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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Initial Gambling Establishment Key
Employee License Regarding:

DAVID CHRISTOPHER JOCIS

Applicant.

CGCC Case No. CGCC-2019-0516-6B

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, April 30, 2020
Time: 10:00 a.m.

1. This matter was scheduled for hearing before 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, in Sacramento, California, on Thursday, April 30, 2020 at 10:00 a.m.

2. David Christopher Jocis (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about March 7, 2017, the Bureau of Gambling Control (Bureau) received an Application for Gambling Establishment Key Employee License from Applicant.

4. On or about March 21, 2019, the Bureau issued its Gambling Establishment Key Employee Initial Background Investigation Report (Bureau Report) in which it concluded that Applicant was unqualified for licensure pursuant to Business and Professions Code section 19857 and disqualified for licensure pursuant to Business and Professions Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about May 16, 2019, the Commission considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12056, subdivision (a).

6. On or about May 20, 2019, Commission staff mailed an evidentiary hearing referral letter via certified mail and regular mail to Applicant's address of record, with a copy to

1 his attorney, which included a blank Notice of Defense form with instructions to return it to the
2 Commission within 15 days of receipt or else the Commission may issue a default decision.

3 7. On or about, June 9, 2019 Applicant's attorney signed the Notice of Defense
4 requesting a hearing which was ultimately received by the Commission.

5 8. On or about August 26, 2019, Commission staff sent certified mail a hearing
6 notice to Applicant's address of record, with a copy to his attorney, stating the hearing was set to
7 occur on Tuesday, November 19, 2019 at 10:00 a.m.

8 9. On or about November 18, 2019, the Commission received a new signed Notice of
9 Defense from the Applicant's attorney waiving Applicant's right to an evidentiary hearing,
10 attached hereto as Exhibit A. This was provided in furtherance of the Applicant's request the
11 Commission consider abandoning Applicant's application at the Commission's January 8, 2020
12 meeting.

13 10. At the January 8, 2020 meeting, the Commission elected not to abandon
14 Applicant's application but instead directed staff to proceed to a default hearing.

15 11. Applicant received notice of Commission consideration of Applicant's application
16 through a notice of the hearing sent certified mail on January 30, 2020 to Applicant's attorney
17 which included Exhibit A and stated that the hearing was set to occur on Thursday, April 30,
18 2020 at 10:00 a.m. Commission staff received the certificate back but it was illegible.

19 **DETERMINATION OF ISSUES**

20 12. An application to receive a license constitutes a request for a determination of the
21 applicant's general character, integrity, and ability to participate in, engage in, or be associated
22 with, controlled gambling. (Bus. & Prof. Code § 19856, subd. (b).)

23 13. In addition, the burden of proving Applicant's qualifications to receive any license
24 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

25 14. At an evidentiary hearing pursuant to Business and Professions Code sections
26 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
27 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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15. Title 4, CCR section 12052, subdivision (c), provides in pertinent part:

(c) An applicant for any license, permit, finding of suitability, renewal, or other approval shall be given notice of the meeting at which the application is scheduled to be heard. Notice shall be given pursuant to Section 12006.

* * *

(2) If the application is to be scheduled at an evidentiary hearing, pursuant to subsections (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:

* * *

(F) The waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure of an applicant to appear at an evidentiary hearing, may result in:

1. A default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which might be provided to the Commission

16. The Commission takes official notice of the Bureau Report, any supplemental reports by the Bureau and any other documents or testimony already provided to it in this matter as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR section 12052, subdivision (c)(2)(F)(1).

17. The Commission has jurisdiction to adjudicate this case by default.

18. The Commission may deny Applicant’s application based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it, pursuant to CCR section 12052, subdivision (c)(2)(F)(1), and Business and Professions Code sections 19857 and 19859.

19. The Commission may further also deny Applicant’s application based upon Applicant’s failure to prove to the Commission Applicant is qualified to receive a license or other approval as required by Business and Professions Code section 19856, subdivision (a) and Title 4, CCR section 12060(i).

20. Therefore, as the Applicant requested a hearing in a Notice of Defense through his counsel, but then submitted a new Notice of Defense through his attorney which waived his right

1 to a hearing, did not attend the default hearing, and did not submit any information or evidence in
2 favor of granting Applicant's Application, Applicant did not meet Applicant's burden of
3 demonstrating why a license should be issued pursuant to Business and Professions Code section
4 19856(a) and Title 4, CCR section 12060(i). The Commission further finds that pursuant to
5 California Code of Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1), Applicant's
6 Application is subject to denial.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

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

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration 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:

- (1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission’s issuance of the decision or at the hearing on the matter; or,
- (2) 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, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a 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.

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ORDER

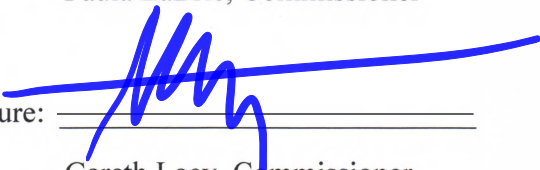
1. DAVID CHRISTOPHER JOCIS' Application for Gambling Establishment Key Employee License is DENIED.


2. DAVID CHRISTOPHER JOCIS may not apply to the Commission or the Bureau for any type of license, registration or work permit for one (1) year after the effective date of this Order.

This Order is effective immediately.

Dated: 4-30-2020 Signature: 
Jim Evans, Chairman

Dated: 4/30/20 Signature: 
Paula LaBrie, Commissioner

Dated: 4/30/20 Signature: 
Gareth Lacy, Commissioner

Dated: 4/30/20 Signature: 
Trang To, Commissioner



State of California
 California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
 www.cgcc.ca.gov

NOTICE OF DEFENSE
CGCC – ND – 002 (New 01/14)

In the Matter of:
 David Jocis

CGCC No. CGCC-2019-0516-6B

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issue by the Commission. The Notice of Defense is due:

- Within 15 calendar days of receipt, if provided by Commission staff or the Bureau; or,
- Within 15 calendar days of the date of service, if provided with the Notice of Hearing.

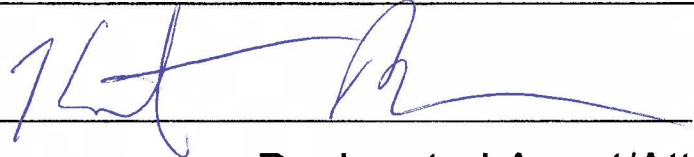
(Please select one of the following:)		
1	A	<input type="checkbox"/> I acknowledge and accept that the conditions, limitations and restrictions attached to the notice will be placed on my license, registration, finding of suitability or other approval, and waive my right to an evidentiary hearing. (See Box 2)
	B	<input checked="" type="checkbox"/> I waive my right to an evidentiary hearing. (See Box 2)
	C	<input type="checkbox"/> I request an evidentiary hearing where the Commission will consider the merits of my application and any recommendation of the Bureau.

2	<p>The waiver of my right to an evidentiary hearing includes a waiver of the following associated rights:</p> <ul style="list-style-type: none"> The right to be heard at the hearing The right to a copy of the hearing's governing procedure The right to discovery The right to present oral evidence The right to present and examine witnesses The right to introduce relevant exhibits The right to cross-examine opposing witnesses The right to impeach witnesses The right to offer rebuttal evidence The right to challenge evidence used against me The right to request reconsideration following the decision's issuance The right to petition for review of the decision under Section 1085 of the Code of Civil Procedure <p>The waiver of an evidentiary hearing may result in a default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which may be provided to the Commission, or that the hearing may continue to occur on the originally noticed date without applicant participation.</p>	<p>As previously stated to the Bureau and Commission, Mr. Jocis' application for a key employee license moot because his position at the Seven Mile Casino was eliminated and he was terminated effective 10/22/2018. As a result, Mr. Jocis is no longer seeking a key employee position, has no plans to do so, and has offered to refrain from filing a new application for at least one year. Due to these changed circumstances, Mr. Jocis has applied to abandon his application pursuant to Regs. Section 12017 and he hereby withdraws his Notice of Defense and request for a GCA evidentiary hearing for the reasons stated.</p>
	(Initial Here)	

3	<input checked="" type="checkbox"/>	I understand English or have had an interpreter read and explain this form to me in <u>English</u> (Language)
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NOTICE OF DEFENSE

(Please select one of the following:)									
4	<input checked="" type="checkbox"/> I am represented by counsel, whose name, address and telephone number appear below:								
	<table border="1" style="width: 100%;"> <tr> <td style="width: 30%;">Name:</td> <td>Kenneth Bacon, Mastagni Holstedt APC</td> </tr> <tr> <td>Mailing Address:</td> <td>1912 I Street</td> </tr> <tr> <td>City, State and Zip Code:</td> <td>Sacramento, CA 95811</td> </tr> <tr> <td>Telephone Number:</td> <td>(916) 491-4246</td> </tr> </table>	Name:	Kenneth Bacon, Mastagni Holstedt APC	Mailing Address:	1912 I Street	City, State and Zip Code:	Sacramento, CA 95811	Telephone Number:	(916) 491-4246
	Name:	Kenneth Bacon, Mastagni Holstedt APC							
	Mailing Address:	1912 I Street							
	City, State and Zip Code:	Sacramento, CA 95811							
Telephone Number:	(916) 491-4246								
<input type="checkbox"/> I am not represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be provided to the Commission and the Bureau so that counsel will be on the record to receive legal notices, pleadings, and other papers.									

Signature: 

Date: 11/18/2019

Relationship to Gambling Enterprise: Designated Agent/Attorney (N/A if Individual signing on own behalf)