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8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**
11 **STATE OF CALIFORNIA**

12
13 In the Matter of the Application for Renewal of
Key Employee License of:

CGCC Case No.: CGCC-2015-0924-7

BGC Case No.: BGC-HQ2015-00019SL

14
15 **CHARLES EDWIN McCORMICK, JR.**

STATEMENT OF REASONS

16 [REDACTED]
17 Key Employee License No.: GEKE-001206

18 Respondent.

19
20 **PARTIES**

21 1. Wayne J. Quint, Jr., (Complainant) submits this Statement of Reasons solely in his
22 official capacity as the Chief of the California Department of Justice, Bureau of Gambling
23 Control (Bureau).

24 2. On or about November 16, 2006, the California Gambling Control Commission
25 (Commission) licensed Charles Edwin McCormick, Jr., (Respondent) as a key employee. Since
26 November 16, 2006, Respondent has continuously held a key employee license issued by the
27 Commission, license number GEKE-001206. Respondent's key employee license will expire on
28 September 30, 2017, unless renewed or extended by the Commission.

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1 in violation of Penal Code section 330. (Bus. & Prof. Code, §§ 19854, subd. (b), 19858 subd. (a)
2 & 19858.5; Cal. Code. Regs., tit. 4, §§ 12355, subds. (a)(1) & (c) & 12568 (c)(3).)

3 **SECOND CAUSE FOR DENIAL**

4 **(Unsuitable for Licensure – Financial Interest or Controlling Interest in Prohibited
5 Gambling: Slot Machines or Devices)**

6 9. Respondent's Application is subject to denial in that, the Respondent has, directly or
7 indirectly, more than a one percent financial or ownership interest in a business, or control of a
8 business, that lawfully owns, possess, allows, operates, permits, maintains, manages and/or offers
9 for play slot machines or devices outside of California at times relevant to this statement of
10 issues. Such activities are, and at all relevant times were, unlawful within California.
11 Respondent, as a co-owner of OT Enterprises, LLC, has, directly or indirectly, more than a one
12 percent financial or ownership interest, or control of, Oak Tree Casino where punchboard/pull-
13 tabs (slot machines or devices) are, or at all relevant times were, allowed, operated, permitted,
14 maintained, managed, sold and/or offered for play. Such activities are unlawful within California,
15 in violation of Penal Code sections 330, 330b & 330c. (Bus. & Prof. Code, §§ 19854, subd. (b),
16 19858 & 19858.5; Cal. Code. Regs., tit. 4, §§ 12355, subds. (a)(1) & (c) & 12568 (c)(3).)

17 **THIRD CAUSE FOR DENIAL**

18 **(Disqualified or Unqualified—Failure to Provide Information as Required)**

19 10. Respondent's Application is subject to mandatory or discretionary denial in that, on
20 or about January 30, 2013, Respondent failed to disclose or reveal a fact material to qualification
21 for licensure and/or supplied information that is untrue or misleading as to a material fact
22 pertaining to the qualification for licensure when he responded "No" to question 2², in Section 3,
23 of page 2 of the application.³ (Bus. & Prof. Code, §§ 19823, subd. (b), 19854 & 19859 subds. (a)
24 & (b); Cal. Code. Regs., tit. 4, § 12355, subds. (a)(1) & (c).)

25 _____
26 ² The question states: Have you acquired or increased a financial interest in a business
27 that conducts lawful gambling outside the state since last filing a Key Employee License
28 application?

³ Filed for the renewal period March 1, 2013 through February 28, 2015.

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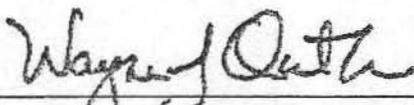
Restaurant, Appellant(s) v. Department of Labor and Industries,
Respondent, (2005) (docket nos. 2013-LI-0124 and 2013-LI-0166).
(Bus. & Prof. Code, §§ 19823, subd. (b), 19854, 19856 & 19857; Cal. Code. Regs., tit. 4, §
12355, subds. (a)(1) & (b)(2).)

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Commission issue a decision to:

1. Deny the renewal of key employee license No. GEKE-001206, issued to Charles
Edwin McCormick Jr.; and
2. Take such other and further action as the Commission may deem appropriate.

Dated: February 24, 2016



WAYNE J. QUINT, JR., Chief
Bureau of Gambling Control
California Department of Justice
Complainant

1 ineligible, unqualified, disqualified, or unsuitable persons are
2 associated with controlled gambling activities.

3 4. Business and Professions Code section 19854, subdivision (a), provides:

4 Every key employee shall apply for and obtain a key employee
5 license.

6 5. Business and Professions Code section 19870 provides:

7 (a) The commission, after considering the recommendation of
8 the [Bureau] chief and any other testimony and written comments
9 as may be presented at the meeting, or as may have been submitted
10 in writing to the commission prior to the meeting, may either deny
11 the application or grant a license to an applicant who it determines
12 to be qualified to hold the license.

13 (b) When the commission grants an application for a license or
14 approval, the commission may limit or place restrictions thereon as
15 it may deem necessary in the public interest, consistent with the
16 policies described in this chapter.

17 (c) When an application is denied, the commission shall
18 prepare and file a detailed statement of its reasons for the denial.

19 (d) All proceedings at a meeting of the commission relating to
20 a license application shall be recorded stenographically or by audio
21 or video recording.

22 (e) A decision of the commission denying a license or
23 approval, or imposing any condition or restriction on the grant of a
24 license or approval may be reviewed by petition pursuant to Section
25 1085 of the Code of Civil Procedure. Section 1094.5 of the Code
26 of Civil Procedure shall not apply to any judicial proceeding
27 described in the foregoing sentence, and the court may grant the
28 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.

6. Business and Professions Code section 19871 provides:

(a) The commission meeting described in Section 19870 shall
be conducted in accordance with regulations of the commission and
as follows:

(1) Oral evidence shall be taken only upon oath
or affirmation.

(2) Each party shall have all of the following rights:

(A) To call and examine witnesses.

(B) To introduce exhibits relevant to the
issues of the case.

1 (C) To cross-examine opposing witnesses
2 on any matters relevant to the issues, even
3 though the matter was not covered on direct
4 examination.

5 (D) To impeach any witness, regardless
6 of which party first called the witness to testify.

7 (E) To offer rebuttal evidence.

8 (3) If the applicant does not testify in his or her own
9 behalf, he or she may be called and examined as if under cross-
10 examination.

11 (4) The meeting need not be conducted according to
12 technical rules relating to evidence and witnesses. Any relevant
13 evidence may be considered, and is sufficient in itself to support a
14 finding, if it is the sort of evidence on which responsible persons
15 are accustomed to rely in the conduct of serious affairs, regardless
16 of the existence of any common law or statutory rule that might
17 make improper the admission of that evidence over objection in a
18 civil action.

19 (b) Nothing in this section confers upon an applicant a right to
20 discovery of the department's⁴ investigative reports or to require
21 disclosure of any document or information the disclosure of which
22 is otherwise prohibited by any other provision of this chapter.

23 Specific Statutory and Regulatory Provisions

24 7. Business and Professions Code section 19856, subdivision (a) provides in part:

25 The burden of proving his or her qualifications to receive any
26 license is on the applicant.

27 8. Business and Professions Code section 19854, subdivision (b) provides:

28 No person may be issued a key employee license unless the
29 person would qualify for a state gambling license.

30 9. Business and Professions Code section 19805, subdivision (p) provides:

31 "Gambling license" or "state gambling license" means any license
32 issued by the state that authorizes the person named therein to
33 conduct a gambling operation.

34 ⁴ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus.
35 & Prof. Code, § 19805, subd. (h).)

1 10. Business and Professions Code section 19805, subdivision (q) provides:

2 “Gambling operation” means exposing for play one or more
3 controlled games that are dealt, operated, carried on, conducted, or
4 maintained for commercial gain.

5 11. Business and Professions Code section 19857 provides:

6 No gambling license shall be issued unless, based on all the
7 information and documents submitted, the commission is satisfied
8 that the applicant is all of the following:

9 (a) A person of good character, honesty and integrity.

10 (b) A person whose prior activities, criminal record, if any,
11 reputation, habits, and associations do not pose a threat to the public
12 interest of this state, or to the effective regulation and control of
13 controlled gambling, or create or enhance the dangers of unsuitable,
14 unfair, or illegal practices, methods, and activities in the conduct of
15 controlled gambling or in the carrying on of the business and
16 financial arrangements incidental thereto.

17 (c) A person that is in all other respects qualified to be
18 licensed as provided in this chapter.

19 12. Business and Professions Code section 19858, subdivision (a), provides,
20 in part:

21 [A] person shall be deemed to be unsuitable to hold a state
22 gambling license to own a gambling establishment if the person, or
23 any partner, officer, director, or shareholder of the person, has any
24 financial interest in any business or organization that is engaged in
25 any form of gambling prohibited by section 330 of the Penal Code,
26 whether within or without this state.

27 13. Business and Professions Code section 19858.5 provides:

28 Notwithstanding Section 19858, the commission may, pursuant to
29 this chapter, deem an applicant suitable to hold a state gambling
30 license even if the applicant or licensee has a financial interest in
31 another business that conducts lawful gambling outside the state
32 that, if conducted within California, would be unlawful, provided
33 that an applicant or licensee may not own, either directly or
34 indirectly, more than 1 percent interest in, or have control of, that
35 business.

36 14. Business and Professions Code section 19859 provides in part:

37 The commission shall deny a license to any applicant who is
38 disqualified for any of the following reasons:

39 (a) Failure of the applicant to clearly establish eligibility and
40 qualification in accordance with this chapter.

1 (b) Failure of the applicant to provide information,
2 documentation, and assurance required by this chapter or requested
3 by the Chief, or failure of the applicant to reveal any fact material
4 to qualification, or the supplying of information that is untrue or
5 misleading as to a material fact pertaining to the qualification
6 criteria.

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13 15. Penal Code section 330 provides:

14 Every person who deals, plays, or carries on, opens, or causes to
15 be opened, or who conducts, either as owner or employee, whether
16 for hire or not, any game of faro, monte, roulette, lansquenet,
17 rought et noir, rondo, tan, fan-tan, seven-and-a-half, twenty-one,
18 hokey-pokey, or any banking or percentage game played with
19 cards, dice, or any device, for money, checks, credit, or other
20 representative of value, and every person who plays or bets against
21 any of those prohibited games is guilty of a misdemeanor, and shall
22 be punished by a fine not less than one hundred dollars (\$100) nor
23 more than one thousand dollars (\$1,000) or by imprisonment in the
24 county jail not exceeding six months, or by both fine and
25 imprisonment.

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33 16. Penal Code section 330b provides in part:

34 (a) It is unlawful for any person to manufacture, repair, own,
35 store, possess, sell, rent, lease, let on shares, give away, transport,
36 or expose for sale or lease, or offer to repair, sell, rent, lease, let for
37 shares, lend or give away, or permit the operation, placement,
38 maintenance, or keeping of, in any place, room space, or building
39 owned, leased, or occupied, managed, or controlled by that person,
40 any slot machine or device, as defined in this section.

41 It is unlawful for any person to make or to permit the making of
42 an agreement with another person regarding any slot machine or
43 device, by which the user of the slot machine or device, as a result
44 of the element of hazard or chance or other unpredictable outcome,
45 may become entitled to receive money, credit, allowance, or other
46 thing of value or additional chance or right to use the slot machine
47 or device, or to receive any check, slug, token, or memorandum
48 entitling the holder to receive money, credit, allowance, or other
49 thing of value.

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58 17. Penal Code section 330c provides:

59 A punchboard as hereinafter defined is hereby declared to be a
60 slot machine or device within the meaning of section 330b of this
61 code and shall be subject to the provisions thereof. For the
62 purposes of this section, a punchboard is any card, board or other
63 device which may be played or operated by pulling, pressing,
64 punching out or otherwise removing any slip, tab, paper or other
65 substance therefrom to disclose any concealed number, name or
66 symbol.

1 18. California Code of Regulations, title 4, section 12355 provides, in part:

2 (a) An application for a portable personal key employee
3 license shall be denied by the Commission if any of the following
4 applies:

5 (1) The Commission finds that the applicant is
6 ineligible, unqualified, disqualified, or unsuitable pursuant to the
7 criteria set forth in the Act or other applicable law or that granting
8 the license would be inimical to public health, safety, welfare, or
9 would undermine the public trust that gambling operations are free
10 from criminal or dishonest elements.

11 (b) An application for a key employee license may be denied
12 if:

13 * * *

14 (2) Commission finds that the applicant's past behavior
15 calls into question the applicant's qualification requirements and
16 considerations outlined in Business and Professions Code section
17 19856.

18 (c) The grounds for denial set forth in this section apply in
19 addition to any grounds prescribed by statute or any grounds that
20 would support revocation under chapter 10 of these regulations.

21 19. California Code of Regulations, title 4, section 12054, subdivision (a)(2), provides:

22 (a) At a non-evidentiary hearing meeting, the Commission
23 may take, but is not limited to taking, one of the following actions:

24 * * *

25 (2) Elect to hold an evidentiary hearing in accordance
26 with Section 12056 and, when for a renewal application, issue an
27 interim renewal license pursuant to Section 12035. The
28 Commission shall identify those issues for which it requires
additional information or consideration related to the applicant's
suitability.

29 20. California Code of Regulations, title 4, section 12060, subsection (i), provides:

30 The burden of proving is on the applicant at all times to prove
31 his, her, or its qualifications to receive any license or other approval
32 under the Act.

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21. California Code of Regulations, title 4, section 12204, provides in part:

An applicant shall be ineligible for registration for any of the following causes: (f) The applicant would be ineligible for a state gambling license under Business and Professions Code section 19858.

22. California Code of Regulations, title 4, section 122218.11, provides in part:

A requester shall be ineligible for licensing for any of the following causes: (g) The requester would be ineligible for a state gambling license under Business and Professions Code section 19858.

23. California Code of Regulations, title 4, section 12224, provides in part:

An applicant shall be ineligible for registration for any of the following causes: (f) The applicant would be ineligible for a state gambling license under Business and Professions Code section 19858.

24. California Code of Regulations, title 4, section 12236, provides in part:

A requester shall be ineligible for licensing for any of the following causes: (g) The requester would be ineligible for a state gambling license under Business and Professions Code section 19858.