
11 No. 17-070881, Bates Nos. APP000006-08.

12 The record was closed and the matter was submitted on September 2, 2021.

13 FINDINGS OF FACT

14 **Procedural History**

15 1. On or about February 2, 2018, the Bureau received an Application for Initial Regular  
16 Work Permit/Temporary Work Permit and Work Permit Questionnaire (collectively, Application)  
17 from Cruz to work as a card dealer for Pinnacle Casino.

18 2. On or about February 14, 2018, the Commission issued Cruz temporary work permit  
19 number GEWP-002730 for his employment as a card dealer at Pinnacle Casino. The Commission  
20 issued three 120-day extensions of the temporary work permit on May 24, 2018, September 21,  
21 2018, and January 16, 2019, respectively.

22 3. On or about November 19, 2018, the Bureau was notified that Cruz was no longer  
23 employed at Pinnacle Casino. The Bureau submitted a request to withdraw Cruz's Application to  
24 the Commission on or about November 18, 2019. On or about January 9, 2020, the Commission  
25 denied the request to withdraw and requested that the Bureau complete its background  
26 investigation of Cruz.

27 4. On or about October 20, 2020, the Commission received a Level III Work Permit  
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1 Initial Background Investigation Report on Cruz from the Bureau. In this report, the Bureau  
2 recommends that the Commission deny Cruz's Application.

3 5. On or about January 7, 2021, the Commission referred the consideration of Cruz's  
4 Application to a Gambling Control Act evidentiary hearing pursuant to CCR section 12054(a)(2)  
5 to be conducted pursuant to CCR section 12060.

6 6. On or about January 19, 2021, the Bureau received a signed notice of defense from  
7 Cruz requesting an evidentiary hearing on the consideration of his Application.

8 7. On or about March 30, 2021, the Commission sent a Notice of Hearing, via e-mail, to  
9 Cruz and DAG Stevens. The hearing was set for September 2, 2021.

10 8. On or about June 24, 2021, the Bureau sent a Statement of Reasons to Cruz via  
11 certified mail. In the Statement of Reasons, the Bureau requests that the Commission deny Cruz's  
12 Application.

13 9. On or about July 20, 2021, the noticed Prehearing Conference was held before  
14 Presiding Officer Kate Patterson, Attorney III of the Commission. DAG Stevens attended on  
15 behalf of the Bureau. Cruz attended on his own behalf without representation.

16 10. On or about July 21, 2021, the Commission sent a Conclusion of Prehearing  
17 Conference letter, via e-mail, to Cruz and DAG Stevens.

18 11. The Commission heard this matter via Zoom video conference on September 2, 2021.  
19 The Bureau was represented by DAG Stevens. Cruz attended on his own behalf without  
20 representation.

### 21 **Cruz's Employment History in Controlled Gambling**

22 12. Cruz worked as a card dealer for Pinnacle Casino from February 2018 to August 2018.  
23 Cruz was laid off on August 22, 2018 due to lack of work.

24 13. Cruz worked as a card dealer for Bankers Casino from August 2008 to July 2017.

### 25 *Letters of Warning*

26 14. Cruz received several letters of warning while working as a card dealer for Bankers  
27 Casino, including for drinking alcohol while on the clock, failing to timely clock out at the end of  
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1 his shifts, using his cell phone while on the gambling floor, and leaving the gambling table with a  
2 “dead spread.” On or about May 4, 2011 Cruz received a letter of warning and was suspended for  
3 two weeks for allowing an off-duty fellow employee an unfair advantage while making a wager  
4 while Cruz was dealing cards. Cruz was informed that this was his final warning and that that he  
5 would be terminated if his integrity ever came into question again.

6 *Suspension and Termination for Theft*

7 15. On or about July 20, 2017, Cruz was issued a letter of warning and suspended for theft  
8 while an investigation was conducted. Following the investigation, Cruz was terminated for theft.  
9 Cruz is not eligible for rehire at Bankers Casino.

10 16. During the evidentiary hearing, Melissa Pearson (Pearson) testified regarding the theft  
11 investigation. Bankers Casino hired Pearson as its General Manager in July 2017. Pearson’s role  
12 was to oversee the operations of Bankers Casino including the integrity of controlled gambling.  
13 Pearson had ten years of experience working in controlled gambling at the time she was hired by  
14 Bankers Casino. Pearson currently works for Bay 101, a gambling establishment located in San  
15 Jose, California.

16 17. At the time of the theft investigation, Global Player Service, Inc. (GPS) operated as  
17 the third party provider of proposition player services at Bankers Casino pursuant to a third-party  
18 proposition player services contract.

19 18. Prior to Pearson’s employment at Bankers Casino, the wife or girlfriend<sup>1</sup> of a third-  
20 party player with GPS named Sammy, advised a supervisor that Sammy and various card dealers  
21 with Bankers Casino were stealing money from GPS.

22 19. After Pearson was hired by Bankers Casino, she held a meeting with Bankers Casino’s  
23 staff, including card dealers. Pearson explained the rules and regulations of the cardroom. Pearson  
24 noted that many of the card dealers at Bankers Casino and players with GPS were friends and  
25 appeared to have relationships, and drink and hang out together. Pearson advised staff that it  
26 looked bad for the card dealers with Bankers Casino and players with GPS to be socializing while

27 \_\_\_\_\_  
28 <sup>1</sup> It is unclear from the evidence whether she was a wife or girlfriend, but the difference is immaterial to this  
Decision.

1 in the cardroom and that the relationships should only occur outside of Bankers Casino. Pearson  
2 issued a general warning to staff that there would be consequences if there was anything going on  
3 between the card dealers at Bankers Casino and players with GPS, such as commingling of funds.

4 20. Sometime after this meeting, another card dealer with Bankers Casino expressed that  
5 he was nervous about Pearson's statements and stated that he was asked to be involved in a  
6 situation where card dealers with Bankers Casino and players with GPS were sharing money.  
7 According to the owner of GPS, the card dealer advised that he was approached by Sammy and  
8 three other card dealers with Bankers Casino, including Cruz, to see if he wanted in on their  
9 scheme to steal money from GPS. During the hearing, Cruz testified that he never asked the card  
10 dealer to be involved in a theft scheme and that the card dealer must have just assumed that Cruz  
11 was part of a theft scheme because he was friends with Sammy and the other card dealers.

12 21. Pearson started an investigation and reviewed surveillance video taken at Bankers  
13 Casino. Bankers Casino only had 30 days of past surveillance video recordings due to the  
14 memory limitations of their surveillance system. Pearson identified two suspicious incidents on  
15 the surveillance video recordings.

16 22. The first suspicious incident occurred on June 19, 2017. Cruz was dealing cards and  
17 Sammy was playing on behalf of GPS. The video shows a patron with \$200 in cash requesting  
18 chips. Cruz pays \$100 to Sammy/GPS and takes \$200 in chips from Sammy/GPS, and then  
19 passes the \$200 worth of chips to the patron. Pearson testified that this transaction resulted in a  
20 short change of \$100, which Cruz placed into his card dealer tray. As a result of this incident,  
21 GPS lost \$100 and Cruz gained \$100.

22 23. During the evidentiary hearing, Cruz acknowledged that he was the card dealer in the  
23 video showing the first incident. Cruz argued that the footage shown at the hearing of the first  
24 incident shows only a partial transaction. Cruz testified that the four orange chips located between  
25 him (as the card dealer) and Sammy (as the player for GPS) were \$25 chips and that he assumed  
26 Sammy would take possession of the chips after the surveillance video ended. Pearson testified  
27 that the orange chips have no cash value and are used to "surrender and notify." The video shows  
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1 that the four orange chips are already sitting out, and are not located on a portion of the gaming  
2 table for placing bets, prior to Cruz providing \$100 in chips to Sammy/GPS, taking \$200 in chips  
3 from Sammy/GPS, and providing the \$200 in chips from Sammy/GPS to pay the patron.

4 24. In a statement summarizing a July 25, 2018 interview of Cruz by the Bureau, the  
5 Bureau wrote that Cruz admitted short changing errors occur two or three times a year and are  
6 just mistakes. The Bureau also wrote that Cruz denied conspiring with Sammy to steal money  
7 from GPS's chip tray.

8 25. The second suspicious incident occurred on June 29, 2017. Cruz was gambling as a  
9 patron and Sammy was playing on behalf of GPS. Cruz won \$200 on a bet. The card dealer took  
10 \$400 worth of chips from Sammy/GPS and provided them to Cruz, resulting in an overpayment  
11 of \$200. As a result of this incident, GPS lost \$200 and Cruz gained \$200. The video clip shown  
12 during the hearing does not show Cruz returning the overpayment.

13 26. During the hearing, Cruz testified that it was not inaccurate that the card dealer  
14 overpaid him by \$200. Cruz stated that he recalled incidents of card dealers accidentally  
15 overpaying him and he gave the money back. Cruz did not specifically recall the June 29, 2017  
16 incident, but testified that he might have returned the overpayment. Cruz testified that he could  
17 not be certain because only a portion of the video footage was shown. Pearson testified that in the  
18 course of her investigation of the incident, she interviewed Sammy and saw surveillance footage  
19 of the complete hand. According to Pearson, the full surveillance footage did not show Cruz  
20 returning the overpayment. Further, when Pearson interviewed Sammy regarding the  
21 overpayment, he did not state that Cruz returned the funds.

22 27. Following the review of surveillance video of these incidents, Pearson concluded that  
23 Cruz was involved in a theft scheme and terminated Cruz for theft. During the evidentiary  
24 hearing, Pearson testified that other card dealers were terminated at approximately the same time  
25 in relation to the allegations of a theft scheme and the discovery of the two theft incidents  
26 involving Cruz and Sammy. Pearson also testified that GPS would not know about the theft just  
27 by looking at the amount of chips later and that there is no way to know the precise amounts  
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1 stolen or number of thefts against GPS.

2 28. Pearson filed an incident report with the Bureau and reported the incidents to the  
3 Salinas Police Department. The Salinas Police Department conducted an investigation and  
4 submitted the case to the Monterey County District Attorney's Office, but it did not file charges  
5 against Cruz or the other participants due to lack of real documentation from GPS and insufficient  
6 evidence to prove in court beyond a reasonable doubt.

7 29. During the evidentiary hearing, Cruz denied the allegations and stated that he believed  
8 he was fired by the owner of Bankers Casino for personal reasons. Cruz testified that he was  
9 suspended when the owner of Bankers Casino found out that Cruz had been in a relationship two  
10 years prior with a waitress the owner was dating.

11 *Complaints Against Banker Casino*

12 30. Cruz filed two complaints against Bankers Casino. Cruz filed a complaint with the  
13 Division of Labor Standards Enforcement, California Labor Commissioner, for wages and related  
14 compensation allegedly owed to him. Cruz wrote to the Bureau that he sued Bankers Casino for  
15 not providing lunches or breaks, and for the mandatory tipping policies in place. A settlement  
16 agreement was reached on May 23, 2018 in the amount of \$6,000 in favor of Cruz. The  
17 agreement provides that Bankers Casino expressly denies any fault, liability, wrongdoing or  
18 neglect and enters into the settlement to avoid the costs and demands associated with litigation.  
19 The agreement also provides that Cruz agrees not to apply for or seek employment with Bankers  
20 Casino and that he is not permitted to enter Bankers Casino.

21 31. Cruz's second complaint was filed with the California Department of Fair  
22 Employment and Housing (DFEH) against Bankers Casino on January 29, 2018. In the  
23 complaint, Cruz alleges harassment due to his race and retaliation/wrongful termination. Cruz  
24 testified that the owner of Bankers Casino retaliated against him because he had had been in a  
25 relationship two years prior with a waitress the owner was dating. Cruz also testified that he was  
26 being harassed by the owner of Bankers Casino for one month prior to the theft investigation.  
27 Cruz admitted that the owner of Bankers Casino never made any racially motivated remarks and  
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1 did not micromanage him. Cruz testified that the owner of Bankers Casino would ignore Cruz,  
2 would not talk to him, and would leave when he was playing if Cruz was dealing cards.

3 **Cruz's Letters of Reference**

4 32. Cruz submitted two letters of reference in support of his Application:

- 5 a. Jeremy Cancio (Cancio) is the former Floor Man of Bankers Casino and  
6 former General Manager of Pinnacle Casino. Cancio states that he has worked  
7 with Cruz for several years at both Bankers Casino and Pinnacle Casino.  
8 Among other things, Cancio praises Cruz's work ethic, job performance,  
9 professionalism, and communication skills. Cancio ranks Cruz as one of the  
10 best card dealers he has worked with. Cancio describes Cruz as highly  
11 motivated, qualified, and as someone who is willing to work overtime and  
12 come in on his off days. Cancio concludes by stating that Cruz's honesty and  
13 integrity are unquestionable.
- 14 b. Kevin Hwa (Hwa) is the former Floor Man at Garlic City Casino. Hwa states  
15 that he observed Cruz to be an outstanding employee, well informed, and with  
16 a great knowledge of every game he deals. Hwa states that Cruz is always  
17 quick to volunteer and assist other card dealers. Hwa describes Cruz as a  
18 person of positive values, great work ethic, and good characteristics. Hwa  
19 states that Cruz is dependable, loyal, and honest.

20 **Assessment of Cruz's Suitability for Licensure**

21 33. The letters of reference were individualized and candid, and relate to Cruz's work  
22 history and general qualities, including work ethic, professionalism, and honesty. These letters of  
23 reference reflect positively on Cruz's character.

24 34. There are substantial concerns regarding Cruz's suitability for licensure as a result of  
25 his employment history as a card dealer at Bankers Casino, which ultimately resulted in a  
26 termination for theft. Cruz's work history at Bankers Casino raises concerns about his character,  
27 honesty, and integrity, and his ability to participate in or be associated with controlled gambling.

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1           35. During his employment with Bankers Casino, Cruz received several letters of warning.  
2 One specific letter of warning causes significant concern regarding Cruz's suitability for  
3 licensure. On or about May 4, 2011, Cruz received a letter of warning for allowing an off-duty  
4 fellow employee an unfair advantage while making a wager while Cruz was dealing cards. Cruz's  
5 actions resulted in a two-week suspension and a final warning that he would be terminated if his  
6 integrity ever came into question again. By providing an unfair advantage to an off-duty fellow  
7 employee while dealing cards, Cruz demonstrated a lack of good character and integrity. Cruz  
8 also directly prevented gambling from being conducted honestly, fairly, and competitively. The  
9 seriousness of this incident and its effect on the honest and fair play of controlled gambling is  
10 sufficient to find that Cruz has failed to meet his burden of proving his suitability for licensure.  
11 However, Cruz's suitability is also adversely impacted by the facts supporting his suspension and  
12 termination from Bankers Casino for theft and his misleading and dishonest statements and  
13 testimony.

14           36. While Cruz was never convicted of a theft crime, the facts supporting the existence of,  
15 and Cruz's involvement in, a scheme to steal from GPS are persuasive.

16           37. First, there was notice provided to a supervisor from Sammy's wife/girlfriend that  
17 Sammy and various card dealers with Bankers Casino were involved in a scheme to steal money  
18 from GPS. Pearson noted that many of the card dealers at Bankers Casino and players with GPS  
19 were friends and appeared to have relationships, and drink and hang out together. These  
20 relationships alone do not prove the existence of a theft scheme; however, these relationships,  
21 which Pearson stated look bad for the cardroom, are a prerequisite to the formation of a theft  
22 scheme among several participants.

23           38. Later, a card dealer with Bankers Casino stated that he was asked to be involved in a  
24 situation where card dealers with Bankers Casino and players with GPS were sharing money.  
25 This occurred after Pearson held a meeting with cardroom staff, including card dealers,  
26 explaining the rules and regulations of the cardroom and issuing a general warning that there  
27 would be consequences if there was anything going on between the card dealers at Bankers  
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1 Casino and players with GPS, such as commingling of funds. According to the owner of GPS, the  
2 card dealer advised that he was approached by Sammy and three card dealers with Bankers  
3 Casino, including Cruz, to see if he wanted in on their scheme, which involved stealing money  
4 from GPS. This card dealer's statements of concern and mention of a theft scheme corroborate  
5 the notice provided by Sammy's wife/girlfriend.

6 39. Based on the concerns raised by the card dealer with Bankers Casino, Pearson  
7 conducted a review of surveillance video. Given the limitations of the surveillance video storage,  
8 Pearson could only review the past 30 days of video. However, Pearson still found two suspicious  
9 incidents just ten days apart that involved both Cruz and Sammy.

10 40. The first incident occurred when Cruz was dealing. Cruz short changed Sammy/GPS  
11 when he paid only \$100 for \$200 in chips. This resulted in GPS losing \$100 and Cruz gaining  
12 \$100, which Cruz put into his card dealer tray. Cruz offered two explanations for the short change  
13 incident. First, prior to reviewing the surveillance video, Cruz told the Bureau that short changing  
14 errors occur two or three times a year and are just mistakes. Cruz assumed that the short change  
15 was just a mistake. However, during the hearing Cruz argued that the surveillance video of the  
16 first incident shows only a partial transaction, and testified that the four orange chips located  
17 between him (as the card dealer) and Sammy (as the player for GPS) were \$25 chips and that he  
18 assumed Sammy would take possession of the chips after the surveillance video ended. If the  
19 orange chips are worth \$25 and belong to GPS, then the short change would not have been a  
20 mistake. In fact, the short change would not have occurred at all.

21 41. Pearson testified that the orange chips have no cash value and are used to "surrender  
22 and notify." The testimony of Cruz and Pearson are in direct conflict and only one of them can be  
23 correct. The surveillance video shows that the four orange chips are already sitting out, and are  
24 not located on a portion of the gaming table for placing bets, prior to Cruz providing \$100 in  
25 chips to Sammy/GPS, taking \$200 in chips from Sammy/GPS, and providing the \$200 in chips  
26 from Sammy/GPS to pay the patron. As a result, the video evidence supports Pearson's testimony  
27 and does not support Cruz's. Cruz's testimony that the orange chips were worth \$25 each and that  
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1 he assumed Sammy would take possession of the chips after the surveillance video ended is not  
2 credible or supported by the evidence. Cruz's testimony is a deliberate attempt to mischaracterize  
3 the short change incident and mislead the Commission. Cruz's misleading statements demonstrate  
4 a lack of good character, honesty, and integrity.

5 42. Pearson identified a second suspicious incident involving Cruz and Sammy. In this  
6 incident, Cruz was gambling as a patron and Sammy was playing on behalf of GPS. Cruz won  
7 \$200 on a bet. The card dealer took \$400 worth of chips from Sammy/GPS and provided them to  
8 Cruz, resulting in an overpayment of \$200. As a result of this incident, GPS lost \$200 and Cruz  
9 gained \$200.

10 43. During the hearing, Cruz admitted that the card dealer overpaid him by \$200. Cruz's  
11 explanation for the overpayment was that he recalled incidents of card dealers overpaying and he  
12 gave the money back. Cruz did not specifically recall this incident, but testified that he could have  
13 given the overpayment back if the entire surveillance video was shown. However, Pearson  
14 testified that she did not see Cruz pay back the money on the surveillance video of the complete  
15 hand and that when Sammy was asked about the overpayment, he did not say that the  
16 overpayment was paid back. Again, Pearson's and Cruz's testimony conflict, and Pearson's  
17 testimony is more credible. Cruz's testimony appears to be a deliberate attempt to mislead the  
18 Commission into believing that Cruz would have acted honestly and returned the overpayment.  
19 By providing misleading testimony, Cruz demonstrated a lack of good character, honesty, and  
20 integrity.

21 44. Following the review of surveillance video of these incidents, Pearson concluded that  
22 Cruz was involved in a theft scheme and terminated Cruz, and other card dealers, for theft. Given  
23 the notice provided by Sammy's wife/girlfriend of a theft scheme, the statements made by another  
24 card dealer that he was approached by Sammy and three card dealers with Bankers Casino,  
25 including Cruz, to see if he wanted in on their scheme to steal money from GPS, and the short  
26 change and overpayment incidents that were discovered in a review of just 30 days of  
27 surveillance footage, for which Cruz offered misleading and not credible explanations, the  
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1 evidence supports the existence of a theft scheme involving Cruz and his suspension and  
2 termination for theft.

3 45. A theft scheme in a cardroom between cardroom card dealers and players with the  
4 third-party provider of proposition player services is anathema to the fair and honest conduct of  
5 controlled gambling and Cruz's involvement demonstrates a lack of good character, honesty, and  
6 integrity. Cruz's actions while working in controlled gambling, including providing an unfair  
7 advantage to an off-duty fellow employee and participating in a scheme to steal from GPS, also  
8 demonstrate not only a threat to the integrity of controlled gambling, but actual unsuitable, unfair,  
9 and illegal practices in the conduct of controlled gambling.

10 65. All documentary and testimonial evidence submitted by the parties that is not  
11 specifically addressed in this Decision and Order was considered but not used by the Commission  
12 in making its determination on Cruz's Application.

13 66. The matter was submitted for Commission consideration on September 2, 2021.

#### 14 LEGAL CONCLUSIONS

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

18 68. Public trust that permissible gambling will not endanger public health, safety, or  
19 welfare requires that comprehensive measures be enacted to ensure that gambling is free from  
20 criminal and corruptive elements, that it is conducted honestly and competitively, and that it is  
21 conducted in suitable locations. Business and Professions Code section 19801(g).

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

26 70. The Commission has the responsibility of assuring that licenses, approvals, and  
27 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
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1 operations are conducted in a manner that is inimical to the public health, safety, or welfare.

2 Business and Professions Code section 19823(a)(1).

3 71. An “unqualified person” means a person who is found to be unqualified pursuant to  
4 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to  
5 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code  
6 section 19823(b).

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

10 73. The Commission has the power to take actions deemed to be reasonable to ensure that  
11 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled  
12 gambling activities. Business and Professions Code section 19824(d).

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

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

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

23 77. The burden of proof is always on the applicant to prove his, her, or its qualifications to  
24 receive any license or other approval under the Gambling Control Act. CCR section 12060(i).

25 78. 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           79. 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, criminal record, if any, reputation, habits, and associations do not pose a threat to the  
4 public interest of this state, or to the effective regulation and control of controlled gambling, or  
5 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in  
6 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           80. No gambling license shall be issued unless, based on all of the information and  
9 documents submitted, the commission is satisfied that the applicant is a person that is in all other  
10 respects qualified to be licensed as provided in this chapter. Business and Professions Code  
11 section 19857(c).

12           81. An application will be denied if the Commission finds that the applicant has not  
13 satisfied the requirements of Business and Professions Code section 19857. CCR section  
14 12040(a)(1).

15           82. An applicant demonstrates good character, honesty, and integrity through providing  
16 accurate, complete, and truthful testimony. An applicant fails to demonstrate good character,  
17 honesty, and integrity by providing misleading and not credible responses while testifying an  
18 evidentiary hearing. This is especially true when those responses and testimony appear to be a  
19 deliberate attempt to shield an applicant from derogatory or unfavorable information or  
20 impressions.

21           83. An applicant also demonstrates good character, honesty, and integrity through proper,  
22 appropriate, and honest conduct while employed, especially while working in controlled  
23 gambling. An applicant fails to demonstrate good character, honesty, and integrity through  
24 unsuitable, unfair, dishonest, and criminal conduct.

25           84. Cruz's statements and testimony during the evidentiary hearing appear intentionally  
26 designed to place Cruz in a favorable light as an honest employee of Bankers Casino and the  
27 victim of harassment and a wrongful termination. However, several of Cruz's statements and  
28

1 testimony regarding his work history, as described in the Findings of Fact, were dishonest,  
2 misleading, and/or not credible. In addition, Cruz provided an off-duty fellow employee an unfair  
3 advantage while dealing cards and was involved in a scheme to steal money from GPS. Based on  
4 his dishonest, misleading, and not credible testimony, and unfair and dishonest participation in a  
5 scheme to steal from GPS while working in controlled gambling, Cruz has demonstrated a lack of  
6 good character, honesty, and integrity. As a result, Cruz has failed to meet his burden of proving  
7 that he is a person of good character, honesty, and integrity and is therefore unqualified for  
8 licensure pursuant to Business and Professions Code section 19857(a). Based on the foregoing,  
9 Cruz's Application must be denied pursuant to CCR section 12040(a)(1).

10 85. Cruz's prior activities while working in controlled gambling included providing an  
11 off-duty fellow employee an unfair advantage while dealing cards and being involved a scheme to  
12 steal money from GPS. Through these actions, Cruz directly contributed to unsuitable, unfair, and  
13 illegal practices in the conduct of controlled gambling. Therefore, Cruz's prior activities while  
14 employed in controlled gambling pose a threat to the public interest of this state, to the effective  
15 regulation and control of controlled gambling, and create and enhance the dangers of unsuitable,  
16 unfair, and illegal practices, methods, and activities in the conduct of controlled gambling and in  
17 the carrying on of the business and financial arrangements incidental thereto. As a result, Cruz is  
18 unqualified for licensure pursuant to Business and Professions Code section 19857(b) and his  
19 Application must be denied pursuant to CCR section 12040(a)(1).

#### 20 NOTICE OF APPLICANT'S APPEAL RIGHTS

21 Cruz has the following appeal rights available under state law:

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

23 (a) After the Commission issues a decision following a GCA hearing conducted  
24 pursuant to Section 12060, an applicant denied a license, permit, registration, or  
25 finding of suitability, or whose license, permit, registration, or finding of  
26 suitability has had conditions, restrictions, or limitations imposed upon it, may  
27 request reconsideration by the Commission. A request for reconsideration must  
28 be:

(1) Made in writing to the Commission, copied to the Complainant. The  
Bureau may provide a written response to the Commission within 10 calendar days  
of receipt of the request; and



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(2) Received by the Commission and Complainant within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is earlier.

(b) A request for reconsideration must state the reasons for the request, which must be based upon either:

(1) 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,

(2) 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.

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. Ivan Cruz's Application for Initial Work Permit is DENIED.
2. No costs are awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on December 6, 2021.

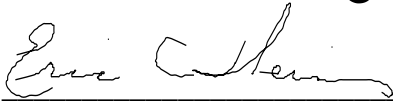
Dated: 11/4/21

Signature:   
Paula LaBrie, Chair


Dated: 11/4/21

Signature:   
Cathleen Galgiani, Commissioner


Dated: 11/04/2021

Signature:   
Eric Heins, Commissioner

Dated: 11-4-21

Signature:   
William Liu, Commissioner

Dated: 11/4/21

Signature:   
Edward Yee, Commissioner