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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons
Against:

GREG DOCHERTY

Respondent.

BGC Case No. BGC-HQ2016-00002SL
CGCC Case No. CGCC-2015-0225-15

DECISION AND ORDER

Hearing Date: January 30, 2017
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on January 30, 2017.

Michelle Laird (Laird), 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.

Attorney Andrew Twietmeyer (Twietmeyer) represented Respondent Greg Docherty (Docherty).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Docherty and Laird, via US mail, on June 14, 2016.

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; copies of Bus. & Prof. Code, §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; and August 25, 2016 Certificate of Service by Certified Mail Service, Bates Nos. 0001-0020;
- (2) Notice of Defense, Bates Nos. 0021-0022;
- (3) Notices from the Commission:

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- a. February 26, 2016 Referral of Initial Tribal Key Employee Finding of Suitability to an Evidentiary Hearing; and
- b. June 14, 2016 Notice of Hearing and Prehearing Conference, with Attachments A and B (Application for Approval of Tribal Key Employee Finding of Suitability & Bureau Background Investigation Report), Bates Nos. 0023-0049;
- (4) Application for Finding of Suitability Tribal Key Employee, executed September 5, 2014, with Supplemental Background Information form, executed September 9, 2014 (subsequently redacted), Bates Nos. 0050-0058;
- (5) Pala Gaming Commission’s September 25, 2014 Determination of Suitability Results re Greg Docherty, with copy of Docherty’s California Drivers License (subsequently redacted), Bates Nos. 0059-0062;
- (6) Electronic Docket on file with the Clerk of the Los Angeles Superior Court as of March 28, 2016, re plea of nolo contendere to a misdemeanor violation of California Penal Code section 647, subdivision (a) (solicitation of lewd conduct) on May 31, 1991, in *People v. Greg Docherty* (Super. Ct. Los Angeles County, 1991, No. 91H01575), Bates Nos. 0063-0066;
- (7) April 22, 1991 Arrest Report and Booking and Identification Record, Los Angeles Police Department, Bates Nos. 0067-0071;
- (8) 2005 Application and Supplemental Background Package for Finding of Suitability Tribal Key Employee (subsequently redacted), Bates Nos. 0072-0082;
- (9) Docherty Credit Report, April, 2015 (subsequently redacted), Bates Nos. 0083-0091; and
- (10) Parties’ Transcription of “Continuation Sheets” from April 22, 1991 Arrest Report and Booking and Identification Record, Los Angeles Police

1 Department (re Exh. 7).

2 During the evidentiary hearing, Presiding Officer Jason Pope also accepted into evidence
3 the following exhibits offered by Docherty:

4 (A) Greg Docherty's Annual Performance Reviews, Pala Resort and Casino,
5 Bates Nos. DOCHERTY-001 through DOCHERTY-015;

6 (B) Greg Docherty's Experian Credit Report, Nov. 1, 2016, Bates Nos.
7 DOCHERTY-016 through DOCHERTY-027;

8 (C) September 19, 2016 letter from Midland Credit Management, Inc. to Greg
9 Docherty providing that his current balance is \$0.00; and

10 (D) September 23, 2016 letter from Chase Cardmember Services to Greg
11 Docherty providing that Chase has received the final payment on his
12 settlement agreement.

13 The matter was submitted on January 30, 2017.

14 FINDINGS OF FACT

15 1. On or about September 29, 2014, Docherty submitted an Initial Application for
16 Finding of Suitability -- Tribal Key Employee (Application) to the Commission.

17 2. At its February 25, 2016 meeting, the Commission voted to refer the consideration of
18 Docherty's Application to a Gambling Control Act evidentiary hearing.

19 3. On or about March 10, 2016, Docherty submitted a Notice of Defense to the
20 Commission and the Bureau requesting an evidentiary hearing on the consideration of his
21 Application.

22 4. On or about June 14, 2016, the Commission served a Notice of Hearing letter, via US
23 mail, on Docherty and Laird.

24 5. On or about August 25, 2016, the Bureau filed a Statement of Reasons with the
25 Commission and served the Statement of Reasons on Docherty via Fed-Ex Overnight. In its
26 Statement of Reasons, the Bureau recommends the denial of Docherty's Application.

27 6. The Commission heard Case No. CGCC-2015-0225-15 on January 30, 2017. The
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1 Bureau was represented throughout the hearing by Deputy Attorney General Michelle Laird.
2 Respondent Greg Docherty appeared and was represented throughout the hearing by attorney
3 Andrew Twietmeyer.

4 7. On or about May 13, 1991, Docherty was convicted of violating Penal Code section
5 647(a), solicitation of lewd conduct, a misdemeanor, in the case of *People v. Greg Docherty*
6 (Super. Ct. Los Angeles County, 1991, No. 91H01575). Docherty was sentenced to 24 months of
7 probation and ordered to attend an AIDS Education Program, to complete 120 hours of
8 community service, and not to offer to engage in sexual activity for money or other consideration.

9 8. Solicitation of lewd conduct, a violation of Penal Code section 647(a), is a serious
10 crime that demonstrates a lack of good character and integrity.

11 9. According to the Los Angeles Police Department Arrest Report, an officer observed
12 two women gesturing and trying to make eye contact with passing vehicles. Docherty's vehicle
13 stopped in front of the two women and they engaged in a 3-4 minute conversation. Both women
14 entered the vehicle. Docherty drove into a residential neighborhood and stopped. The officer
15 parked his car behind a full-sized Chevy pickup. The officer exited his vehicle and approached
16 the right rear of Docherty's vehicle, where he observed one of the women with her head in
17 Docherty's lap and moving in an up and down motion (oral copulation). The street was well-lit
18 with overhead street lamps which illuminated the vehicle. The officer walked back to his vehicle
19 to notify dispatch of the violation. As the officer started the vehicle, the woman with her head in
20 Docherty's lap lifted her head to look back. Docherty started his vehicle and attempted to flee.
21 The officer activated his car lights. Docherty stopped his vehicle and exited his vehicle with his
22 shirt untucked and his zipper down. Docherty pulled up his zipper as he approached the officer's
23 vehicle. Docherty and the woman who had her head in Docherty's lap were arrested. When
24 questioned by the officer, Docherty stated that the girls waved him over and asked for a ride and
25 that he did not know that they were prostitutes. Docherty denied that the woman had her head in
26 his lap. The woman stated that Docherty had given them a ride to her car, and when she saw him
27 reach down for something on the floor, they stopped, and she then bent over to see what Docherty
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1 was reaching for.

2 10. While the Arrest Report may not be completely accurate, it is sufficiently detailed and
3 appears to be a credible source of information regarding the circumstances surrounding
4 Docherty's arrest for solicitation of lewd conduct.

5 11. Docherty failed to complete his community service and attend the AIDS Education
6 Program. As a result, four bench warrants were issued (three were recalled) from 1991 to 1993.
7 During the hearing, Docherty testified that he did not recall being ordered to attend the AIDS
8 Education Program, but admitted that did not complete his community service obligations.

9 12. On or about July 7, 2005, Docherty submitted a State Gaming Agency Tribal Key
10 Employee Application for Finding of Suitability to the Pala Gaming Commission. He checked the
11 line marked "No" to the question of whether he had ever been arrested for a felony or
12 misdemeanor crime. Docherty provided a written statement that he forgot to disclose the "lewd
13 conduct" arrest because it happened a long time ago.

14 13. On or about February 28, 2006, Docherty submitted a written statement to the Bureau
15 in response to the Bureau's request for details surrounding Docherty's solicitation of lewd
16 conduct conviction. In his written statement, Docherty wrote that he and a friend were out
17 drinking in Los Angeles. Their car was parked. Docherty got out of the car and went to the
18 bathroom. The police came. Docherty was drinking and disorderly at the time and the police
19 arrested him. Docherty omitted many details in his statement to the Bureau (such as the presence
20 of two women in his vehicle that he had just picked up) and his statement conflicts with the
21 Arrest Report. Docherty demonstrated a lack of candor and honesty in his February 28, 2006
22 written statement to the Bureau, and his recitation of the facts surrounding his solicitation of lewd
23 conduct conviction lacks credibility.

24 14. On or about March 1, 2006, Docherty's probation was reinstated and the court ordered
25 that his community service obligation be converted into a fine. Docherty paid the fine in full, after
26 which Docherty's probation was terminated.

27 15. On or about August 17, 2006, the Commission approved Docherty's Application for a
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1 Tribal Key Employee Finding of Suitability. The Commission was not provided with the Arrest
2 Report and other details surrounding Docherty's solicitation of lewd conduct conviction at that
3 time.

4 16. On or about September 29, 2014, Docherty submitted a Tribal Key Employee
5 Supplemental Background Investigation Information form as part of his Application. In the form,
6 Docherty disclosed his conviction for "lewd conduct."

7 17. On or about May 26, 2015, in response to the Bureau's request for details surrounding
8 Docherty's solicitation of lewd conduct conviction, Docherty wrote that he "was arrested for the
9 charge of lewd conduct. I was arrested for having my pants down and peeing in an alley
10 somewhere in the LA area." Docherty also wrote that while he never completed the community
11 service obligation he received as part of his conviction, years later he went back to court and paid
12 his fine in full. While mostly consistent with his February 28, 2006 written statement to the
13 Bureau, Docherty's May 26, 2015 written statement to the Bureau again omits several details of
14 his arrest and conflicts with the Arrest Report. Docherty demonstrated a lack of candor and
15 honesty in his May 26, 2015 written statement to the Bureau, and his recitation of the facts
16 surrounding his solicitation of lewd conduct conviction lacks credibility.

17 18. During the hearing, Docherty testified that he has a limited recollection of the
18 circumstances surrounding his solicitation of lewd conduct conviction. He testified that he was
19 driving with a friend, pulled his vehicle over, and two women asked for a ride. He did not recall
20 their conversation. The women entered his vehicle. He did not drive them to where they wanted
21 to go because he pulled over approximately one minute later, exited his vehicle, and urinated in a
22 public place. He then returned to his vehicle. He noticed police lights and did not flee. He was
23 arrested for urinating in public. He did not think the women were prostitutes, and stated that there
24 was no conversation about sex, no intimate contact, and neither woman put her head in his lap.
25 Docherty testified that immediately following his arrest, the police officer told Docherty that
26 urinating in public and soliciting a prostitute are basically the same thing. Docherty's testimony
27 during the hearing was much more specific than the details he provided in his prior written
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1 statements to the Bureau. However, many details of Docherty's testimony conflict with the Arrest
2 Report and his overall testimony lacks credibility. Docherty demonstrated a lack of candor and
3 honesty while testifying regarding his solicitation of lewd conduct conviction during the hearing.

4 19. Docherty also testified that he was not represented by counsel during his court
5 appearance and was not advised of the nature of his charge. He plead no contest to the charge of
6 "lewd conduct" because he felt he was guilty of urinating in public.

7 20. The facts and circumstances surrounding an applicant's criminal convictions are
8 material facts that pertain to the qualification criteria under the Gambling Control Act, including,
9 but not limited to, an applicant's good character, honesty, integrity, prior activities and criminal
10 record.¹

11 21. Docherty's lack of candor and honesty in his written statements to the Bureau and
12 during the hearing regarding the circumstances surrounding his solicitation of lewd conduct
13 conviction demonstrate a lack of integrity. Docherty also provided untrue and misleading
14 statements to the Bureau and Commission when he asserted that he was arrested and convicted
15 for "lewd conduct" as a result of urinating of public.

16 22. James Burch (Burch) testified on behalf of Docherty. Burch was present with
17 Docherty at the time of Docherty's arrest for solicitation of lewd conduct. Burch testified that he
18 and Docherty picked up a couple of girls who wanted a ride to their car. Docherty did not drive
19 them to their car because he had to get out of the vehicle to urinate. After Docherty returned to
20 the vehicle, a police officer appeared. Docherty made no attempt to flee the scene. Burch did not
21 believe the women were prostitutes as there was no offer of money for sex and at no point did one
22 of the women have her head in Docherty's lap.

23 23. Burch's testimony was consistent with Docherty's testimony, but was also limited,
24 and conflicted with portions of the Arrest Report. As a result, Burch's testimony lacked
25 credibility.

26 24. Docherty has been working at Pala Casino since 2004, and has worked as a Shift

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28 ¹ See Business and Professions Code sections 19857(a) and (b).

1 Manager of Table Games at Pala Casino for six years. He took an approximately one year
2 absence from work in 2013-2014. Docherty submitted Annual Performance Reviews for the years
3 2009-2010, 2010-2011, 2011-2012, and 2015-2016. All of the submitted Annual Performance
4 Reviews were very favorable regarding Docherty's employment with Pala Casino.

5 25. Michael Buchholz (Buchholz) testified on behalf of Docherty. Buchholz has been the
6 Director of Table Games at Pala Casino since 2004. He testified that he is Docherty's direct
7 supervisor. He testified that he needs to be confident in the trustworthiness of a Shift Manager.
8 Buchholz provided the favorable performance reviews of Docherty, and he believes Docherty has
9 good integrity, is trustworthy, and great at communication. Buchholz' testimony appears credible
10 and is supported by Docherty's numerous positive Annual Performance Reviews.

11 26. There was no evidence presented that Docherty has had any subsequent criminal
12 convictions.

13 27. Other than when Docherty received a written warning regarding engaging in a
14 relationship with another Pala Casino employee, there was no evidence presented of any alleged
15 misconduct or disciplinary action against Docherty during his employment at Pala Casino.

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

19 29. The matter was submitted for Commission consideration on January 30, 2017.

20 LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

22 38. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
23 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or
24 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

25 39. 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 40. The Commission shall deny a license to any applicant who is disqualified for
2 supplying information that is untrue or misleading as to a material fact pertaining to the
3 qualification criteria. Business and Professions Code section 19859(b).

4 41. Solicitation of lewd conduct, a violation of Penal Code section 647(a), is a serious
5 crime that demonstrates a lack of good character and integrity. Given that Docherty's conviction
6 took place over 25 years ago, and he has not had any subsequent convictions, his 1991 conviction
7 for solicitation of lewd conduct is insufficient in itself to demonstrate that Docherty lacks good
8 character and integrity. However, Docherty's recitation of the facts surrounding his conviction,
9 including his written statements to the Bureau on or about February 28, 2006 and May 26, 2015
10 and his testimony during the hearing, lacks candor and honesty, which demonstrates a lack of
11 integrity. As a result, Docherty failed to meet his burden of demonstrating that he is a person of
12 good character, honesty and integrity. Therefore, Docherty is unqualified for a finding of
13 suitability pursuant to Business and Professions Code section 19857(a).

14 42. The facts and circumstances surrounding an applicant's criminal convictions are
15 material facts that pertain to the qualification criteria under the Gambling Control Act. As
16 provided above, Docherty's recitations of the facts and circumstances surrounding his solicitation
17 of lewd conduct conviction lacked candor and honesty. More specifically, Docherty provided
18 untrue and misleading statements to the Bureau and Commission when he asserted that he was
19 arrested and convicted for "lewd conduct" due to urinating in public. As a result, Docherty has
20 supplied information to the Bureau and Commission that is untrue or misleading as to a material
21 fact pertaining to the qualification criteria under the Gambling Control Act. Therefore, Docherty
22 is disqualified from receiving a finding of suitability pursuant to Business and Professions Code
23 section 19859(b).

24 NOTICE OF APPLICANT'S APPEAL RIGHTS

25 Docherty has the following appeal rights available under state law:

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

27 An applicant denied a license, permit, registration, or finding of suitability,
28 or whose license, permit, registration, or finding of suitability has had

1 conditions, restrictions, or limitations imposed upon it, may request
2 reconsideration by the Commission within 30 calendar days of service of the
3 decision, or before the effective date specified in the decision, whichever is
4 later. The request shall be made in writing to the Commission, copied to the
5 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.

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

7 A decision of the commission denying a license or approval, or imposing
8 any condition or restriction on the grant of a license or approval may be
9 reviewed by petition pursuant to Section 1085 of the Code of Civil
10 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.

11 CCR section 12066, subsection (c) provides:

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


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2 1. Greg Docherty's Initial Application for a Finding of Suitability -- Tribal Key
3 Employee is DENIED.

4 2. No costs are to be awarded.

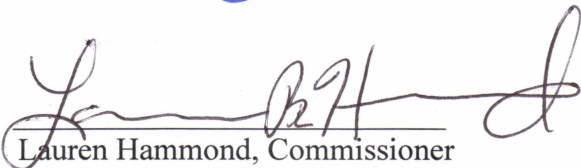
5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on Apr 7, 2017.


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8 Dated: 3/8/2017

Signature: 
Jim Evans, Chairman


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10 Dated: 3/8/2017

Signature: 
Lauren Hammond, Commissioner

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12 Dated: 3/8/2017

Signature: 
Paula LaBrie, Commissioner

13
14 Dated: 3/8/17

Signature: 
Trang To, Commissioner