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2
3 **BEFORE THE**
4 **CALIFORNIA GAMBLING CONTROL COMMISSION**
5
6 **STATE OF CALIFORNIA**

7 **In the Matter of the Application for**
8 **Approval of Initial Tribal-State Compact**
9 **Key Employee Finding of Suitability for:**

CGCC Case No.: CGCC-2012-0701
BGC Case No.: BGC-HQ2012-00009AL

10 **WILLIAM ROBERT HAYWARD**
11 

DEFAULT DECISION AND ORDER

Hearing Date: July 9, 2013
Hearing Time: 10:00 a.m.

12
13 **Applicant.** (Bus. & Prof. Code § 19870)

14
15 **DEFAULT DECISION**

16 Presiding Officer (PO) Jason Pope, Staff Counsel to the California Gambling Control
17 Commission (Commission), with all four Commission members present, heard this matter in
18 Sacramento, California, on July 9, 2013.

19 Ronald L. Diedrich, Deputy Attorney General, State of California, represented complainant
20 Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control, Department of Justice, State of
21 California (Complainant).
22

23 William Robert Hayward (Applicant) failed to appear and was not represented at the
24 hearing.

25 On July 9, 2013, after the PO took official notice of certain items, discussed below, and
26 allowed into evidence nine exhibits offered by Complainant, identified below, the record was
27 closed and the matter was submitted for decision.
28

OFFICIAL NOTICE

1. The PO took official notice of the following:
 - (a) Notice of Hearing and Prehearing Conference, dated May 31, 2013 by certified mail, return receipt requested, with attachments (CCR section 12050 and two return receipt "green cards" from Bureau and Applicant).
 - (b) PO letter following prehearing conference dated June 27, 2013.
 - (c) Commission agenda of July 9, 2013, posted on its website.
 - (d) On or before July 9, 2013, Applicant did not contact Commission Staff to inform them that he would arrive late, nor did he seek a continuance.
 - (e) On or before July 9, 2013, Applicant did not contact the Complainant to inform it that he would arrive late, nor did he seek a continuance.
 - (f) The burden of proof rests with Applicant to demonstrate why a finding of suitability should be issued.

COMPLAINANT'S EXHIBITS

1. The PO accepted into evidence the following Complainant's exhibits:
 - (a) Statement of Issues filed with the Commission on March 14, 2013.
 - (b) Copy of the Notice of Hearing, without attachments, dated May 31, 2013.
 - (c) Copy of Applicant's application, including supplemental application.
 - (d) Certified copy of Applicant's April 8, 2002, conviction for violating Vehicle Code section 23103, subdivision (a),¹ reckless driving, a misdemeanor, and Vehicle Code section 31, giving false information to a police officer, a misdemeanor, in the

¹ Applicant was charged with violating Vehicle Code section 23152, subdivision (a), driving under the influence of an alcoholic beverage or drug. However, Applicant pled *nolo contendere* to Vehicle Code section 23103.5, which in effect resulted in the conviction of violating Vehicle Code section 23103, subdivision (a).

1 case of *People v. William Robert Hayward* (Super. Ct. Shasta County, 2002, No.
2 MCRDCRTR020000419).²

3 (e) Certified copy of Applicant's August 11, 1995, conviction for violating Vehicle
4 Code sections 14601.2, subdivision (a), driving on a suspended license for driving
5 under the influence, a misdemeanor, and 22350, speeding, in the case of *People v.*
6 *William Robert Hayward* (Super. Ct. Butte County, 1995, No.
7 CRTR950004777).³

8
9 (f) Certified copy of Applicant's November 9, 1993, conviction for violating Vehicle
10 Code section 14601.2, subdivision (a), driving on a suspended license for driving
11 under the influence, a misdemeanor, in the case of *People v. William Robert*
12 *Hayward* (Super. Ct. Glenn County, 1993, No. 548817).⁴

13 (g) Certified copy of Applicant's May 25, 1990, conviction for violating Vehicle
14 Code section 23152, subdivision (a), driving under the influence of an alcoholic
15 beverage or drug, with one prior conviction, a misdemeanor, in the case of *People*
16 *v. William Robert Hayward* (Mun. Ct. Shasta County, 1990, No. 90D1451).⁵

17
18 ² On or about October 16, 2008, pursuant to Penal Code section 1203.4, Applicant's
19 conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
20 County, 2008, No. 02CTR419) Petition and Order for Expungement. However, that
21 expungement "shall not constitute a limitation on the discretion of the commission under Section
22 19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
23 (d).)

24 ³ On or about October 16, 2008, pursuant to Penal Code section 1203.4, Applicant's
25 conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
26 County, 2008, No. 950004777) Petition and Order for Expungement. However, that
27 expungement "shall not constitute a limitation on the discretion of the commission under Section
28 19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
(d).)

⁴ On or about December 2, 2008, pursuant to Penal Code section 1203.4, Applicant's
conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Glenn
County, 2008, No. N54-8817) Petition and Order for Expungement. However, that expungement
"shall not constitute a limitation on the discretion of the commission under Section 19856 or
affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd. (d).)

⁵ On or about October 16, 2008, the Shasta County Superior court denied Applicant's
petition to have this conviction expunged pursuant to Penal Code section 1203.4, in the matter of
(continued...)

1 (h) Certified copy of Applicant's March 30, 1992, conviction for violating Vehicle
2 Code section 23152, subdivision (a), driving under the influence of an alcoholic
3 beverage or drug, with two prior convictions, a misdemeanor, in the case of
4 *People v. William Robert Hayward* (Mun. Ct. Shasta County, 1992, No.
5 92D0583).⁶

6 (i) Certified copy of Applicant's February 18, 1987, conviction for violating Vehicle
7 Code section 23152, subdivision (a), driving under the influence of an alcoholic
8 beverage or drug, a misdemeanor, in the case of *People v. William Robert*
9 *Hayward* (Super. Ct. Alameda County, 1987, No. 107506).

10 FACTUAL FINDINGS

11 1. On or about April 15, 2012, Applicant submitted an Application for Finding of
12 Suitability, Tribal Key Employee, and a Supplemental Background Investigation form
13 (collectively, application) to the Commission.⁷

14 2. At its June 14, 2012, non-adjudicatory meeting, the Commission voted to
15 preliminarily deny Applicant's application.

16 3. At that June 14, 2012 Commission meeting, Applicant requested an evidentiary
17 hearing at which the Commission would make a de novo determination, based upon the evidence
18 presented at the hearing, regarding Applicant's application.

19 _____
20 (...continued)

21 *People v. Hayward William Robert* (Super. Ct. Shasta County, 2008, No. 90CTR1451) Petition
and Order for Expungement.

22 ⁶ On or about October 16, 2008; pursuant to Penal Code section 1203.4, Applicant's
conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
23 County, 2008, No. 92CTR583) Petition and Order for Expungement. However, that
expungement "shall not constitute a limitation on the discretion of the commission under Section
24 19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
(d).)

25 ⁷ Applicant is currently employed as the Assistant General Manager at the Win-River
Casino, located on the Redding Rancheria at 2100 Redding Rancheria Road, Redding California.
26 Because this gambling establishment is owned and operated by the Redding Rancheria pursuant
to a tribal-state compact, Applicant's tribal key employee license, license number TRKE-012114,
27 is issued by the Redding Rancheria Tribal Gaming Agency and not the Commission. In such
instances, the Commission only makes a Finding of Suitability. (Tribal-State Compact Between
28 the State of California and Redding Rancheria, p. 11, § 6.)

1
2 4. This matter was initially scheduled to be conducted pursuant to Title 4, California
3 Code of Regulations (CCR) Section 12050(b)(1).

4 5. On May 31, 2013, Applicant was notified that this matter was rescheduled and
5 would proceed pursuant to Title 4, California Code of Regulations (CCR) Section 12050(b)(2).

6 6. On May 31, 2013, the Commission served Applicant with Notice of Hearing and
7 Prehearing Conference ("Notice"), dated May 31, 2013 by certified mail, return receipt requested.

8 7. The Notice informed Applicant that this matter would be heard by the Commission
9 at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833, on Tuesday, July 9, 2013, at
10 10:00 a.m.

11 8. The Notice also informed the Applicant that a prehearing conference would be held
12 at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833, on Wednesday, June 26, 2013,
13 at 2:00 p.m.

14 9. The return receipt "green card" was returned to the Commission, signed by the
15 Applicant dated June 3, 2013.

16 10. At the prehearing conference on June 26, 2013, the Applicant failed to appear or
17 make any contact with the Commission or the Bureau.

18 11. On June 27, 2013, the Presiding Officer informed the Applicant in writing ("PO
19 letter") that his application would be heard on July 9, 2013, pursuant to the Notice issued on May
20 31, 2013.

21 12. On June 28, 2013, the Commission placed a Notice and Agenda of Commission
22 Hearing ("Agenda") on its website:

23 [http://www.cgcc.ca.gov/documents/agendas/2013/Hearing%20Agenda_07_09_2013%20](http://www.cgcc.ca.gov/documents/agendas/2013/Hearing%20Agenda_07_09_2013%20.pdf)
24 [.pdf](http://www.cgcc.ca.gov/documents/agendas/2013/Hearing%20Agenda_07_09_2013%20.pdf)

25 13. Item 3. on the Agenda appears as follows:
26
27
28

1 Hearing Pursuant to Business and Professions Code Sections 19870 and 19871 and
2 Title 4, CCR section 12050(b)(2):
3 IN THE MATTER OF THE APPLICATION FOR APPROVAL OF INITIAL TRIBAL-
4 STATE COMPACT KEY EMPLOYEE FINDING OF SUITABILITY FOR WILLIAM
5 HAYWARD, CASE NO.: CGCC-2012-0701

6 14. This matter was heard by the Commission on the date, time, and place noted on the
7 Notice, Agenda, and PO letter, pursuant to Business and Professions Code Sections 19870 and
8 19871, and Title 4, CCR Section 12050(b)(2), in Sacramento, California, on July 9, 2013.⁸

9 15. Complainant was present throughout the pendency of the hearing.

10 16. Applicant, William Robert Hayward failed to appear throughout the pendency of the
11 hearing.

12 17. The matter was submitted for decision on July 9, 2013.

13 LEGAL CONCLUSIONS

14 *Applicable Statutes, Regulations and Compact Provisions*

15 1. Business and Professions Code, section 19811 provides, in part:

16 (b) Jurisdiction, including jurisdiction over operation and
17 concentration, and supervision over gambling establishments in this state
18 and over all persons or things having to do with the operations of gambling
19 establishments is vested in the commission.

20 2. Business and Professions Code, section 19823 provides:

21 (a) The responsibilities of the commission include, without limitation,
22 all of the following:

23 (1) Assuring that licenses, approvals, and permits are not issued to, or
24 held by, unqualified or disqualified persons, or by persons whose
25 operations are conducted in a manner that is inimical to the public health,
26 safety, or welfare.

27 (2) Assuring that there is no material involvement, directly or
28 indirectly, with a licensed gambling operation, or the ownership or

⁸ After commencement of the hearing the Commission noted Applicant's absence and allowed fifteen additional minutes to Applicant by going into recess for that time.

1 management thereof, by unqualified or disqualified persons, or by persons
2 whose operations are conducted in a manner that is inimical to the public
3 health, safety, or welfare.

4 (b) For the purposes of this section, "unqualified person" means a
5 person who is found to be unqualified pursuant to the criteria set forth in
6 Section 19857, and a "disqualified person" means a person who is found to
7 be disqualified pursuant to the criteria set forth in Section 19859.

8 3. Business and Professions Code, section 19824 provides, in part:

9 The commission shall have all powers necessary and proper to enable it
10 fully and effectually to carry out the policies and purposes of this chapter,
11 including, without limitation, the power to do all of the following:

12 * * *

13 (d) Take actions deemed to be reasonable to ensure that no ineligible,
14 unqualified, disqualified, or unsuitable persons are associated with
15 controlled gambling activities.

16 4. The Tribal-State Compact Between the State of California and Redding Rancheria
17 (Compact), page 19, section 6.5.6, provides, in part:

18 Except for an applicant for licensing as a non-key Gaming
19 Employee, as defined by agreement between the [Redding Rancheria]
20 Tribal Gaming Agency and the State Gaming Agency [Commission], the
21 Tribal Gaming Agency shall require the applicant also to file an
22 application with the State Gaming Agency, ... for a determination of
23 suitability for licensure under the California Gambling Control Act.
24 Investigation and disposition of that application shall be governed
25 entirely by state law, and the State Gaming Agency shall determine
26 whether the applicant would be found suitable for licensure in a
27 gambling establishment subject to that Agency's jurisdiction.

28 5. Business and Professions Code section 19856, subdivision (a) provides, in part:

The burden of proving his or her qualifications to receive any license
is on the applicant.

6. Title 4, California Code of Regulations (CCR) section 12050(b)(3) provides, in part:

[T]he burden of proof rests with applicant to demonstrate why a finding of
suitability should be issued....

7. Business and Professions Code section 19805, subdivision (j) provides:

1 "Finding of Suitability" means a finding that a person meets the
2 qualification criteria described in subdivisions (a) and (b) of Section
3 19857, and that the person would not be disqualified from holding a state
4 gambling license on any of the grounds specified in Section 19859.

5 8. Business and Professions Code section 19857 provides in part:

6 No gambling license shall be issued unless, based on all the
7 information and documents submitted, the commission is satisfied that
8 the applicant is all of the following:

9 (a) A person of good character, honesty and integrity.

10 (b) A person whose prior activities, criminal record, if any,
11 reputation, habits, and associations do not pose a threat to the public
12 interest of this state, or to the effective regulation and control of
13 controlled gambling, or create or enhance the dangers of unsuitable,
14 unfair, or illegal practices, methods, and activities in the conduct of
15 controlled gambling or in the carrying on of the business and financial
16 arrangements incidental thereto.

17 9. Business and Professions Code section 19859 provides in part:

18 The commission shall deny a license to any applicant who is
19 disqualified for any of the following reasons:

20 (a) Failure of the applicant to clearly establish eligibility and
21 qualification in accordance with this chapter.

22 (b) Failure of the applicant to provide information,
23 documentation, and assurances required by this chapter or requested by
24 the Chief⁹, or failure of the applicant to reveal any fact material to
25 qualification, or the supplying of information that is untrue or
26 misleading as to a material fact pertaining to the qualification criteria.

27 *Legal Discussion*

28 1. Based on the foregoing factual findings, Applicant's Finding of Suitability is subject
to denial.

2. Cause for denial of Applicant's application was established pursuant to Business and
Professions Code section 19856, subdivision (a) and Title 4, California Code of Regulations
(CCR) section 12050(b)(3), in that although Applicant acknowledged receipt of Notice, which

⁹ "Chief" refers to the Chief of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 was in accordance with law, he failed to meet his burden by not appearing at the hearing to prove
2 his qualifications for a Finding of Suitability.

3 3. As a result of Applicant's failure to appear at the hearing as provided in the Notice,
4 Agenda, and PO letter, or to make any type of oral or written request prior to the hearing to
5 excuse his absence at the hearing or seek a continuance, the Commission has jurisdiction to
6 adjudicate this case by default and to order the denial of Applicant's Finding of Suitability.

7 4. The Commission did not consider the application on the merits, therefore the
8 Commission did not issue this Decision on the merits as requested by Complainant.

9
10 NOTICE OF APPLICANT'S APPEAL RIGHTS

11 Pursuant to Compact subsection 6.5.6 (d), the Applicant has the following appeal rights available
12 under state law:

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

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

21 Title 4, California Code of Regulations (CCR) section 12050, subsection (d)
22 provides:

23 An appeal of a denial or imposition of conditions by the Commission shall be
24 subject to judicial review under Code of Civil Procedure section 1085 (pursuant to
25 Business and Professions Code section 19870, subdivision (e)). Neither the right to
26 petition for judicial review nor the time for filing the petition shall be affected by failure
27 to seek reconsideration.

28 Title 4, California Code of Regulations (CCR) section 12050, subsection (c)(6) provides,
in part:

(6) An applicant denied a license, permit, registration, or finding of suitability, or
whose license, permit, registration, or finding of suitability has had conditions imposed
upon it may request reconsideration by the Commission within 30 days of notice of the
decision. The request shall be in writing and shall outline the reasons for the request,
which must be based upon either newly discovered evidence or legal authorities that could

1 not reasonably have been presented before the Commission's issuance of the decision or
2 at the hearing on the matter, or upon other good cause for which the Commission in its
3 discretion decides merits reconsideration.

4 **ORDER**

5 BASED UPON THE FOREGOING FINDINGS OF FACT AND LEGAL
6 CONCLUSIONS, IT IS ORDERED that:

7 1. Applicant William Robert Hayward's Finding of Suitability is DENIED.

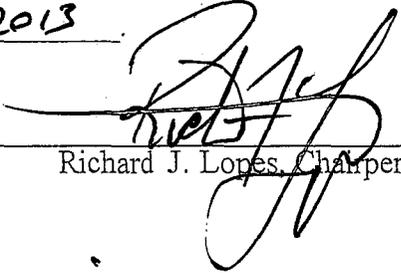
8 Pursuant to Title 4, California Code of Regulations (CCR) section 12050(c)(1), Applicant may
9 serve a written letter requesting that this Default Decision and Order be vacated and stating the
10 grounds relied on within ten (10) days after service of this Default Decision and Order on
11 Applicant. The Commission in its discretion may then vacate this Default Decision and Order
12 and grant a hearing on a showing of good cause.
13

14 2. No costs are awarded.

15 3. Each side to pay its own attorney's fees.

16 This Order shall become effective on 8/26/2013

17
18 Dated: 7/25/2013

19 
Richard J. Lopes, Chairperson

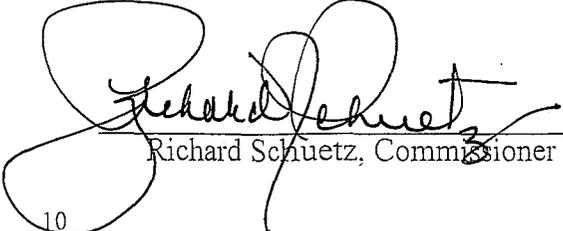
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21 Dated: 7/25/2013

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Tiffany E. Conklin, Commissioner

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24 Dated: 7/25/2013

25 
Lauren Hammond, Commissioner

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27 Dated: 7/25/2013

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Richard Schuetz, Commissioner