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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

VITO MICHAEL LOCONTE

Applicant.

BGC Case No. BGC-HQ2020-00038SL
CGCC Case No. CGCC-2020-1119-7A

DECISION AND ORDER

Hearing Dates: December 6, 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 December 6, 2021.

Colin Wood, Deputy Attorney General, State of California (DAG Wood), represented complainant Yolanda Morrow, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Vito LoConte (LoConte) attended on his own behalf and was represented by his attorney, Tiffany E. Lichtig (Attorney Lichtig).

During the evidentiary hearing, Presiding Officer Russell Johnson took official notice of, and admitted into the record, the following documents: the Notice and Agenda of Commission Hearing; the Commission’s Conclusion of Prehearing Conference letter; the Commission’s Notice of Hearing with attachments (a) LoConte’s Application for Initial Regular Work Permit, and (b) the Bureau’s Work Permit Initial Background Investigation Report; the Commission’s Notice of Continued Hearing, dated May 21, 2021; the Commission’s Notice of Continued Hearing, dated October 15, 2021; the Bureau’s Statement of Reasons; the Bureau’s Amended Statement of Reasons; and LoConte’s signed Notices of Defense.

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

- 1 (1) Statement to Respondent; Statement of Reasons; Business & Professions
2 Code 19870 & 19871; California Code of Regulations, title 4, section
3 12060; Certificate of Service dated April 30, 2021, Bates Nos. 001-023.
- 4 (2) Notice of Defense signed 12/4/2020, Bates Nos. 024-025.
- 5 (3) Notices from the Commission:
 - 6 a. 11/20/20 - CGCC Referral to Evidentiary Hearing, Bates Nos. 026-027;
 - 7 b. 2/24/21 - CGCC Notice of Hearing with Attachments A & B, Bates
8 Nos. 028-050;
 - 9 c. 5/5/21 - Conclusion of Prehearing Conference, Bates Nos. 051-062.
- 10 (4) Application for Initial Regular Work Permit for Vito LoConte dated
11 8/23/2018; Work Permit Questionnaire dated 8/23/2018, Bates Nos. 063-
12 067.
- 13 (5) BGC Work Permit Initial Background Investigation Report, Level III, for
14 Vito Michael LoConte at Napa Valley Casino dated September 2020 with
15 attachments, Bates Nos. 068-083.
- 16 (6) CGCC Correspondence and Memorandum, Bates Nos. 084-106;
- 17 (7) License History and Certification of Official Records, Bates Nos. 107-108.
- 18 (8) Stanislaus County Superior Court Documents and Modesto Police
19 Department Report from case No. 46377, conviction date January 8, 1996;
20 Tahoe Justice Court Documents and Douglas County Sheriff's Department
21 Final Disposition Report and Booking Report for Case Number 96-6014T,
22 conviction date November 18, 1996; San Joaquin County Superior Court
23 Documents for Case Number MAN-CR-MI-2005-0004320, conviction
24 dated March 17, 2005, Bates Nos. 109-147.
- 25 (9) BGC Correspondence, Telephone Contact Sheets, and Emails, Bates Nos.
26 148-176.
- 27 (10) Appointment of Designated Agent Form and correspondence from
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- 1 Designated Agent, Bates Nos. 177-181.
- 2 (11) Oceanview Casino Employee Verification, Bates No. 182.
- 3 (12) BGC Incident Report for Incident at Oceanview Casino, dated March 7,
- 4 2018, Bates Nos. 183-184.
- 5 (13) BGC Investigation Report for Investigation Number BGC-FR2018-
- 6 00002PC, Bates Nos. 185-188.
- 7 (14) Surveillance Videos, Dated January 7, 2018 and January 8, 2018 from
- 8 BGC-FR2018-00002PC.

9 During the evidentiary hearing, Presiding Officer Russell Johnson accepted into evidence
10 the following exhibits offered by LoConte pursuant to a stipulation between the parties:

- 11 (A) Letter of Recommendation from Brian Altizer dated May 19, 2021, Bates
- 12 Nos. 001-002;
- 13 (B) Letter of Recommendation from Christopher Huang, dated November 5,
- 14 2021, Bates Nos. 003;
- 15 (C) Letter of Recommendation from Stan Seiff, dated November 2, 2021, Bates
- 16 Nos. 004-005.

17 The record was closed and the matter was submitted on December 6, 2021.

18 **FINDINGS OF FACT**

19 **Procedural History**

- 20 1. On or about September 4, 2018, the Bureau received an Application for Initial Regular
- 21 Work Permit/Temporary Work Permit and a Work Permit Questionnaire (collectively,
- 22 Application) from LoConte to work as a card dealer for Napa Valley Casino.
- 23 2. On or about September 7, 2018, the Commission issued LoConte temporary work
- 24 permit number GEWP-002789 for his employment as a card dealer at Napa Valley Casino.
- 25 3. On or about September 24, 2020, the Commission received a Level III Work Permit
- 26 Initial Background Investigation Report on LoConte from the Bureau. In this report, the Bureau
- 27 recommends that the Commission deny LoConte's Application.
- 28

1 4. On September 30, 2020, the Commission cancelled LoConte’s temporary work permit
2 pursuant to 4 CCR section 12128(b)(2) and provided him with instructions for surrendering his
3 badge.

4 5. On or about November 19, 2020, the Commission referred the consideration of
5 LoConte’s Application to a Gambling Control Act evidentiary hearing pursuant to CCR section
6 12054(a)(2) to be conducted pursuant to CCR section 12060.

7 6. On or about December 4, 2020, LoConte submitted a signed notice of defense form to
8 the Bureau and Commission requesting an evidentiary hearing on the consideration of his
9 Application and identifying that he was represented by attorney Keith Sharp (Attorney Sharp).

10 7. On or about February 24, 2021, the Commission sent a Notice of Hearing, via e-mail,
11 to Attorney Sharp and DAG Wood. The hearing was set for June 22, 2021.

12 8. On or about May 4, 2021, the noticed Prehearing Conference was held before
13 Presiding Officer Russell Johnson, Attorney III of the Commission. DAG Wood attended on
14 behalf of the Bureau. Attorney Sharp attended the conference on behalf of his client. LoConte did
15 not attend.

16 9. On or about May 5, 2021, the Commission sent a Conclusion of Prehearing
17 Conference letter, via e-mail, to Attorney Sharp and DAG Wood.

18 10. On May 21, 2021, the Commission sent a Notice of Continued Hearing, via email to
19 Attorney Sharp and DAG Wood. The continued hearing was set for October 20, 2021.

20 11. On or about June 24, 2021, the Bureau sent a Statement of Reasons to LoConte via
21 Certified mail. In the Statement of Reasons, the Bureau requests that the Commission deny
22 LoConte’s Application.

23 12. On or about October 1, 2021, LoConte signed and submitted a notice of defense form
24 to the Bureau and Commission requesting an evidentiary hearing on the consideration of his
25 Application and identifying that he was represented by Attorney Lichtig.

26 13. On October 15, 2021, the Commission sent a Notice of Continued Hearing, via e-mail
27 to Attorneys Sharp and Lichtig, and DAG Wood. The continued hearing was set for December 6,
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1 2021.

2 14. On December 6, 2021, the Bureau submitted an Amended Statement of Reasons to
3 LoConte and the Commission. In the Amended Statement of Reasons, the Bureau requests that
4 the Commission deny LoConte's Application.

5 15. The Commission heard this matter via Zoom video conference on December 6, 2021.
6 The Bureau was represented by DAG Wood. LoConte attended on his own behalf and was
7 represented by Attorney Lichtig.

8 **LoConte's Employment History in Controlled Gambling**

9 16. Prior to working for Oceanview, LoConte had worked for at least six California
10 cardrooms beginning in the early 1990s. LoConte began working as a card dealer for Oceanview
11 in 2015¹ until his termination on or about January 13, 2018.

12 17. On LoConte's Work Permit Questionnaire, he disclosed his prior employment at
13 Oceanview and identified his reason for leaving as "fired."

14 18. LoConte began working as a card dealer for Napa Valley Casino in September 2018
15 and maintained his employment until he was required to surrender his badge upon cancelation of
16 his temporary work permit by the Commission on September 30, 2020.

17 19. On April 3, 2019, in response to an inquiry from the Bureau, LoConte provided a
18 written statement regarding the reason he was terminated from Oceanview. LoConte stated that
19 he was accused of stealing from his rack and he had contacted the Department of Justice after his
20 termination.

21 20. In January 9, 2020, upon request by the Bureau, LoConte provided a more detailed
22 statement regarding his termination from Oceanview. LoConte wrote: "I used the chips in my
23 rack for sorta things paying for food, loaning money, cigarettes, etc. but when I turned it in it was
24 always exactly how much as when I got it. The other dealers did the same I was never told not to
25 do it and it doesn't say anything in the rule book they passed out to everyone...When they fired
26 me for stealing I contacted the Department of Justice to tell my side of the story..."

27 _____
28 ¹ LoConte identified his starting date as February 2015. Oceanview identified it as June 2015.

1 21. In the course of conducting its background investigation, Bureau staff contacted
2 Oceanview to verify the details of LoConte's prior employment. Oceanview's Casino Manager,
3 Kevin Hulin (Manager Hulin), returned the employment verification form, which identified that
4 LoConte was terminated on January 13, 2018 "for multiple infractions, including theft."

5 *Termination for Theft from Oceanview-First Dealer Tray Incident*

6 22. LoConte's termination from Oceanview followed two incidents involving separate \$5
7 shortages in his dealer trays on January 7, 2018. The Bureau offered as evidence a short excerpt
8 of surveillance footage showing the first incident wherein LoConte took a \$5 chip from his dealer
9 tray and put it in his pocket and left the table.

10 23. At the evidentiary hearing, LoConte testified on his own behalf and explained the
11 circumstances leading to his termination from Oceanview. LoConte admitted that he was the
12 dealer in the surveillance footage shown of the first incident. LoConte stated that he could not
13 recall why he took the first \$5 chip and put it in his pocket, but he did not do it with an intent to
14 steal the chip. LoConte testified that dealer tips were commingled with house chips in the tray.
15 Dealers would use their tips from the tray during their shift for things such as tipping others or
16 paying others to get them food from nearby establishments because Oceanview did not serve
17 food. LoConte testified that since the video showed him leave the table, he likely took the first \$5
18 chip to go tip the janitor or give someone the money for food. LoConte testified that there was not
19 a policy or rule against using tips from the tray during a shift for personal items.

20 24. LoConte further testified that because dealer tips were commingled with house chips
21 in the dealer tray, the dealer could accidentally take out the wrong amount of tips and that may
22 result in a shortage or overage when the tray was counted by the Floor Manager. LoConte
23 testified that in the past, anytime his tray was misbalanced, he would either be given money back
24 if there was an overage or he would pay back any missing funds if there was a shortage. LoConte
25 stated that he would have made up the shortage in his tray if given the opportunity to, as he had
26 done on other occasions, and he had no intent of stealing from Oceanview.

27 25. LoConte testified that after first incident, Floor Manager, Joshua Clover, (Clover), told
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1 him that his tray was short \$5. However, Clover did not accuse LoConte of stealing or reprimand
2 him. LoConte testified that he likely paid \$5 to balance the tray, which was how a shortage was
3 normally resolved.

4 26. Nathaniel Little (Little), a former Oceanview employee, corroborated LoConte's
5 testimony that tips would be commingled with house funds in the dealer's tray and could be used
6 by dealers for personal items, such as food, during a shift. Little also stated that there was no
7 policy or rule against this practice during the time that he worked for Oceanview. Little also
8 testified that if a tray was short at the end of a shift, employees would be required to make up the
9 shortage.

10 27. Clover testified that one of his duties is to count down dealer trays after each 30
11 minute down. Clover testified that he comes across a short tray at least once per day. Clover also
12 testified that LoConte's dealer trays consistently did not balance due to overages or shortages.
13 Clover estimated that every third tray of LoConte's had an overage or shortage and it would
14 require a lot of extra work to investigate to resolve shortages. However, Clover had not
15 previously found a shortage under circumstances that led him believe LoConte was stealing.

16 28. Clover testified that on January 7, 2018, when he counted down LoConte's tray after
17 the first down, it was \$5 short. Floor Manager Clover then watched surveillance footage and saw
18 LoConte take a \$5 chip from the tray and put it in his pocket and leave the table. When Clover
19 asked LoConte why the tray was short, LoConte did not have an explanation. Clover testified that
20 he has no memory of how the shortage in the tray was resolved for the first incident, but most
21 likely LoConte paid the \$5 to balance the tray because he did not do the paperwork he would
22 have done if the tray was not reconciled. Clover testified that he reported the first incident to
23 Manager Hulin.

24 *Termination for Theft from Oceanview-Second Dealer Tray Incident*

25 29. The second incident that led to LoConte's termination also occurred on January 7,
26 2018 and involved another \$5 shortage in LoConte's dealer tray. The Bureau offered as evidence
27 a short excerpt of surveillance footage showing the second incident wherein LoConte took a \$5
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1 chip from his dealer tray and placed a dealer's tip bet with it.

2 30. LoConte also testified regarding the second incident and admitted that he was the
3 dealer shown in the surveillance footage placing a dealer's tip bet. LoConte testified that it was
4 common practice at Oceanview for dealers to place tip bets or for patrons to place tip bets for the
5 dealer. LoConte testified that he was not shown the surveillance footage or given the opportunity
6 to discuss the second incident with Clover and soon after he was terminated by the owner for
7 theft.

8 31. Clover testified that after he found that LoConte's tray was again \$5 short, he viewed
9 surveillance footage and saw that LoConte had placed a tip bet with a \$5 chip that he took from
10 his tray while he was dealing. Clover speculated that the shortage occurred because LoConte
11 probably lost the bet and forgot to put \$5 back in the tray.

12 32. Clover testified that he was concerned because LoConte took the chip from the tray
13 and placed the bet on the first round he dealt when he got to the table. Therefore, LoConte's tray
14 would only have house money in it, not tip money. Clover reported the incident to Manager
15 Hulin. At that time, Manager Hulin had already seen the footage of the first incident. Manager
16 Hulin told Clover that Oceanview's owner would handle the situation from that point forward.

17 33. Clover testified that in instances where a dealer's tray is short due to dealer error, the
18 dealer is able to give the funds to the Floor Manager to balance the tray. However, for the two
19 instances that occurred on January 7, 2018, Clover did not consider dealer error to have occurred.

20 34. Clover testified that even if LoConte had taken a \$5 chip from his tray to pay for food,
21 tip others, or place a dealer's tip bet rather than to steal, it would violate Oceanview's policies.
22 Clover explained that all tips should be left in the tray until the end of the down when the tray is
23 counted down so that 20% of the dealer's tips can be paid to the Floor Manager. According to
24 Clover's testimony, this tip sharing arrangement is mandatory and is an important part of his
25 compensation as a manager. However, Clover could not say with any certainty whether the policy
26 requiring tips to be kept in the tray until the tray was counted down had been put into writing and
27 distributed to employees. Clover was also uncertain whether Oceanview had an employee
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1 handbook that was accessible to employees and which contained relevant policies regarding the
2 use of tips during shifts.

3 *LoConte's Report to Bureau Alleging Wrongful Termination*

4 35. On February 26, 2018, LoConte called the Bureau to express his concern that he was
5 fired without cause and that Oceanview misrepresented his reason for termination.² LoConte's
6 allegations were referred to the Fresno Regional Office for follow-up investigation.

7 36. Later that day, Bureau Agent Frank Navarro (Agent Navarro) called LoConte for more
8 information. LoConte explained that he was fired for allegedly stealing chips from his dealer tray.
9 LoConte denied stealing and said he borrowed five dollars on several occasions to purchase food,
10 but was always allowed to balance his tray at the end of his shift.

11 37. Agent Navarro testified that Oceanview had not filed the required incident report
12 regarding the alleged theft with the Bureau. On or about February 27, 2018, Agent Navarro met
13 with Manager Hulin. Manager Hulin agreed to file an incident report regarding LoConte's
14 termination.

15 38. Manager Hulin filed an incident report concerning LoConte's termination on or about
16 March 12, 2018. Agent Navarro met with Manager Hulin again on April 18, 2018 to view the
17 surveillance footage showing LoConte taking the two chips from his tray as described in the
18 incident report. Thereafter, the investigation that was opened as a result of LoConte's February
19 26, 2018 call to the Bureau was closed.

20 **LoConte's Criminal History**

21 39. On January 8, 1996, LoConte was convicted of violating Penal Code section 415,
22 subdivision (1), fight/challenge fight public place, a misdemeanor, in Stanislaus Superior Court,
23 Case Number 46377. Respondent was sentenced to 36 months of probation and ordered to pay a
24 fine. On October 26, 2020, the conviction was dismissed pursuant to Penal Code section 1203.4

25 40. On November 18, 1996, LoConte was convicted of violating Douglas County Code
26 9.36.010, trespass on land or trespass in building of another after warning, a misdemeanor, in

27 _____
28 ² LoConte also reported concerns relating to the conduct of another dealer during this call, which
are not discussed herein because those allegations are unrelated to LoConte's Application.

1 Douglas County Nevada, Case Number 96-6014T. The Bureau alleges that LoConte provided
2 untrue or misleading information regarding the circumstances that led to his arrest and conviction.

3 41. On March 17, 2005, LoConte was convicted of violating Vehicle Code section 23152,
4 subdivision (b), driving under the influence of alcohol .08 percent, a misdemeanor, in San
5 Joaquin County Superior Court, Case Number MAN-CR-MI-2005-0004320. LoConte was
6 sentenced to three years of probation and ordered to pay a fine and restitution.

7 42. All three of LoConte’s convictions occurred prior to the specified 10-year period and,
8 therefore, LoConte was not required to disclose them on his Application.

9 *Trespassing Conviction-Providing Misleading Information to Bureau*

10 43. On March 15, 2019, the Bureau requested that LoConte explain the circumstances that
11 led to his 1996 conviction for trespassing. He responded on April 3, 2019, and said: “it was a long
12 time ago, I was very young and had been drinking a lot...I never at any time hit, hurt, or did
13 anything to harm anyone.”

14 44. On December 31, 2019, the Bureau requested again that LoConte provide the
15 circumstances that led to his conviction because his last statement did not provide sufficient
16 detail.

17 45. LoConte provided an additional statement on January 9, 2020 describing an incident
18 that occurred at Hoggs, a bar and restaurant in South Lake Tahoe. LoConte wrote that pled to
19 disturbing the peace because he did not have the means to fight the charges.

20 46. On May 19, 2020, the Bureau wrote to LoConte stating that records from the incident
21 leading to his 1996 trespassing conviction describe an incident where LoConte was removed from
22 Harvey’s Casino for elbowing a dealer, he was advised not to return to the casino, but later
23 returned and was arrested. The Bureau asked LoConte to explain the discrepancy between the
24 explanation of events in the records and in the prior statement provided by LoConte.

25 47. LoConte responded to the Bureau on June 5, 2020 with a written apology, and stating
26 that the incident occurred a long time ago and he was drinking a lot then. LoConte stated that he
27 must be confusing the case with another one and he was not trying to be dishonest. At the
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1 evidentiary hearing, LoConte testified that he had confused the trespassing incident with another
2 incident that occurred in Tahoe around the same time and resulted in an infraction. LoConte
3 testified that he drove to Tahoe to get the police report relating to the trespassing conviction in an
4 attempt to resolve the Bureau's concerns and refresh his memory on the circumstances leading to
5 the conviction.

6 **LoConte's Letters of Reference**

7 48. Three letters of reference in support of LoConte's Application were offered and
8 admitted into evidence. Brian Altizer (Altizer), the owner of Napa Valley Casino, wrote that he
9 has known LoConte since the late 1990s when they both worked as dealers. Altizer states that
10 LoConte's knowledge of the industry far exceeds that of almost anyone he has ever known.
11 Altizer hired LoConte to work at Napa Valley Casino and he has never had a reason to doubt his
12 honesty and integrity. Altizer also asserts that as long as the amount returned in a dealer's tray at
13 the end of the shift is equal to the amount taken at the beginning of the shift, it is acceptable for
14 the dealers to take money out of their trays to buy food, cigarettes or drinks.

15 49. Christopher Huang (Huang) is the General Manager of Napa Valley Casino. Huang
16 states that LoConte was a dedicated and dependable employee who was employed from
17 September 17, 2018 until July 9, 2020 when his license was surrendered. LoConte would
18 consistently show up to work early and has never received any reprimands. Huang states that
19 Napa Valley Casino would rehire LoConte without question.

20 50. Stan Seiff, the Owner of Cal-Prop TPS and General Manager of Limelight cardroom,
21 states that as the former casino manager of Bay 101, he hired LoConte as a poker dealer in
22 approximately 1999. Seiff states that LoConte was a good dealer, a good employee, and he would
23 rehire LoConte.

24 **Assessment of LoConte's Suitability for Licensure**

25 51. LoConte has worked in the industry for approximately 30 years. Two of his former
26 employers in the industry wrote letters in support of his Application. Additionally, a patron and a
27 former coworker also testified on his behalf. Other than the termination from Oceanview Casino,
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1 no evidence was presented that LoConte has any additional derogatory employment history in
2 controlled gaming.

3 52. LoConte's letters of reference were from his former employers. These letters of
4 reference reflect positively on LoConte's character and his 30 year work history in the industry.

5 53. The Commission concludes that LoConte's termination from Oceanview does not
6 reflect negatively on his character, honesty, or integrity. It was LoConte's own contacts with the
7 Bureau that first alerted the Bureau of the theft allegations and subsequent termination because
8 Oceanview did not timely file the required incident report. LoConte also disclosed the fact that he
9 was terminated from Oceanview on his Application, and upon request, twice provided truthful
10 written statements to the Bureau identifying the circumstances relating to his termination.
11 LoConte's self-reporting to the Bureau and truthful and forthcoming statements regarding his
12 termination during the application process reflects positively on his character.

13 54. The Commission also concludes that the circumstances leading to LoConte's
14 termination, which stemmed from LoConte taking a \$5 chip on two occasions from his dealer tray
15 for personal use, does not negatively reflect on his character, honesty, integrity, or indicate that he
16 poses a threat to the effective regulation of controlled gambling. Clover testified that it was a
17 regular occurrence for dealers, especially LoConte, to have a misbalanced tray. Additionally,
18 there was ample testimony that Oceanview's dealers were normally allowed to make up any
19 shortage in their trays without consequence.

20 55. Clover testified that LoConte's shortages were not caused by dealer error and
21 therefore he was not able to make up the shortages to resolve the two incidents. However, the
22 collective testimony by Clover and LoConte indicates that LoConte was likely allowed to give
23 Clover \$5 to balance his tray after the first incident. Further, after the first incident, LoConte was
24 allowed to continue working the remainder of his shift and he was not reprimanded, which is
25 inconsistent with Oceanview's position that the first incident constituted a theft and policy
26 violation. Further, Oceanview did not have a written policy that was distributed to its employees
27 regarding the use of tips or the resolution of shortages in dealer trays. Without a written policy, it
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1 is unclear why the second incident was resolved differently than the first incident, or why the two
2 incidents were presumed to be thefts rather than dealer error. Given these circumstances, the
3 Commission finds LoConte's testimony that he believed he was allowed to use funds from his
4 tray, and if his tray was ultimately short, he would be allowed to provide the funds to balance the
5 tray, to be credible.

6 56. The Commission further concludes that LoConte's three misdemeanor convictions
7 do not negatively reflect on his character, honesty, integrity, or pose a threat to the public interest
8 of this state, or to the effective regulation of controlled gambling. The convictions occurred long
9 ago during a period that LoConte testified he was drinking a lot. LoConte has not had any
10 convictions since 2005 and testified that he has "toned it down" a lot since then.

11 57. Additionally, LoConte's initial failure to provide a detailed account of the
12 circumstances leading to his arrest for trespassing in 1996 does not disqualify him from licensure
13 because his failure to fully and accurately describe the incident was not based on an intent to
14 deceive, mislead, or withhold information from the Bureau. LoConte's explanation that he mixed
15 up two incidents that occurred in the same city and time frame was credible. As soon as LoConte
16 realized that he might have mixed up two incidents, he told the Bureau. Additionally, prior to
17 providing the inaccurate explanation, he had told the Bureau that he could not recall specifics
18 about the incident.

19 58. All documentary and testimonial evidence submitted by the parties that is not
20 specifically addressed in this Decision and Order was considered but not used by the Commission
21 in making its determination on LoConte's Application.

22 59. The matter was submitted for Commission consideration on December 6, 2021.

23 LEGAL CONCLUSIONS

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

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

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

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

12 64. The burden of proof is always on the applicant to prove his, her, or its
13 qualifications to receive any license or other approval under the GCA. Business and Professions
14 Code section 19856(a); CCR section 12060(i).

15 65. No gambling license shall be issued unless, based on all of the information and
16 documents submitted, the commission is satisfied that the applicant is a person of good character,
17 honesty, and integrity. Business and Professions Code section 19857(a).

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

25 67. 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 that is in all other
27 respects qualified to be licensed as provided in this chapter. Business and Professions Code
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1 section 19857(c).

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

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

9 70. The Gambling Control Act is an exercise of the police power of the state for the
10 protection of health, safety, and welfare of the people of the State of California, and shall be
11 liberally construed to effectuate those purposes. Business and Professions Code section 19971.

12 71. A termination, and the fact and circumstances surrounding the termination, can
13 have a negative impact on an applicant’s suitability for licensure. First, the termination, and facts
14 and circumstances of the incident leading to the termination, may lead to a determination that the
15 applicant lacks good character, honesty, and integrity. Second, the termination, and facts and
16 circumstances of the incident leading to the termination, may lead to a determination that the
17 applicant poses a risk to the public interest of the state or to the effective regulation and control of
18 controlled gambling.

19 72. A criminal conviction, and the facts and circumstances surrounding the incident
20 leading to the conviction, can have a negative impact on an applicant's suitability for licensure.
21 First, the conviction, and fact and circumstances of the incident leading to the conviction, may
22 lead to a determination that the applicant lacks good character, honesty, and integrity. Second, the
23 conviction, and facts and circumstances of the incident leading to the conviction, may lead to a
24 determination that the applicant poses a risk to the public interest of the state or to the effective
25 regulation and control of controlled gambling.

26 73. The failure of an applicant to provide accurate, complete, and truthful information
27 on an application for licensure, in response to Bureau inquiries, and while testifying at an
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1 evidentiary hearing, can also have a negative impact on the applicant's suitability for licensure.
2 Conversely, an applicant demonstrates good character, honesty, and integrity through providing
3 accurate, complete, and truthful information on applications for licensure, in response to Bureau
4 inquiries, and while testifying at an evidentiary hearing.

5 74. Based on the factual findings of this Decision, LoConte's termination and criminal
6 convictions are insufficient to demonstrate a lack of good character, honesty, or integrity, or that
7 he poses a risk to the public interest of this state or to the effective regulation and control of
8 controlled gambling.

9 75. LoConte demonstrated good character, honesty, and integrity by submitting a
10 complete and accurate Application; through his honest and candid statements to the Bureau and
11 while testifying at the evidentiary hearing; and through his long and successful work history in
12 the controlled gaming industry.

13 76. As a result, LoConte has met his burden of demonstrating that he is a person of
14 good character, honesty and integrity pursuant to Business and Professions Code section
15 19857(a).

16 77. LoConte has also met his burden of demonstrating that he is a person whose prior
17 activities, reputation, habits, and associations do not pose a threat to the public interest of this
18 state, or to the effective regulation and control of controlled gambling, or create or enhance the
19 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
20 controlled gambling or in the carrying on of the business and financial arrangements incidental
21 thereto pursuant to Business and Professions Code section 19857(b).

22 78. Finally, LoConte has met his burden of demonstrating that he is not disqualified
23 from receiving an Initial Work Permit pursuant to Business and Professions Code section 19859.

24 79. Based on the foregoing, LoConte is qualified to receive an Initial Work Permit.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

LoConte has the following appeal rights available under state law:

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

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

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ORDER

- 1. Vito LoConte’s Application for Initial Work Permit is APPROVED.
- 2. No costs are awarded.
- 3. Each side to pay its own attorneys’ fees.

This Order is effective on February 10, 2022.

Dated: 2/10/2022 Signature: 
38D0AB38C651466...
 Paula LaBrie, Chair

Dated: 2/10/2022 Signature: 
3D1DB086F9274AA...
 Cathleen Galgiani, Commissioner

Dated: 2/10/2022 Signature: 
2B4CE9520F8845C...
 Eric Heins, Commissioner

Dated: 2/10/2022 Signature: 
7722F4571120449...
 William Liu, Commissioner

Dated: 2/10/2022 Signature: 
14B4AD3B90F8462...
 Edward Yee, Commissioner