

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2013-0110-1

In the Matter of the Application for Approval
of Initial Tribal-State Compact Key Employee
Finding of Suitability Regarding:

DEFAULT DECISION AND ORDER

DIANE SALCIDO

Hearing Date: October 15, 2013
Time: 10:00 am

Applicant.

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 12050, in Sacramento, California, on October 15, 2013.

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

Diane Salcido failed to appear and was not represented at the hearing.

The matter was submitted on October 15, 2013.

FACTUAL FINDINGS

1. On or about September 22, 2011, Ms. Salcido submitted an Application for Finding of Suitability Tribal Key Employee (Application) to the Commission. The Application requires the applicant to disclose criminal and litigation history, financial history, and other detailed information.

2. On January 10, 2013, at a meeting held pursuant to CCR Section 12050(a), the Commission voted to preliminarily deny the Application and referred the matter to an evidentiary hearing.

3. On May 24, 2013, the Executive Director of the Commission set the matter for an administrative hearing to be conducted pursuant to Business and Professions Code Sections

1 19870 and 19871 and CCR Section 12050(b)(2). The Commission served a Notice of Hearing
2 and Prehearing Conference, which included Ms. Salcido's Application, the Bureau's Background
3 Investigation Report and Commission staff's supplemental report, via certified mail, on Ms.
4 Salcido and the Bureau.

5 4. The Commission received a Certified Mail Receipt acknowledging Ms. Salcido's
6 receipt of the May 24, 2013 Notice of Hearing and Prehearing Conference. The Certified Mail
7 Receipt was signed by Ms. Salcido on May 31, 2013.

8 5. On or about July 10, 2013, the Commission served a Notice of Continuance of
9 Hearing and Prehearing Conference, via certified mail, on Ms. Salcido and Deputy Attorney
10 General Timothy Muscat. The certified mail sent to Ms. Salcido was returned to the Commission
11 due to "no mail receptacle." The Commission served an additional copy of the Notice of
12 Continuance of Hearing and Prehearing Conference, via certified mail, to Ms. Salcido at her post
13 office box. The certified mail was returned to the Commission because it was "unclaimed."

14 6. On August 8, 2013, the Commission served the Notice of Continuance of Hearing and
15 Prehearing Conference via certified and regular mail to Ms. Salcido.

16 7. On August 26, 2013, the Commission received a Certified Mail Receipt
17 acknowledging Ms. Salcido's receipt of the July 10, 2013 Notice of Continuance of Hearing and
18 Prehearing Conference. The Certified Mail Receipt was signed by Ms. Salcido.

19 8. On or about August 30, 2013, the Bureau filed and served a Statement of Reasons on
20 Ms. Salcido recommending the denial of her Application.

21 9. On September 13, 2013, the noticed Prehearing Conference was held before Presiding
22 Officer Jason Pope, Staff Counsel III of the Commission. Ms. Salcido failed to attend the
23 prehearing conference.

24 10. The Commission heard Case No. CGCC-2013-0110-1 on October 15, 2013. The
25 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
26 Timothy Muscat. Ms. Salcido failed to appear throughout the pendency of the hearing or make
27 any contact with the Commission or the Bureau.

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1 11. During the administrative hearing, Presiding Officer Jason Pope took official notice of
2 the following:

- 3 (a) Statement of Reasons filed by the Bureau;
- 4 (b) Notice of Hearing and Prehearing Conference, dated March 24, 2013, served
5 by certified mail, return receipt requested, with return receipt green cards
6 signed by Ms. Salcido and the Bureau;
- 7 (c) Notice of Continuance of Hearing and Prehearing Conference, dated July 10,
8 2013, served by regular and certified mail, return receipt requested, with return
9 receipt green cards signed by Ms. Salcido and the Bureau; and
- 10 (d) Certified copy of Diane Salcido's Application.

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

- 13 (a) Certified copies of Diane Salcido's June 27, 2001 convictions for violating
14 Vehicle Code Sections 23152(a), driving under the influence of alcohol/drugs,
15 and 23152(b), driving under the influence of alcohol at .08 percent or higher,
16 December 1, 2003 bench warrant for failure to appear for an arraignment and
17 probation revocation, January 3, 2007 bench warrant for failure to appear for a
18 probation violation hearing, and Failure to Pay order by Riverside County
19 Superior Court on May 27, 2011;
- 20 (b) Certified copies of Diane Salcido's January 12, 2007 conviction for violating
21 Vehicle Code Section 14601.1(a), driving while license is suspended,
22 September 22, 2009 conviction for violating Penal Code Section 853.7, failure
23 to appear after a written promise, January 3, 2007 bench warrant for failure to
24 appear, April 20, 2007 bench warrant for failure to appear in court and
25 probation revocation, and October 10, 2008 bench warrant for failure to
26 appear;
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1 (c) Certified copy of Diane Salcido's Failure to Pay order by the Riverside County
2 Superior Court on August 17, 2010;

3 (d) Certified copies of the records for Diane Salcido from the Franchise Tax Board
4 regarding her tax filings from the years 2001 through 2011; and

5 (e) Certified copies of the records for Diane Salcido from a small claims judgment
6 against her in the Riverside County Superior Court on July 24, 2006 for
7 writing a check with insufficient funds.

8 13. The matter was submitted for Commission consideration on October 15, 2013.

9 LEGAL CONCLUSIONS

10 1. Except for an applicant for licensing as a non-key Gaming Employee, the Tribal
11 Gaming Agency [Morongo] shall require an applicant to file an application with the Commission,
12 prior to issuance of a temporary or permanent tribal gaming license, for a determination of
13 suitability for licensure under the California Gambling Control Act. Tribal-State Compact
14 between the State of California and Morongo Band of Mission Indians (Compact) Section 6.5.6.

15 2. The burden of proving his or her qualifications to receive any license from the
16 Commission is on the applicant. Business and Professions Code Section 19856(a).

17 3. At an evidentiary hearing pursuant to Business and Professions Code Sections 19870
18 and 19871 and CCR Section 12050(b)(2), the burden of proof rests with the applicant to
19 demonstrate why a finding of suitability should be issued. CCR Section 12050(b)(3).

20 4. Ms. Salcido did not attend the Prehearing Conference or administrative hearing
21 despite receiving adequate notice for both. As a result of her failure to attend the administrative
22 hearing, or make any type of oral or written request prior to the hearing to excuse her absence at
23 the hearing or to request a continuance, Ms. Salcido did not meet her burden of demonstrating
24 why a finding of suitability should be issued.

25 NOTICE OF APPLICANT'S APPEAL RIGHTS

26 1. Pursuant to Compact Section 6.5.6(d), Ms. Salcido has the following appeal rights
27 available under state law:
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1 Business and Professions Code Section 19870(e) provides:

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

9 CCR Section 12050(c)(6) provides in pertinent part:

10 An applicant denied a license, permit, registration, or finding of suitability, or
11 whose license, permit, registration, or finding of suitability has had conditions
12 imposed upon it may request reconsideration by the Commission within 30 days of
13 notice of the decision. The request shall be in writing and shall outline the reasons
14 for the request, which must be based upon either newly discovered evidence or
15 legal authorities that could not reasonably have been presented before the
16 Commission's issuance of the decision or at the hearing on the matter, or upon
17 other good cause for which the Commission in its discretion decides merits
18 reconsideration.

19 CCR Section 12050(d) provides:

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

25 ORDER

26 1. Diane Salcido's September 22, 2011 Application for Finding of Suitability Tribal Key
27 Employee is DENIED. Ms. Salcido may serve a written letter requesting that this Default
28 Decision and Order be vacated and stating the grounds relied on within ten (10) days after service
of this Default Decision and Order upon Ms. Salcido. The Commission in its discretion may then
vacate this Default Decision and Order and grant a hearing upon a showing of good cause.

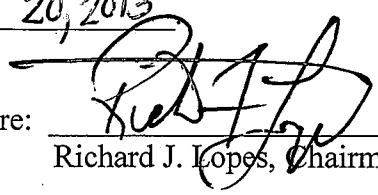
2. No costs are to be awarded.

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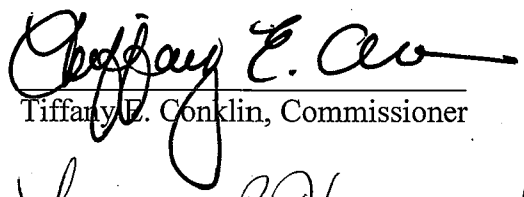
3. Each side to pay its own attorneys' fees.

This Order is effective on November 20, 2013

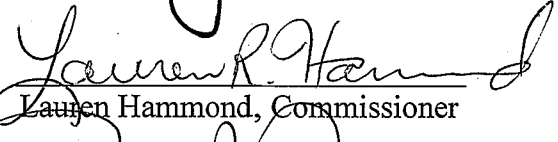
Dated: 10/18/2013

Signature: 
Richard J. Lopes, Chairman

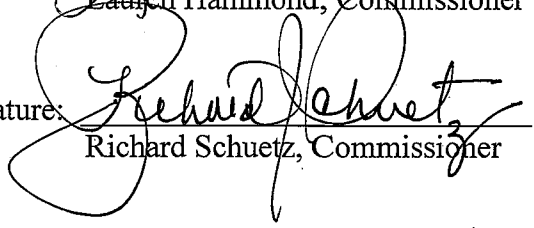
Dated: OCT. 21, 2013

Signature: 
Tiffany E. Conklin, Commissioner

Dated: Oct 21, 2013

Signature: 
Lauren Hammond, Commissioner

Dated: 10/18/2013

Signature: 
Richard Schuetz, Commissioner