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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Initial  
Work Permit for:  
  
DUANGMANEE CHAROENSUK  
  
Respondent.

BGC Case No. BGC-HQ 2017-00020SL  
CGCC Case No. CGADS-2017-0921-13

**DECISION AND ORDER**

Hearing Date: April 18, 2018  
Time: 10:00 a.m.

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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 April 18, 2018.

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Ronald Diedrich, Deputy Attorney General, State of California, represented complainant Stephanie Shimazu , Director of the Bureau of Gambling Control, Department of Justice, State of California (Bureau).

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Duangmanee Charoensuk (Respondent) represented herself at the hearing with the assistance of her husband, Frank Peterson.

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

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- (a) Notice of Hearing and Prehearing Conference letter with attachments;
  - (b) Statement of Reasons filed and served by the Bureau;
  - (c) Conclusion of Prehearing Conference letter.

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

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1. Statement of Reasons; Statement to Respondent; copies of excerpts from the California Business and Professions Code and California Code of Regulations; January 23, 2018, Declaration of Service by Certified Mail Service; signed Return Receipt; and Notice of Defense, Bates Nos. 001-022;

1           2. Commission Notices and Memorandum: (a) September 21, 2017, Licensing Division  
2 Memorandum, Bates Nos. 023 – 024; (b) September 25, 2017, Referral of Respondent to an  
3 Evidentiary Hearing and Interim Renewal License with Condition Issued, Bates Nos. 025 – 027;  
4 (c) January 12, 2018, Notice of Hearing and Prehearing Conference, Bates Nos. 028 – 043; (d)  
5 February 28, 2018, Conclusion of Prehearing Conference letter, Bates Nos. 044 – 049;

6           3. Unofficial Transcript of the California Gambling Control Commission, September 21,  
7 2017, meeting, item number 13, Bates Nos. 050 – 058;

8           4. October 12, 2017, letter to Bureau from Respondent, Bates Nos. 059 – 060;

9           5. A redacted copy of Respondent’s Application, Bates Nos. 061 – 068;

10          6. A redacted copy of the Bureau’s August 22, 2017 Work Permit Renewal Background  
11 Investigation Report, Bates Nos. 069 – 076;

12          7. A redacted copy of the Subsequent Arrest Notification for Respondent’s September 17,  
13 2017 arrest and the Solano County District Attorney’s Notice of Intent Not to Prosecute, Bates  
14 Nos. 077 – 079;

15          8. September 21, 2017, letter from Brian Altizer, Napa Valley Casino, Bates Nos. 080 – 082;

16          9. October 2, 2017, email to the Bureau from Teresa Vandal confirming that Respondent’s  
17 employment was terminated, Bates Nos. 083;

18          10. A redacted copy of the Solano County Superior Court records regarding the case of  
19 *People of the State of California v. Duangmanee Charoensuk* (Super. Ct. Solano County, 2017,  
20 Case No. VCR228687M7), Bates Nos. 084 – 091;

21          11. A redacted copy of the Benicia Police Department’s Offense Report regarding the January  
22 1, 2017 arrest, Bates Nos. 092 – 098;

23          12. July 24, 2017 Notice of Completion of the Wet Reckless Program, and the July 24, 2017,  
24 Notice of Completion Certificate of the Driving-Under-the-Influence Program, Bates Nos. 099;

25          13. Redacted copy of the Department of Motor Vehicles Notification and Findings of  
26 Decision and the July 24, 2017, Division of Law Enforcement’s Telephone Contact Sheet, Bates  
27 Nos. 100 – 101;

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1 14. August 1, 2017, letter to the Bureau from Respondent, Bates Nos. 102;

2 15. A redacted copy of the December 15, 2015, California Highway Patrol, Interpol Unit, fax  
3 transmittal, Bates Nos. 103 – 105.

4 The matter was submitted on April 18, 2018.

5 FINDINGS OF FACT

6 1. On or about June 29, 2017, Respondent submitted an Application for Work Permit  
7 Renewal and a Work Permit Questionnaire (Application) to allow her continued employment as a  
8 dealer at the Napa Valley Casino.

9 2. On Respondent’s Application, under penalty of perjury, she stated that she had not been  
10 convicted of a misdemeanor in the past 10 years. However, in the course of conducting a  
11 background investigation, the Bureau discovered that on May 31, 2017, Respondent was  
12 convicted upon a plea of nolo contendere, to the reduced count of violating Vehicle Code section  
13 23103.5, reckless driving, a misdemeanor in the case of *People of the State of California v.*  
14 *Duangmanee Charoensuk, Solano County Superior Court, Case No. VCR228687*. Respondent  
15 was sentenced to 36 months of probation, ordered to attend a wet reckless class, and ordered to  
16 pay a fine.

17 3. On July 24, 2017, the Bureau verified with the Department of Motor Vehicles that  
18 Respondent’s driver’s license was suspended due to her having an excessive blood alcohol level  
19 at the time she was arrested for reckless driving.

20 4. On July 31, 2017, Respondent sent a written response to a request for further information  
21 from the Bureau regarding her reckless driving conviction. Respondent wrote that she had a year  
22 to pay her court fines and intended to pay them by December 2017. Respondent stated that the  
23 reckless driving incident occurred when she “parked my car in the parking lot and I was stopped  
24 while walking to my apartment.”

25 5. On August 1, 2017, Respondent responded to the Bureau’s request for a written statement.  
26 In the statement, Respondent stated that she did not disclose the conviction because she was not  
27 aware of it.

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1           6. On August 22, 2017, the Bureau submitted to the Commission a Work Permit Renewal  
2 Employee Background Investigation Report recommending that Respondent's' Application be  
3 denied on the basis that she failed to disclose the May 31, 2017 reckless driving conviction on her  
4 Application.

5           7. On September 18, 2017 the Bureau received a subsequent arrest notification stating that  
6 Respondent was arrested on September 17, 2017. The arrest resulted from a domestic dispute  
7 between Respondent and her husband.

8           8. On September 21, 2017, the Bureau received a Notice of Intent Not to Prosecute  
9 respondent in relation to her September 17 arrest from the Solano County District Attorney's  
10 Office. The notice states that no formal charges will be filed against Respondent due to  
11 insufficient evidence.

12           9. On September 21, 2017, the Commission considered Respondent's Application at a  
13 regular Commission meeting. An owner of Napa Valley Casino, Brian Altizer, appeared at the  
14 meeting with Respondent and spoke on her behalf.

15           10. At the September 21, 2017 meeting, a representative of the Bureau told the  
16 Commissioners that the Bureau recently received additional information that affects Respondent's  
17 suitability and recommended the Commission refer Respondent's Application to an evidentiary  
18 hearing.

19           11. The Commission voted to refer Respondent's Application to an evidentiary hearing and  
20 issue an interim renewal license valid through September 30, 2019, with one condition requiring  
21 Respondent to provide the Bureau with status updates every 90 days regarding payment of her  
22 outstanding court fine.

23           12. After the September 21, 2017 Commission meeting, the Bureau received a letter from Mr.  
24 Altizer, stating that he terminated Respondent's employment with Napa Valley Casino. The letter  
25 states that after the September 21 meeting, Mr. Altizer found out that Respondent was recently  
26 arrested for domestic violence after drinking. Mr. Altizer stated that Respondent admitted to him  
27 that she lied to police at the time of her arrest. Mr. Altizer stated that based on Respondent's  
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1 explanation of the arrest, he felt that she was a dishonest person and terminated her employment.

2 13. On October 2, 2017, Napa Valley Casino confirmed by email to the Bureau that  
3 Respondent's employment was terminated.

4 14. On or about October 10, 2017, Respondent submitted a Notice of Defense to the  
5 Commission requesting an evidentiary hearing.

6 15. On or about October 12, 2017, Respondent sent a letter to the Bureau stating that she paid  
7 all outstanding fees to the court and included copies of her payment receipts.

8 16. In Respondent's October 12, 2017 letter, she stated that she was terminated from Napa  
9 Valley Casino due to "questions put to my employer then without the opportunity to answer for  
10 myself or provide further information regarding my status or recent events." Respondent stated in  
11 the letter that she wanted to proceed with her Application because she hoped to work at another  
12 Bay Area casino.

13 17. On or about December 27, 2017, Respondent advised the Bureau that she was not  
14 currently employed, but still desired an evidentiary hearing regarding her Application.

15 18. The Commission heard Case No. CGCC-2017-0921-13 on April 18, 2018. The Bureau  
16 was represented throughout the pendency of the hearing by Deputy Attorney General Ronald  
17 Diedrich and Respondent represented herself with the assistance of her husband, Frank Peterson.

18 19. Respondent testified regarding her arrest for driving under the influence of alcohol, which  
19 ultimately resulted in her misdemeanor reckless driving conviction. Respondent testified that she  
20 was pulled over and arrested on New Year's Eve. The first day that Respondent worked after the  
21 arrest, she told her employer's Human Resources Manager, Teresa, that she had been arrested.  
22 Respondent testified that Teresa asked Respondent to remind her about the arrest when they met  
23 in July to fill out Respondent's renewal application.

24 20. Respondent testified that when she and Teresa met in July to fill out Respondent's  
25 renewal application, she forgot to remind Teresa that she had been arrested.

26 21. Respondent testified that she did not disclose the reckless driving conviction on her  
27 Application because she did not realize that she was convicted of a misdemeanor. Respondent  
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1 testified that in Thailand, you receive a ticket for driving under the influence of alcohol, pay a  
2 fine, and are not considered a criminal. Respondent further testified that a traffic ticket was heard  
3 in court at the same time as her case, which led her to believe that her case did not involve a  
4 crime.

5 22. Respondent testified that she was represented by a private attorney in relation to her  
6 reckless driving case, she appeared at two court hearings, went to a six week class, paid a fine,  
7 and her Driver's License was temporarily suspended.

8 23. Respondent testified that her attorney did not explain the significance of her plea of nolo  
9 contendere to her or tell Respondent that she was convicted of a misdemeanor.

10 24. Respondent testified that she did not intend to hide her reckless driving conviction from  
11 the Commission by failing to disclose it on her Application.

12 25. Respondent testified that she is from Thailand and is not a proficient English speaker.  
13 Respondent testified that she took English classes in Thailand while attending boarding school.

14 26. Respondent testified that she first lived in the United States for a period of approximately  
15 4 years and attended Ohlone Community College in Fremont, CA. Respondent testified that after  
16 obtaining enough college credit and passing a written exam, she was able to transfer to San  
17 Francisco State University where she studied International Marketing.

18 27. After Respondent graduated from San Francisco State University, she returned to  
19 Thailand for approximately 23 years. Respondent testified that she returned to the United States  
20 approximately 5 years ago.

21 28. Respondent's former co-worker and friend, Jomkhwuan Saengkham, testified with the aid  
22 of a Thai interpreter. Ms. Saengkham testified that she met Respondent in 2014 when they  
23 worked together at a Thai restaurant. Ms. Saengkham testified that the owner of the restaurant she  
24 worked at with Respondent trusted Respondent to take care of the accounts, employees, and  
25 customers. Ms. Saengkham also testified that Respondent is an honest and trustworthy person.

26 29. Respondent's husband, Mr. Peterson testified that Respondent is an honest and  
27 trustworthy person, and a good wife and mother. Mr. Peterson further testified that he did not  
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1 assist Respondent with her reckless driving case or filling out her Application and Respondent  
2 did not ask him for help with these matters.

3 30. Throughout her testimony, Respondent exhibited that she can comprehend and  
4 proficiently speak English. Respondent's ability to speak, comprehend, and read English  
5 was further exhibited by her testimony that she understood all of the questions on the  
6 Application except for the one about her criminal history. It is also notable that Respondent  
7 was able to successfully complete college courses taught in English.

8 31. Respondent's testimony that she did not understand that she was convicted of a  
9 misdemeanor for reckless driving is not credible. Respondent pled to a reckless driving charge  
10 with the assistance and advice of an attorney and appeared in at least two court proceedings.  
11 The Complaint in Respondent's case was captioned "Misdemeanor." Respondent immediately  
12 disclosed the fact that she was arrested to her employer's Human Resources Manager, and after  
13 she was convicted, had to take a lengthy class, pay a fine, and her Driver's License was  
14 suspended; these circumstances are not consistent with Respondent's testimony that she thought  
15 her situation was similar to the receipt of a simple traffic ticket.

16 32. There was a mere 29 days between Respondent's conviction and the submission of her  
17 Application to the Bureau. Given the terms of her sentence and the proximity in time, it strains  
18 belief that Respondent would not have at least asked her criminal attorney or the Bureau about  
19 the conviction before she signed the Application.

20 33. Respondent's testimony that she understood all of the Application except for the  
21 one question about her criminal history is also not credible given her command of the  
22 English language.

23 34. Respondent knew that she was convicted of a misdemeanor when she filled out the  
24 Application, but she failed to disclose it, and then was dishonest to the Bureau in her August  
25 2017 written statement wherein she denied knowing that she was convicted of a misdemeanor.

26 35. Respondent failed to meet her burden of demonstrating that she is a person of honesty  
27 and integrity. Therefore, Respondent is unqualified for the issuance of a work permit  
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1 pursuant to Business and Professions Code section 19857(a) and Title 4 CCR section  
2 12105(a)(2).

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

6 37. The matter was submitted for Commission consideration on April 18, 2018.

### 7 LEGAL CONCLUSIONS

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

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

15 3. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
16 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to  
17 prove her qualifications to receive any license under the Gambling Control Act. Title 4, CCR  
18 section 12060(i).

19 4. The burden of proving her qualifications to receive any license from the  
20 Commission is on the applicant. Business and Professions Code section 19856(a).

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

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

2 7. The Commission has the responsibility of assuring that licenses, approvals, and  
3 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
4 operations are conducted in a manner that is inimical to the public health, safety, or welfare.

5 Business and Professions Code section 19823(a)(1).

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

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

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

16 11. An application for a work permit shall be denied by the Commission if the applicant  
17 is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of Business and  
18 Professions Code section 19857. Title 4 CCR section 12105(a)(2).

19 12. Respondent failed to meet her burden of demonstrating that she is a person of honesty and  
20 integrity. Therefore, Respondent is not qualified for the issuance of a work permit pursuant to  
21 Business and Professions Code section 19857(a).

## 22 NOTICE OF APPLICANT’S APPEAL RIGHTS

23 Respondent has the following appeal rights available under state law:

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

25 An applicant denied a license, permit, registration, or finding of suitability, or whose  
26 license, permit, registration, or finding of suitability has had conditions, restrictions,  
27 or limitations imposed upon it, may request reconsideration by the Commission  
28 within 30 calendar days of service of the decision, or before the effective date  
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,

1 which must be based upon either newly discovered evidence or legal authorities that  
2 could not reasonably have been presented before the Commission's issuance of the  
3 decision or at the hearing on the matter, or upon other good cause which the  
4 Commission may decide, in its sole discretion, merits reconsideration.

5 Business and Professions Code section 19870, subdivision (e) provides:

6 A decision of the commission denying a license or approval, or imposing any  
7 condition or restriction on the grant of a license or approval may be reviewed by  
8 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of  
9 the Code of Civil Procedure shall not apply to any judicial proceeding described in  
10 the foregoing sentence, and the court may grant the petition only if the court finds  
11 that the action of the commission was arbitrary and capricious, or that the action  
12 exceeded the commission's jurisdiction.

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

14 A decision of the Commission denying an application or imposing conditions on license  
15 shall be subject to judicial review as provided in Business and Professions Code section  
16 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
17 filing the petition shall be affected by failure to seek reconsideration.  
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ORDER

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2 1. Respondent Duangmanee Charoensuk's Application for Initial Regular Work Permit is  
3 DENIED.


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

5 This Order is effective on June 22, 2018.


6 Dated: 5/23/18

7 Signature:   
8 Jim Evans, Chairman

9 Dated: 5/23/18

10 Signature:   
11 Paula LaBrie, Commissioner

12 Dated: 5-23-18

13 Signature:   
14 Trang To, Commissioner