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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for
Denial of License Application:

RUBEN MORENO

Respondent.

BGC Case No. BGC-HQ2014-00008SL
CGCC Case No. CGCC-2014-0422-7B

DECISION AND ORDER

Hearing Date: August 4, 2015
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 August 4, 2015.

Jennifer Henderson (Henderson), 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.

Tracey Buck-Walsh (Buck-Walsh) represented respondent Ruben Moreno (Moreno).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Moreno, Buck-Walsh and Henderson on March 24, 2015.

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

- (1) Copies of the Statement of Reasons; Statement to Respondent; Business and Professions Code sections 19870 and 19871; CCR section 12060; and June 11, 2015, Certificate of Service by Certified Mail Service, Bates Nos. 001-015;
- (2) Copy of the Notice of Defense, Bates Nos. 016-019;
- (3) Copies of the following Notices from the Commission:
 - a. July 26, 2013, Notification of Scheduled Commission Meeting (GEKE-

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001763), Bates Nos. 020-021.

- b. August 9, 2013, Key Employee License (GEKE-001763), Bates No. 022.
- c. March 7, 2014, Notification of Scheduled Commission Meeting (GEKE-001763), Bates Nos. 023-024.
- d. March 20, 2014, Approval of 30-day Temporary Key Employee License (GEKE-001763), Bates No. 025.
- e. April 10, 2014, Notification of Scheduled Commission Meeting (GEKE-001763), Bates Nos. 026-027.
- f. April 22, 2014, Referral of Key Employee Personal Portable License Application to an Evidentiary Hearing – Ruben Moreno, Bates Nos. 028-029.
- g. March 24, 2015, Notice of Hearing and Prehearing Conference, with Attachments A & B, Bates Nos. 030-042.
- h. June 22, 2015, Conclusion of Prehearing Conference, Bates Nos. 043-044.
- i. June 24, 2015, Conclusion of Prehearing Conference – Correction, Bates No. 044a.

- (4) Copies of the Application for Gambling Establishment Key Employee License, dated January 21, 2012, with Supplemental Background Investigation Information, dated February 14, 2012, and Certificate of Release or Discharge from Active Duty, for Ruben Moreno, Bates Nos. 045-068;
- (5) Copy of Arrest Record, dated March 7, 2012, Bates Nos. 069-070;
- (6) Copy of Request for employment verification, dated April 16, 2013, Bates Nos. 071-072;
- (7) Copy of Background Investigation Report, dated June 25, 2013, Bates Nos.

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- 073-079;
- (8) Copy of California Gambling Control Commission Meeting Memorandum letter, dated August 8, 2013, Bates Nos. 080-081;
 - (9) Copy of Department of California Highway Patrol response letter, dated August 13, 2013, Bates Nos. 082-083;
 - (10) Copy of Department of Motor Vehicle record of Vehicle Violation, dated September 23, 2013, Bates No. 084;
 - (11) Copy of Credit History report, dated February 12, 2014, Bates Nos. 085-096;
 - (12) Copy of Background Investigation Report, dated February 2, 2014, Bates Nos. 097-103;
 - (13) Copy of Rescission of Recommendation for Approval letter, dated February 24, 2014, Bates No. 104;
 - (14) Copy of Appointment of Designated Agent letter, signed March 9, 2014, Bates No. 105;
 - (15) Copy of California Gambling Control Commission Meeting Memorandum letter, dated March 20, 2014, Bates Nos. 106-111;
 - (16) Copy of Letter from Tracey Buck-Walsh letter with additional information, dated March 25, 2014, Bates Nos. 112-120;
 - (17) Copy of Addendum to Background Information Report letter, dated April 2, 2014, Bates Nos. 121-124;
 - (18) Copy of Letter from Tracey Buck-Walsh letter responding to Addendum Investigation Report, dated April 3, 2014, Bates Nos. 125-132;
 - (19) Copy of Supplemental to Addendum, dated April 2, 2014, Bates Nos. 133-134;
 - (20) Copy of California Gambling Control Commission Meeting Memorandum letter, dated April 22, 2014, Bates Nos. 135-136;

- 1 (21) Copy of Pomona Superior Court documents, received February 7, 2014,
2 Bates Nos. 137-155;
- 3 (22) Copy of Superior Court, County of Los Angeles Court Documents,
4 received March 28, 2014, Bates Nos. 156-162;
- 5 (23) Copy of Superior Court, County of Los Angeles Court Documents,
6 received April 1, 2014, Bates Nos. 163-164;
- 7 (24) Copy of Unofficial transcript of California Gambling Control Commission
8 meeting of March 20, 2014, Bates Nos. 165-175; and
- 9 (25) Copy of Unofficial transcript of California Gambling Control Commission
10 meeting of April 22, 2014, Bates Nos. 176-181.

11 During the administrative hearing, Presiding Officer Jason Pope accepted into evidence
12 the following exhibit offered by Moreno:

- 13 (A) Respondent Ruben Moreno's Hearing Brief and Evidence, CGCC-2014-
14 0422-7B, which includes the following: (1) Bureau exhibits Bates Nos.
15 BGC 063-066; 115; 117-118; 122; 125-130; and 144-152; (2) 3 pages of
16 maps, Bates Nos. Moreno 001-003; (3) a photocopy of Moreno's U.S.
17 Department of Veterans Affairs membership ID, Bates No. Moreno 004;
18 (4) Declaration of Diane Gomez, Bates No. Moreno 005; and (5) three
19 letters of reference from Lauren Cole, Ian Branch, and Sergio Valencia,
20 Bates Nos. Moreno 006-008.

21 The matter was submitted on August 4, 2015.

22 FINDINGS OF FACT

23 1. On or about May 10, 2012, Moreno submitted an Application for Gambling
24 Establishment Key Employee License (Application) and Key Employee Supplemental
25 Background Investigation Information Form to the Commission.

26 2. At its August 8, 2013 meeting, the Commission took no action on Moreno's
27 Application.

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1 3. At its March 20, 2014 meeting, the Commission granted Moreno a 30-day Temporary
2 Key Employee License (GEKE-0010763).

3 4. Moreno works as a Cage Supervisor for the Normandie Casino, a position that
4 requires a Key Employee license.

5 5. At its April 22, 2014 meeting, the Commission voted to refer the consideration of
6 Moreno's Application to an evidentiary hearing.

7 6. On or about April 22, 2014, the Executive Director of the Commission referred
8 the consideration of Moreno's Application to an evidentiary hearing pursuant to CCR section
9 12050(b)(2).

10 7. On or about March 3, 2015, Moreno submitted a Notice of Defense to the Commission
11 requesting an evidentiary hearing.

12 8. On or about March 24, 2015, the Commission served a Notice of Hearing and
13 Prehearing Conference on Moreno, Buck-Walsh and Henderson.

14 9. On or about June 11, 2015, the Bureau filed a Statement of Reasons with the
15 Commission and served the Statement of Reasons on Moreno via certified mail and Buck-Walsh
16 via United States mail. In its Statement of Reasons, the Bureau recommends the denial of
17 Moreno's Application.

18 10. On or about June 16, 2015, the noticed Prehearing Conference was held before
19 Presiding Officer Jason Pope, Attorney III of the Commission. Jennifer Henderson, Deputy
20 Attorney General, appeared on behalf of the Bureau. Tracey Buck-Walsh appeared on behalf of
21 Moreno. Moreno and Normandie Club's General Manager Lauren Miller also attended.

22 11. On or about June 22, 2015, the Commission served a Conclusion of Prehearing
23 Conference letter on Buck-Walsh and Henderson.

24 12. On or about June 24, 2015, the Commission served a Conclusion of Prehearing
25 Conference – Correction letter on Buck-Walsh and Henderson.

26 13. The Commission heard Case No. CGCC-2014-0422-7B on August 4, 2015. The
27 Bureau was represented throughout the hearing by Deputy Attorney General Jennifer Henderson.
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1 Moreno was represented throughout the hearing by Tracey Buck-Walsh.

2 14. Moreno served in the United States Marine Corps from January 2002 to December
3 2009. He served in Iraq as a member in the Imminent Danger Zone from April 13, 2003 to
4 September 13, 2003. On or about December 13, 2009, Moreno received an Honorable Discharge
5 from the United States Marine Corps. Moreno received a 30% disability from the United States
6 Department of Veterans Affairs for Post-Traumatic Stress Disorder.

7 15. During the hearing, Moreno testified that he has had sleep issues and short-term
8 memory loss since his deployment in Iraq. There are times when Moreno is constantly sleepy,
9 and other times where he cannot fall sleep. He also suffers from nightmares.

10 16. On or about January 9, 2007, Moreno was convicted of violating Vehicle Code section
11 20002(A), hit and run: property damage, a misdemeanor, in the case of *People v. Ruben Moreno*
12 (Super. Ct. Los Angeles County, 2007, No. 6PK09046). Moreno was sentenced to three years'
13 formal probation, and ordered to pay fines, restitution, and attend a 30-day work program for a
14 tree farm or Cal-Trans.

15 17. The circumstances surrounding Moreno's conviction for violating Vehicle Code
16 section 20002(A) are as follows: Moreno consumed alcohol at a friend's house and spent the
17 night. He drove home the following morning at approximately 5:45 to 6:00 a.m. He fell asleep
18 while driving and woke up after his car had rear-ended another vehicle on the freeway. He felt
19 disoriented and panicked, and drove away from the scene of the accident to his home. Within
20 approximately 20 minutes of the collision, Moreno called the Pomona Police Department to
21 report the accident. The Pomona Police Department told him to call the California Highway
22 Patrol, which he did. Moreno received a citation in the mail to go to court where he plead guilty
23 to violating Vehicle Code section 20002(A), hit and run: property damage, a misdemeanor.

24 18. On or about December 14, 2009, Moreno's probation was modified from formal
25 probation to summary probation and extended to January 9, 2011. Moreno was given until June
26 14, 2010 to complete his work program requirement. Moreno's probation was extended because
27 he failed to complete the 30-day work program requirement by the June 14, 2010 deadline.

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1 19. Moreno declared that he failed to complete the 30-day work program requirement at a
2 tree farm because the tree farm only allowed 8 hour days and Moreno worked full time. During
3 the hearing, Moreno testified that that he moved from Pomona to Lawndale, and that he was
4 further unable to complete the 30-day work program requirement because of the increased driving
5 distance to the tree farm.

6 20. On or about August 16, 2010, Moreno's probation was revoked as a result of his
7 failure to complete the 30-day work program requirement by the June 14, 2010 deadline. Moreno
8 served 4 days in jail, and the balance of his 90 day jail sentence was suspended pending the
9 successful completion of his 30-day work program requirement by October 18, 2010. Moreno
10 learned that he could complete the 30-day work program requirement at a location closer to his
11 home in Lawndale.

12 21. On or about October 15, 2010, Moreno's work program facility submitted his work
13 program completion report for filing by the Los Angeles County Superior Court.

14 22. Moreno took out student loans from Sallie Mae. His loans were originally payable to
15 USA Funds, but Van-ru Credit Corporation took over the loans and assigned the collection to
16 NelNet. As of January 24, 2014, Moreno's remaining unpaid balance with NelNet is
17 approximately \$18,301. The amount of unpaid debt owed to NelNet is a significant concern.

18 23. During the hearing, Lauren Cole (Cole), General Manager of the Normandie Casino,
19 testified on behalf of Moreno. Cole testified that Moreno is an upstanding citizen; that he follows
20 procedures and the law; and as an example of his trustworthiness, that Moreno was offered
21 money to accept an invalid identification card and refused.

22 24. During the hearing, Bill Zender (Zender), a gaming consultant for the Normandie
23 Casino, testified on behalf of Moreno. Zender testified that Moreno is friendly; loyal to his co-
24 workers; trustworthy; truthful; and a great employee who interacts well with customers.

25 25. Moreno submitted a third-party declaration and three letters of reference in support of
26 his Application.

27 a. Diane Gomez, Cage Manager for the Normandie Casino, declares that Moreno
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1 is a great employee; that he is professional, honest, and careful; that he has on
2 numerous occasions detected suspicious transactions and/or stopped fraud; and
3 that he is a valuable employee and an integral part of the Normandie Casino's
4 cage compliance team.

5 b. Lauren Cole, General Manager of the Normandie Casino, states that she has
6 known Moreno for over three years; that he is one of their finest employees;
7 that he understands the critical nature of his job; that he is scrupulous in his
8 work ethic and proactive when it comes to identifying and preventing non-
9 compliance; that he reported inappropriate orders from prior management at
10 the Normandie Casino; and that he is honest, ethical and a man of good
11 character.

12 c. Ian Branch, who served as Moreno's superior in the United States Marine
13 Corps and was deployed with him in the combat zone in Iraq in 2003, states
14 that Moreno is a man of honesty, integrity and good character; that he offered
15 to sacrifice his life for the security of the United States; that he is a loyal
16 friend; that he voluntarily reported the accident within 20 minutes of its
17 occurrence and took full responsibility for his actions, including paying
18 restitution, fines and performing community service; and that his record has
19 been clean ever since.

20 d. Sergio Valencia, who served as Moreno's superior in the United States Marine
21 Corps from 2003 to 2004 while in Iraq in Operation Iraqi Freedom, states that
22 Moreno served with integrity, courage and hard work; that he has a great work
23 ethic; that he is a natural born leader with intellectual qualities; and that he is
24 ethical, moral, honest, and has great integrity.

25 26. The testimony of Cole and Zender, and the content of the declaration and all three
26 letters of reference is favorable toward Moreno's character and in support of his Application. The
27 testimony and written declaration and letters are persuasive that Moreno is hard-working,
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1 dependable and a valuable employee; and that he is generally honest, trustworthy and has strong
2 integrity.

3 27. Moreno was candid and forthcoming while testifying at the hearing, including
4 regarding the circumstances surrounding his January 9, 2007 conviction for violating Vehicle
5 Code section 20002(A), hit and run: property damage, a misdemeanor.

6 28. By fleeing the scene of an accident, Moreno not only exercised extremely poor
7 judgment, but also a callous disregard for the law and the safety of others. It is fortunate that
8 there was no bodily harm to anyone in the vehicle that was struck by Moreno.

9 29. By calling the police department to report the accident within 20 minutes following
10 the collision; subsequently calling the California Highway Patrol; pleading guilty to violating
11 Vehicle Code section 20002(A), hit and run: property damage; eventually fulfilling all of the
12 terms of probation; and testifying honestly regarding the circumstances surrounding the accident,
13 Moreno has demonstrated accountability and taken full responsibility for his actions regarding the
14 hit and run incident.

15 30. Based on his positive work history; his serving his country in the United States Marine
16 Corps; his candid testimony during the hearing; the supporting testimony and written declaration
17 and letters of several character witnesses; his efforts to be held accountable and accept full
18 responsibility for his actions following the hit and run incident; and the lack of any other criminal
19 convictions, Moreno has demonstrated that he is a person of good character, honesty, and
20 integrity.

21 31. Despite the seriousness of his misdemeanor conviction for hit and run: property
22 damage, Moreno's prior activities, criminal record, reputation, habits and associations do not pose
23 a threat to the public interest of this state, or to the effective regulation and control of controlled
24 gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and
25 activities in the conduct of controlled gambling or in the carrying on of the business and financial
26 arrangements incidental thereto.

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

3 33. The matter was submitted for Commission consideration on August 4, 2015.

4 LEGAL CONCLUSIONS

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

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

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

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

19 38. An "unqualified person" means a person who is found to be unqualified pursuant to
20 the criteria set forth in Section 19857. Business and Professions Code section 19823(b).

21 39. The Commission has the power to deny any application for a license, permit, or
22 approval for any cause deemed reasonable by the Commission. Business and Professions Code
23 section 19824(b).

24 40. No person may be issued a key employee license unless the person would qualify for a
25 state gambling license. Business and Professions Code section 19854.

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

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

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

11 44. No gambling license shall be issued unless, based on all of the information and
12 documents submitted, the commission is satisfied that the applicant is a person that is in all other
13 respects qualified to be licensed as provided in this chapter. Business and Professions Code
14 section 19857(c).

15 45. Moreno has met his burden of demonstrating that he is qualified for a key employee
16 license.

17 NOTICE OF APPLICANT'S APPEAL RIGHTS

18 Moreno has the following appeal rights available under state law:

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

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

1 the Code of Civil Procedure shall not apply to any judicial proceeding described in
2 the foregoing sentence, and the court may grant the petition only if the court finds
3 that the action of the commission was arbitrary and capricious, or that the action
4 exceeded the commission's jurisdiction.

5 CCR section 12066, subsection (c) provides:

6 A decision of the Commission denying an application or imposing conditions on license
7 shall be subject to judicial review as provided in Business and Professions Code section
8 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
9 filing the petition shall be affected by failure to seek reconsideration.

10 ORDER

11 1. Ruben Moreno's Application for Approval of Initial Key Employee Portable Personal
12 License is APPROVED subject to the following condition:

13 Within 90 days of this Order, and every 90 days thereafter, Ruben Moreno must
14 submit a report to the Bureau regarding proof of a payment plan and the status of his
15 debt owed to Van-ru Credit Corporation through NelNet.

16 2. No costs are to be awarded.

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

18 This Order is effective on September 1, 2015.

19 Dated: 8-27-15

20 Signature: 

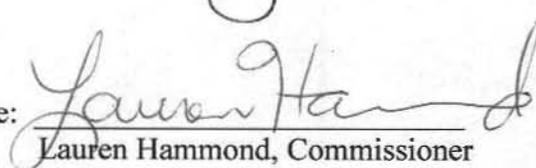
21 Jim Evans, Chairman

22 Dated: Sept. 1, 2015

23 Signature: 

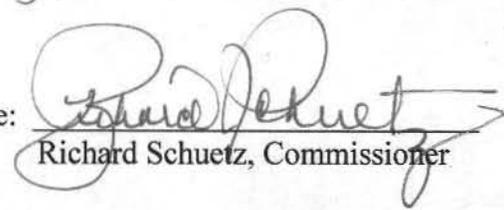
24 Tiffany E. Conklin, Commissioner

25 Dated: 8-27-15

26 Signature: 

27 Lauren Hammond, Commissioner

28 Dated: Aug. 27, 2015

Signature: 

Richard Schuetz, Commissioner