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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for a Key Employee License Regarding:

TRAVIS SEILER
Respondent.

BGC Case No. BGC-HQ2013-00004SL
CGCC Case No. CGCC-2013-0930-8A

DECISION AND ORDER

Hearing Date: June 15, 2016
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(b), in Sacramento, California, on June 15, 2016.

William Torngren, 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.

Jeffrey Kravitz, Kravitz Law Office, represented Travis Seiler (Respondent) at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) Notice of Hearing and Prehearing Conference with enclosures;
- (b) Respondent's Notice of Defense;
- (c) Bureau's Statement of Particulars;
- (d) Conclusion of Prehearing Conference notice;
- (e) Notices of Continuances;

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

- (1) Statement to Applicant, Statement of Particulars, Business and Professions Code Sections 19870 and 19871, California Code of Regulations, Title 4, Business Regulations,

1 Certificate of Service by Certified Mail dated January 5, 2016, and the Executed Notice of
2 Defense dated March 10, 2015, Bates Nos. 0001-0029;

3 (2) Commission letter dated October 2, 2013, re Referral of the Renewal
4 Application for Gambling Establishment Key Employee License to an Evidentiary Hearing, Bates
5 Nos. 0021-0024;

6 (3) Commission letter dated May 1, 2015, re Notice of Hearing and Prehearing
7 Conference dates, Bates Nos. 0025-0035;

8 (4) Commission letter dated August 19, 2015, re Notice of Continuance of
9 Hearing, Bates No. 0036;

10 (5) Commission letter dated November 2, 2016, re Notice of Continuance Hearing
11 and Prehearing Conference dates, Bates Nos. 0037-0038;

12 (6) Letter to the Commission from Lisa B. Meier, Bustamante, Gilg, Rahn,
13 Schultz & Meier, dated October 11, 2013, Bates Nos. 0039-0051;

14 (7) Application for Interim Key Employee License dated September 1, 2011,
15 Bates No. 0055;

16 (8) Application for Gambling Establishment Key Employee License for Travis
17 Seiler dated May 31, 2013, Bates Nos. 0052-0054;

18 (9) Application for Gambling Establishment Key Employee License for Travis
19 Seiler dated August 26, 2011, Bates Nos. 0056-0074;

20 (10) State of California, Department of Justice, Bureau of Gambling Control,
21 Cardroom Key Employee Renewal Background Investigation Report, dated September 11, 2013,
22 Bates Nos. 0093-0096;

23 (11) California Department of Justice, Subsequent Arrest Notification, Bates Nos.
24 0097-0098;

25 (12) Bureau of Gambling Control requests for information to, and responses from,
26 Placer County, Bates Nos. 0099-0103;

27 (13) Placer County Superior Court-Judgment and Sentencing, dated June 4, 2013,
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1 Bates Nos. 0114-0118;

2 (14) Placer County Superior Court-Arraignment and Plea, dated February 27,
3 2013, Bates Nos. 0119-0121;

4 (15) Placer County Department of Health and Human Services, Memorandum
5 dated January 9, 2012, Bates Nos. 0122-0128;

6 (16) Placer County Superior Court, Juvenile Division Findings and Order dated
7 January 26, 2012, Bates Nos. 0129-0131;

8 (17) San Joaquin County Sheriff, Documented Report dated December 10, 2014
9 (original and two supplements), Bates Nos. 0104-0113.

10 During the administrative hearing, Presiding Officer Jason Pope accepted into evidence
11 the following exhibits offered by Respondent:

12 (A) Letter of Eric Harris;

13 (B) Letter of Shayn;

14 (C) Letter of Alan Kakimoto;

15 (D) Evaluation of Dr. Stephen Grinstead, and C.V.;

16 (E) Proof of Completion of Electronic Monitoring.

17 The matter was submitted on June 15, 2016.

18 FINDINGS OF FACT

19 1. Respondent currently works as the Casino Shift Manager at M8TRIX, a key employee
20 position that requires him to hold a valid Gambling Establishment Key Employee License.

21 2. In May 2011, Respondent lived in a residence that he co-owned with a former
22 coworker. The co-owner did not live at the residence. Respondent, his girlfriend, and his two
23 children lived at the residence, as well as his girlfriend's child from a past relationship.

24 3. On May 12, 2011, pursuant to a search warrant, the Placer County Sheriff's
25 Department received detailed power usage records by PG&E showing dates, payoff amounts, and
26 usage in Kilowatt hours at Respondent's residence between February 5, 2008 and April 22, 2011.

27 4. According to the Placer County Sheriff's Department Continuation Report, the PG&E
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1 records indicated that the power usage climbed quickly from February 2008 to July 2008 and then
2 steadied, resulting in the monthly bill remaining at approximately \$2,000 a month.

3 5. Based on the information in the PG&E records, the Placer County Sheriff's
4 Department obtained and executed a search warrant on Respondent's residence on May 13, 2011.
5 At the residence, officers found that three upstairs bedrooms and one bathroom were being used
6 for a marijuana growing operation. On the wall of the upstairs hallway, two doctor's
7 recommendations for marijuana were posted. One belonged to Respondent and one to the co-
8 owner of the property.

9 6. On May 13, 2011, the three children living with Respondent were moved to a residence
10 with grandparents, pending a court date in juvenile dependency court.

11 7. On approximately August 26, 2011, Respondent signed and submitted an Application
12 for a Gambling Establishment Key Employee License.

13 8. On approximately September 1, 2011, Respondent signed and submitted an
14 Application for an Interim Key Employee License to work as the shift manager at Garden City
15 Casino.¹ Respondent's interim key employee license application was approved on September 1,
16 2011.

17 9. On January 19, 2012, the Placer County Department of Health and Human Services
18 filed a recommendation with the Placer County Super Court that the juvenile dependency case
19 regarding Respondent's children be dismissed.

20 10. On January 26, 2012, the Placer County Superior Court dismissed the juvenile
21 dependency case regarding Respondent's children.

22 11. Respondent's initial key employee license application was approved on May 16,
23 2013.

24 12. On May 31, 2013, the Commission received Respondent's application for renewal of
25 his Key Employee License. Respondent included a statement with his renewal application
26 explaining that while he had not been convicted of a crime since he last filed his application for a
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28 ¹ Garden City Casino later became M8TRIX, where Respondent currently works.

1 Key Employee License, he planned to enter into a plea for misdemeanor possession of
2 concentrated cannabis and child endangerment.

3 13. On June 4, 2013, Respondent was convicted pursuant to a plea agreement of one
4 count of violating Health and Safety Code section 11357(A) for concentrated cannabis possession
5 and three counts of violating Penal Code section 273a, subdivision (b), for child endangerment.
6 The court sentenced Respondent to 48 months of probation, 180 days of alternative sentencing
7 through electronic monitoring and ordered him to pay a fine.

8 14. Respondent's interim key employee license expired on September 30, 2013. At its
9 September 30, 2013 meeting, the Commission referred Respondent's key employee license
10 renewal application to an evidentiary hearing. The Commission stayed Respondent's initial key
11 employee license, which otherwise would have expired on September 30, 2015, pending his
12 hearing.²

13 15. On October 2, 2013, pursuant to California Code of Regulations, title 4, section
14 12050, subdivision (b), the Commission's Executive Director set the matter for a hearing to be
15 conducted pursuant to the provisions of Business and Professions Code sections 19870 and
16 19871, and California Code of Regulations, title 4, section 12050, subdivision (b)(2).

17 16. Respondent provided the Bureau with a written explanation dated July 22, 2013,
18 wherein he took responsibility for his actions and stated that he underwent counseling sessions,
19 individual therapy, and tested negative for marijuana use since the incident in 2011. Respondent
20 also stated that his children were returned to his custody after three months and that he regrets
21 that he put his children and his job in jeopardy.

22 17. On September 11, 2013, the Bureau issued its Background Investigation Report, and
23 based on its investigation and knowledge at that time, the Bureau made no recommendation on
24 Respondent's renewal application.

25 18. At the time the Bureau issued its Background Investigation Report, it had not received

26 _____
27 ² Respondent's license was stayed prior to the enactment of 4 CCR § 12035, which
28 provides for the issuance of an interim renewal license while the Commission has elected to hold
an evidentiary hearing.

1 a copy of the Placer County Sheriff's Department report. On October 11, 2013, at Respondent's
2 request, Respondent's attorney sent a copy of the Placer County Sheriff's Department police
3 report to the Bureau.

4 19. The police report specified that 91 marijuana plants, as well as growing equipment
5 and chemicals, were seized from Respondent's home in May 2011.

6 20. On February 25, 2015, after California Code of Regulations, title 4, section 4, section
7 12052, went into effect, Respondent was provided, and accorded the opportunity to submit,
8 copies of the Notice of Defense form necessary to show his desire to have an evidentiary hearing.
9 On March 10, 2015, Respondent signed a Notice of Defense form.

10 20. The Bureau's Statement of Particulars signed January 5, 2016 requests that
11 Respondent's key employee license renewal be denied based upon the after-acquired information
12 in the police report.

13 21. The Commission heard Case No. CGCC-2013-0523-2 on June 15, 2016. The Bureau
14 was represented throughout the pendency of the hearing by Deputy Attorney General William
15 Torngren. Respondent was represented by Jeffrey Kravitz.

16 22. At the Commission hearing, Respondent testified that he began his career in the
17 gaming industry working as a third party proposition player banker for California Gaming
18 Consultants. Respondent testified that he had no disciplinary issues while employed at California
19 Gaming Consultants between February 2004 and August 2009.

20 23. Respondent began working at Garden City Casino (now M8TRIX) in August 2011
21 and remains employed there. Respondent testified that he has had no disciplinary issues during
22 his employment at Garden City Casino/M8TRIX.

23 24. Respondent testified that at that time that he decided to start growing marijuana, he
24 had undergone four knee surgeries and was experiencing pain in his knees.

25 25. Respondent testified the co-owner of his residence had a medical marijuana card.
26 Respondent's co-owner suggested that Respondent apply ointment made with marijuana to the
27 joints in his knees. Respondent found the ointment to be very helpful, which led Respondent to
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1 also obtain a medical marijuana card.

2 26. Respondent testified that a jar of marijuana ointment cost between \$400 and \$600.
3 Respondent would use approximately one jar a month.

4 27. Respondent testified that in 2008 Respondent and his co-owner began growing
5 marijuana for medicinal purposes in the house they owned together.

6 28. Respondent and the co-owner of the residence dedicated three bedrooms and a
7 bathroom to growing marijuana. During this period, Respondent, his girlfriend, and 3 children
8 lived in the master bedroom. The master bedroom also had a bathroom.

9 29. On May 13, 2011 when Respondent's house was searched, one of his children was
10 two years old and the other was an infant. Respondent's girlfriend also had a child from a
11 previous relationship that was approximately seven years old.

12 30. Respondent testified that before he began growing marijuana, he consulted with
13 others to ensure that it was legal. After obtaining advice from the co-owner of the residence, the
14 doctor who issued his medical marijuana card, and at least two lawyers, Respondent believed that
15 it was legal for him to grow marijuana in his house because he had a medical marijuana card.

16 31. Respondent testified that he tried to keep the kids safe and separated from the
17 marijuana grow operation by keeping the rooms used for the marijuana operation locked.
18 Respondent also kept a baby gate up that would prevent the children from going into the rooms
19 where marijuana was grown.

20 32. Respondent testified that his co-owner would take Respondent's share of the
21 marijuana to be processed into ointment by a third party, whom was unknown to Respondent.
22 The third party would prepare the ointment in exchange for marijuana, rather than requiring cash
23 payment.

24 33. Respondent testified that he did not know what the co-owner of the residence did with
25 his share of the marijuana that they communally grew. Respondent denied having any
26 involvement in selling marijuana to dispensaries or others.

27 34. Respondent testified that he received no financial benefit from growing marijuana and
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1 that Respondent was losing money on the growing operation because the cost of electricity was so
2 high.

3 35. Respondent testified that it took approximately twelve marijuana plants to make 1/3
4 of a four to six ounce jar of ointment.

5 36. Respondent testified that the reference in the police report to “91 plants” included any
6 living substance. The total of 91 plants included plants that were at a very immature stage. Some
7 of the plants that were confiscated were only one inch tall. Respondent also testified that the
8 medical marijuana card issued to the co-owner of his residence specified that he could grow up to
9 ninety nine plants.

10 37. Respondent testified that he currently does not use and has no involvement with
11 growing or selling marijuana.

12 38. Respondent testified that when he was on formal probation after his May 2011
13 convictions, he wore an ankle monitoring device. Respondent’s superiors at M8trix were aware
14 that Respondent was wearing the monitoring device and still permitted him to work during this
15 period. Respondent successfully completed his formal probation and no longer has to wear the
16 electronic monitoring device.

17 39. Respondent testified that currently, pursuant to court order, his two children reside
18 with him Monday through Friday during the school week.

19 40. Respondent has worked in the gaming industry for almost 10 years, first at California
20 Gaming Consultants and then at Garden City/M8TRIX and has never been disciplined by his
21 employers or been accused by regulators of engaging in conduct that posed a threat to the
22 effective regulation and control of controlled gambling.

23 41. Respondent met the conditions of his sentence, including completing formal
24 probation and remaining current in making payments on his court fines. Respondent underwent
25 numerous random drug tests and has never tested positive. Respondent has had no further
26 incidents with the law since his convictions in 2013.

27 42. Respondent also underwent counseling and took parenting classes until the court was
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1 satisfied that the juvenile case involving his children should be dismissed. Respondent is now the
2 primary caregiver for his children and is a responsible parent.

3 43. Respondent was forthcoming with the Bureau about the incident, including
4 voluntarily obtaining a copy of the police report for the Bureau and disclosing the pending court
5 case and the likelihood that he would be convicted of two crimes at a future date on his renewal
6 application.

7 44. Respondent relied on the advice of others, including two attorneys, that his cultivation
8 for medical purposes was not unlawful. When Respondent and his co-owner began growing
9 marijuana, Respondent had a reasonable belief that he was not breaking the law.

10 45. Based on Respondent's positive work history; his candid testimony during the hearing
11 regarding the circumstances surrounding his convictions; the supporting letters of several
12 character witnesses; the fact that he has tested negative for marijuana use on numerous occasions
13 since the May 2011 incident; the accomplishment of paying his outstanding fines; and the lack of
14 any other criminal convictions, Respondent has demonstrated that he is a person of good
15 character, honesty, and integrity.

16 46. Respondent was candid and forthcoming regarding the circumstances surrounding his
17 convictions. Respondent accepted responsibility for his past actions and appeared remorseful.

18 47. Respondent's exhibits containing character references are persuasive that Respondent
19 is hard-working, dependable and a valuable employee; and that he is generally honest,
20 trustworthy and has strong integrity.

21 48. Respondent's prior activities, criminal record, reputation, habits and associations do
22 not pose a threat to the public interest of this state, or to the effective regulation and control of
23 controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices,
24 methods, and activities in the conduct of controlled gambling or in the carrying on of the business
25 and financial arrangements incidental thereto.

26 49. All documentary and testimonial evidence submitted by the parties that is not
27 specifically addressed in this Decision and Order was considered but not used by the Commission
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1 in making its determination on Respondent's Application.

2 50. The matter was submitted for Commission consideration on June 15, 2016.

3 LEGAL CONCLUSIONS

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

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

11 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
12 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
13 prove his or her qualifications to receive any license under the Gambling Control Act. Title 4,
14 CCR section 12060(i). Business and Professions Code section 19856(a).

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

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

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

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

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

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

10 10. An application for a Key Employee License shall be denied by the Commission if the
11 applicant is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of
12 Business and Professions Code section 19857.

13 11. Respondent met his burden of demonstrating that he is a person of honesty and
14 integrity. Therefore, Respondent is qualified for the issuance of a Key Employee License
15 pursuant to Business and Professions Code section 19857(a).

16 NOTICE OF APPLICANT’S APPEAL RIGHTS

17 Respondent Travis Seiler has the following appeal rights available under state law:

18 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

19 An applicant denied a license, permit, registration, or finding of suitability, or whose
20 license, permit, registration, or finding of suitability has had conditions, restrictions,
21 or limitations imposed upon it, may request reconsideration by the Commission
22 within 30 calendar days of service of the decision, or before the effective date
23 specified in the decision, whichever is later. The request shall be made in writing to
24 the Commission, copied to the Bureau, and shall state the reasons for the request,
25 which must be based upon either newly discovered evidence or legal authorities that
26 could not reasonably have been presented before the Commission’s issuance of the
27 decision or at the hearing on the matter, or upon other good cause which the
28 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

1 that the action of the commission was arbitrary and capricious, or that the action
2 exceeded the commission's jurisdiction.

3 Title 4, CCR section 12066, subsection (c) provides:

4 A decision of the Commission denying an application or imposing conditions on license
5 shall be subject to judicial review as provided in Business and Professions Code section
6 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
7 filing the petition shall be affected by failure to seek reconsideration.

8 ORDER

9 1. Travis Seiler's Application for a Key Employee License is GRANTED.

10 2. The stay placed on Respondent's Initial Key Employee license shall be removed and
11 the license shall be considered to have expired as of the date of this order.

12 3. Respondent's renewal Key Employee license is considered to be issued on the effective
13 date of this order and will be valid for a period of two years.

14 4. Each side to pay its own attorneys' fees.

15 This Order is effective on 8-15-16.

16 Dated: 8/11/2016

17 Signature:  _____

18 Jim Evans, Chairman

19 Dated: 8/11/2016

20 Signature:  _____

21 Lauren Hammond, Commissioner

22 Dated: 8/15/16

23 Signature:  _____

24 Trang To, Commissioner

25 Dated: 8/11/2016

26 Signature:  _____

27 Roger Dunstan, Commissioner

28 DISSENTING FACTUAL CONCLUSIONS

1. Respondent's marijuana grow operation began in approximately April 2008 and went
through May 2011 when a search warrant was executed on his residence by the Placer County

1 Sheriff's Department.

2 2. Respondent worked at the Yolo County Superior Court between October 2010 and
3 May 2011 making approximately \$1,500 a month.

4 3. Respondent's electricity bill between April 2008 and May 2011 was approximately
5 \$2,000 a month. Respondent testified that he paid half of the electric bill and approximately
6 \$1,000 a month towards the mortgage, in addition to other financial obligations and household
7 expenses.

8 4. Respondent's testimony that he received no financial benefit for maintaining the
9 marijuana growing operation is not credible given that he was able to meet all of his financial
10 obligations during this period wherein his expenses far exceeded his employment income.

11 5. Respondent's testimony that he received no financial benefit from maintaining a
12 marijuana growing operation in his home is also not credible given that Respondent went to the
13 extreme measure of moving his family (five people) into one bedroom so that the other three
14 bedrooms could be used to grow marijuana.

15 6. Respondent's bank records demonstrate that he made monthly deposits into his bank
16 account that far exceeded his monthly salary during the period that Respondent grew marijuana.
17 Respondent testified that he regularly withdrew and then redeposited between \$2,000 and \$3,000,
18 multiple times a month, which made it appear that he was making regular deposits, when in fact
19 he was just withdrawing and redepositing the same money over and over. Respondent's
20 testimony that he was simply withdrawing and redepositing money for no particular reason was
21 not credible.

22 7. Respondent's testimony that he did not sell marijuana and did not know what his co-
23 owner did with his share of the marijuana was not credible. According to the police report,
24 Respondent's girlfriend told police that Respondent was involved in selling marijuana to
25 dispensaries and that Respondent and his co-owner took trips to Los Angeles together in order to
26 sell the marijuana. This evidence, combined with evidence that Respondent's monthly expenses
27 far exceeded his income, that Respondent was making regular deposits into his bank account in
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1 amounts that exceeded what he earned from his employer, and Respondent's admission that he
2 went on at least one trip to Los Angeles with his co-owner, indicates that Respondent had some
3 involvement with selling marijuana and had some knowledge of what his co-owner did with his
4 share of the marijuana they grew communally.

5 8. Respondent testified that he filed for bankruptcy in 2010. However, Respondent also
6 testified that large cash deposits into his bank account in March and April 2011 came from a stash
7 of cash he began keeping in his home when he worked for California Gaming Consultants
8 between February 2004 and August 2009. The fact that Respondent filed bankruptcy when he had
9 a large amount of cash savings in his home indicates that Respondent is not a person of good
10 character, honesty and integrity.

11 9. I commend Respondent for meeting the requirements of his probation, for being a
12 dependable employee, and for undergoing counseling and taking the steps necessary to reunite
13 with and become a responsible caregiver to his children. However, because Respondent was not
14 honest and forthcoming on the above issues at the hearing, I find that Respondent has not met his
15 burden of demonstrating that he is a person of honesty and integrity.

16 10. Solely on the basis that Respondent was not honest and forthcoming at the hearing, I
17 believe that Respondent is not qualified at this time for the issuance of a Key Employee License
18 pursuant to Business and Professions Code section 19857(a).

19 Dated: 8/11/2016

20 Signature: 
21 Tiffany E. Conklin, Commissioner

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