

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

ARMANDO ALCANTAR

Respondent.

BGC Case No. BGC-HQ-2017-00002
CGCC Case No. CGCC-2017-1116-7

DECISION AND ORDER

Hearing Date: June 15, 2018
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, 2018.

William L. Williams, JR., Deputy Attorney General, State of California, represented complainant Stephanie K. Shimazu, Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

Armando Alcantar (Respondent) was present at the hearing on his own behalf without representation.

During the administrative hearing Presiding Officer Russell Johnson took official notice of the following:

- (a) Notice and Agenda of Commission Hearing;
- (b) Notice of Hearing;
- (c) Conclusion of Prehearing Conference letter;
- (d) Respondent's Application for Gambling Establishment Key Employment License;
- (e) Bureau's Background Investigation Report;
- (f) Bureau's Statement of Reasons;
- (g) Respondent's signed Notice of Defense.

During the administrative hearing on June 15, 2018, Presiding Officer Russell Johnson accepted into evidence the following exhibits offered by the Bureau:

1 1. Statement of Reasons; Statement to Respondent; copies of excerpts from the California
2 Business and Professions Code and California Code of Regulations; March 23, 2018, Declaration
3 of Service, Bates Nos. 0001-0023;

4 2. Notice of Defense signed by Respondent, Bates Nos. 0024-0025;

5 3. The Bureau's Cardroom Key Employee Background Investigation Report, Level III,
6 dated October 2017, Bates Nos. 0026-0040;

7 4. Respondent's Application for Gambling Establishment Key Employee License
8 Received by the Bureau on December 9, 2015, Bates Nos. 0041-0046;

9 5. Application for Interim Key Employee License dated October 28, 2015, and received
10 November 02, 2015, Bates Nos. 0047-0049;

11 6. Key Employee Supplemental Background Investigation Information dated December
12 10, 2015, and received by the Bureau December 30, 2015, Bates Nos. 0050-0063;

13 7. Information Furnished Pursuant to Fingerprint Submission to the Department of Justice
14 and Federal Bureau of Investigation Results, Bates Nos. 0064-0066;

15 8. San Luis Obispo County Superior Court documents regarding 1996 conviction in Case
16 No. M000241233, Bates Nos. 0067-0082;

17 9. San Luis Obispo County Superior Court documents regarding 2002 conviction in Case
18 No. M000322562, Bates Nos. 0083-0111;

19 10. Santa Barbara County Superior Court Civil litigation documents regarding Case No.
20 1233053, Bates Nos. 0112-0124;

21 11. Commission Memorandum, Notices and Letters: (a) November 3, 2017,
22 correspondence re: Notification of Scheduled Commission Meeting, Bates Nos. 0125; (b)
23 November 5, 2015, correspondence re: Application for Interim Key Employee License Received,
24 Bates Nos. 0126-0127; (c) November 20, 2015, correspondence re: Referral of Initial Key
25 Employee License Application to an Evidentiary Hearing, Bates Nos. 0128-0129; (d) Licensing
26 Division Memorandum for Commission Meeting of November 16, 2017, Agenda Item 7A, Bates
27 Nos. 0130-0132; (e) October 18, 2017, correspondence re: Notice of Cancellation of Interim
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1 Portable Personal Key Employee License, Bates Nos. 0133-0134; (f) January 31, 2018,
2 correspondence re: Notice of Hearing re Application for Approval of Gambling Establishment
3 Key Employee License, Bates Nos. 0135-0155;

4 12. Bureau correspondence: (a) November 17, 2016, correspondence re: Additional
5 Information and/or Documentation Required/GEKE-002142 and Response, Bates Nos. 0156-
6 0164; (b) December 23, 2016, correspondence re: Additional Information and/or Documentation
7 Required/GEKE-002142 and Response, Bates Nos. 0165-0173; (c) February 2, 2017,
8 correspondence re: Application for Gambling Establishment Key Employee License and
9 Supplemental Information/GEKE-002142 and Response, Bates Nos. 0174-0175; (d) E-mail
10 correspondence from the Bureau dated September 21, 2017, re: Bureau's recommendation for
11 Key Employee License, Bates Nos. 0176; (e) September 14, 2017, correspondence re: Additional
12 Information and/or Documentation Required/GEKE-002142 and Response, Bates Nos. 0177-
13 0179;

14 13. May 1, 2018, Commission correspondence re Conclusion of Pre-Hearing Conference,
15 Bates Nos. 0180-0187.

16 During the administrative hearing, Presiding Officer Russell Johnson accepted into
17 evidence the following exhibits offered by the Applicant:

18 A) Letter of Reference by David Stearns dated June 14, 2018.

19 The matter was submitted on June 15, 2018.

20 FINDINGS OF FACT

21 1. On December 9, 2015, the Bureau received an Application for Gambling
22 Establishment Key Employee License (Initial) dated December 5, 2015 from Respondent to hold
23 a key employee position as a dealer/supervisor at the Oceana Casino. On December 30, 2015, the
24 Bureau received a Supplemental Background Investigation Information Form from Respondent
25 dated December 10, 2015. These documents are collectively referred to herein as Respondent's
26 "Application."

27 2. On his Application, Respondent indicated that he had never been convicted of a crime,
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1 including convictions reduced or expunged. Respondent also indicated that he had never been a
2 party to any litigation or arbitration.

3 3. On November 5, 2015, the Commission issued an interim key employee license,
4 number GEKE-002142 to Respondent.

5 4. On or about November 23, 2016, Respondent submitted a Notification of Change of
6 Key Employee Status transferring his Application to the Central Coast Casino, where he is
7 currently employed.

8 5. In the course of the Bureau's personal and criminal history background investigation, it
9 was determined that on June 18, 1996, Respondent was convicted of violating California Penal
10 Code section 12020(a), possession of dangerous weapon, a misdemeanor, in *People v. Alcantar*,
11 Case No. M000241233 ("dangerous weapon conviction"). On July 18, 2011, Respondent's
12 dangerous weapon conviction was set aside and dismissed pursuant to California Penal Code
13 section 1203.4.

14 6. The Bureau also found that on June 4, 2002, Respondent was convicted of violating
15 California Penal Code section 476(a) for writing checks with insufficient funds, a misdemeanor,
16 in *People v. Alcantar*, Case No. M000322562 ("NSF check conviction"). Respondent fully
17 complied with the court's order, including paying the balance owed on the insufficient checks and
18 attending a diversion class. On July 22, 2011, the NSF check conviction was set aside and
19 dismissed pursuant to California Penal Code section 1203.4.

20 7. The Bureau further found that in 2007 a civil default judgment was entered against
21 Respondent in the amount of \$724.34 in *John Wright, et al. v. Armando Alcantar* (Super. Ct. San
22 Luis Obispo County, filed March 22, 2007, No. 1233053). The Bureau confirmed that
23 Respondent fully satisfied the judgment.

24 8. On or about November 17, 2016 the Bureau contacted Respondent in writing to request
25 additional information regarding his convictions and the judgment and the reasons why he failed
26 to disclose them on his Application.

27 9. On or about December 6, 2016, Respondent replied to the Bureau's inquiry by stating
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1 that “the weapons that were in the car were not mine my friend forgot them and I drove home
2 with them.” Regarding the NSF check conviction, Respondent wrote that: “my kids mom wrote
3 my checks I didn’t know about them until I got a letter I paid for them.” Regarding the judgment,
4 Respondent stated: “I didn’t know about this John C Wright I looked it up but can’t find it if I
5 find it I pay for it.”

6 10. On December 23, 2016, the Bureau again wrote to Respondent requesting court
7 documents relating to the dangerous weapon conviction and NSF check conviction and a further
8 explanation as to why Respondent did not disclose these convictions on his Application.

9 11. On January 6, 2017, Respondent replied to the Bureau that “I gave my cousin a ride to
10 San Luis, then I was driving home and I got pulled over and my cousin left his bat and knife in
11 the passengers that’s why I got took in.” The letter further states, “it was checks written by my
12 son’s mom, I had no idea she wrote them, but it got tooke[n] [sic] care of, I paid them.”

13 12. On January 30, 2017 Respondent provided an additional response to the Bureau: “the
14 owners wife helped me fill it out application. I told her and she said it was OK because they were
15 dismissed. I took care of them they are cleared erased from the court.”

16 13. On February 28, 2017, the Bureau requested by email that Respondent explain the
17 circumstances surrounding the civil judgment. Respondent replied on March 1, 2017 that “it’s
18 been a long time ago yes I was not aware it’s long time but if I owe anything I pay it.”

19 14. On March 21, 2017, the Bureau requested further information regarding the manager
20 who helped him fill out his Application. Respondent provided the requested information on
21 March 22, 2017.

22 15. On or about October 2, 2017, the Bureau submitted a Cardroom Key Employee
23 Background Investigation Report to the Commission recommending that Respondent's
24 Application be denied on the basis that he failed to disclose the two misdemeanor convictions and
25 the civil default judgment on his Application.

26 16. On or about October 18, 2017, Respondent's interim key employee license was
27 cancelled by the Commission pursuant to California Code of Regulations, title 4, section 12354,
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1 subdivision (e)(5).

2 17. On November 16, 2017, the Commission referred consideration of Respondent's
3 Application to an evidentiary hearing to be held under the provisions of California Code of
4 Regulations, title 4, section 12060.

5 18. On or about December 8, 2017, The Commission received a Notice of Defense signed
6 by Respondent requesting an evidentiary hearing.

7 19. On or about March 1, 2018, the Bureau filed a Statement of Reasons with the
8 Commission requesting denial of Respondent's Application.

9 20. The Commission heard Case No. CGCC-2017-1116-7 on June 15, 2018. The
10 Bureau was represented by Deputy Attorney General William L. Williams, JR and Respondent
11 represented himself at the hearing.

12 21. The Bureau admitted evidence that a default judgment was entered against Respondent
13 on July 13, 2007 in the amount of \$724.34. The judgment stemmed from a breach of contract
14 complaint alleging damages in the amount of \$325.

15 22. Respondent testified that the civil judgment arose from an unpaid dental bill and that
16 he fully satisfied the judgment. Respondent testified that he did not disclose the judgment because
17 he didn't see a section on the Application that requested that information. Respondent testified
18 that he does not know what the words "litigation or arbitration" mean and he did not know that
19 the judgment for the unpaid dental bill should be disclosed in that section of the Application.

20 23. Respondent testified that a manager at Oceana Casino, where he was formerly
21 employed, helped him fill the Application out. Respondent testified that his manager told him not
22 to disclose the misdemeanor convictions because they were dismissed. Respondent testified that
23 the manager urged him to fill out the Application as quickly as possible because they needed a
24 key employee.

25 24. Respondent testified that the Oceana Casino burned down, which ultimately led to his
26 employment at Central Coast Casino.

27 25. The Bureau admitted evidence that Respondent was arrested after a traffic stop on
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1 February 29, 1996, for possessing a baseball bat, brass knuckles, and a knife in his vehicle.

2 Thereafter, on June 18, 1996, Respondent received the dangerous weapons conviction.

3 26. Respondent testified that during the 1996 traffic stop, he told the officer that the
4 baseball bat was his and that he used it to play baseball. This is consistent with the arresting
5 officer's police report. However, Respondent testified at the hearing that in reality, he did not
6 know who the brass knuckles and knife belonged to at the time that he was arrested.

7 27. Respondent testified that he let his cousin borrow his car. Respondent testified that
8 earlier in the day on February 29, 1996, his cousin and his cousin's friend borrowed Respondent's
9 car and left the weapons under the seat. Respondent testified that his cousin did not tell him that
10 the weapons belonged to him until after Respondent received the dangerous weapons conviction.

11 28. The Bureau admitted evidence that the NSF check conviction stemmed from the
12 issuance of five checks from Respondent's account totaling \$140.81 when there were insufficient
13 funds in the account.

14 29. Respondent testified that his son's mother left when their son was thirteen months old,
15 leaving Respondent to raise their child alone. Respondent testified that his son's mother took his
16 checks with her and wrote the checks that led to his NSF check conviction.

17 30. Respondent's written responses to the Bureau were very short, provided minimal
18 information, and did not indicate a strong command of writing in English. However, Respondent
19 never denied the existence of the convictions or the judgment in his written statements to the
20 Bureau or while testifying before the Commission.

21 31. Respondent's testimony that he believed the advice he received from an authority
22 figure at the cardroom that he did not need to disclose the dismissed convictions on his
23 Application is credible.

24 32. Respondent's testimony that he did not understand that the default judgment resulting
25 from the unpaid dental bill was considered "litigation or arbitration" that he needed to disclose on
26 his Application was credible.

27 33. Respondent satisfied the default civil judgment and complied with the court
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1 requirements resulting from his convictions. Respondent successfully petitioned for both
2 convictions to be dismissed.

3 34. Respondent admitted a character reference by David Stearns, the owner and operator
4 of Central Coast Casino stating that Respondent is an honest, hardworking employee and has not
5 had any disciplinary issues during his tenure.

6 35. Respondent has met his burden of proving that he is a person of good character,
7 honesty and integrity.

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

11 37. The matter was submitted for Commission consideration on June 15, 2018.

12 LEGAL CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

21 NOTICE OF APPLICANT’S APPEAL RIGHTS

22 Respondent Armando Alcantar has the following appeal rights available under state law:

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

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

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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 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.

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

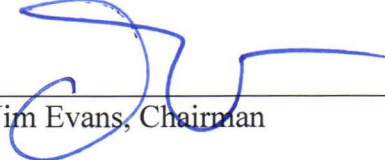
A decision of the Commission denying an application or imposing conditions on license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected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

ORDER

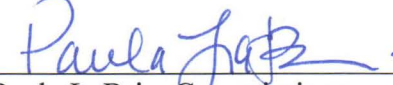
1. Armando Alcantar's Application for Key Employee license is GRANTED.
2. Each side to pay its own attorneys' fees.

This Order is effective on July 12, 2018.

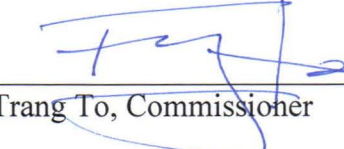
Dated: 7/12/18

Signature: 
Jim Evans, Chairman

Dated: 7/12/18

Signature: 
Paula LaBrie, Commissioner

Dated: 7/12/18

Signature: 
Trang To, Commissioner

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