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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons  
Against:

Andre Alex Owens

Respondent.

BGC Case No. BGC-HQ2015-00002SL  
CGCC Case No. CGCC-2014-1211-13

**DECISION AND ORDER**

Hearing Date: October 14, 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 October 14, 2015.

T. Michelle Laird (Laird), 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.

Respondent Andre Owens (Owens) represented himself.

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 Owens and Laird on May 1, 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 August 6, 2015, Certificate of Service by Certified Mail Service, Bates Nos. 001-019;
- (2) Copy of the Notice of Defense, Bates Nos. 020-021;
- (3) Copies of the following Notices from the Commission:
  - a. November 21, 2014, Cancellation of Temporary Work Permit, Bates

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No. 022;

- b. November 26, 2014, Notification of Scheduled Commission Meeting, Bates Nos. 023-024;
- c. December 11, 2014, Referral of Initial Work Permit Application to an Evidentiary Hearing – Andre Owens, Bates Nos. 025-026; and
- d. May 1, 2015, Notice of Hearing and Prehearing Conference, with Attachments A & B, Bates Nos. 027-041;

- (4) Copy of the Application for Initial Regular Work Permit/Temporary Work Permit, dated January 3, 2014 & February 4, 2014, with Work Permit Questionnaire, copy of California Driver’s License, and Request for Live Scan Service dated March 3, 2014, for Andre Owens (subsequently redacted), Bates Nos. 042-048;
- (5) Certified copy of the (subsequently redacted) court records regarding Andre Owens’ felony convictions for violation of North Carolina General Statutes § 14-56, breaking/entering of a motor vehicle, in the case of *State of North Carolina v. Andre Alex Owens* (Wake County District Court Case No. 01CR 85923), Bates Nos. 049-056;
- (6) Certified copy of the court records regarding Order on Violation of Probation issued in the case of *State of North Carolina v. Andre Alex Owens* (Wake County District Court Case No. 01CR 85923), Bates Nos. 057-060;
- (7) Copy of the (subsequently redacted) Cary Police Department’s records and incident reports, Case No. 01-004587, regarding the incidents that gave rise to Andre Owen’s arrest and eventual convictions in the case of *State of North Carolina v. Andre Alex Owens* (Wake County District Court Case No. 01CR 85923), Bates Nos. 061-086;
- (8) Certified copy of the (subsequently redacted) computer record regarding

1 Andre Owens' misdemeanor conviction for violation of North Carolina  
2 General Statutes § 14-33, simple assault, in the case of *State of North*  
3 *Carolina v. Andre Alex Owens* (Wake County District Court Case No.  
4 05CR 104724), Bates Nos. 087-088; and

- 5 (9) Copy of the Raleigh Police Department's records and incident reports,  
6 Case No. P05112128, regarding the incidents that gave rise to Andre  
7 Owens' arrest and eventual conviction in the case of *State of North*  
8 *Carolina v. Andre Alex Owens* (Wake County District Court Case No.  
9 05CR 104724), Bates Nos. 089-099.

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

12 (A) Copies of the following:

- 13 (1) Letter of reference from Carolyn M. Boucher and Francis J. Boucher,  
14 dated September 11, 2015;  
15 (2) Letter of reference from Maryann Poznekoff;  
16 (3) Letter of reference from Lucas Shulkin;  
17 (4) Letter of reference from David Samaris, dated September 6, 2015;  
18 (5) Letter of reference from Andrew Pye; and  
19 (6) Article titled *Boxed In: How a Criminal Record Keeps You*  
20 *Unemployed for Life*, written by Kai Wright, dated November 6, 2013.

21 The matter was submitted on October 14, 2015.

#### 22 FINDINGS OF FACT

23 1. On or about February 18, 2014, Owens submitted an Application for Initial Regular  
24 Work Permit/Temporary Work Permit and Work Permit Questionnaire (collectively, Application)  
25 to the Commission. The Commission granted a temporary work permit to Owens.

26 2. On or about October 30, 2014, the Bureau submitted a Work Permit Employee  
27 Background Investigation Report on Owens to the Commission. In its report, the Bureau  
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1 recommends the denial of Owens' Application.

2 3. On or about November 21, 2014, the Commission cancelled Owens' temporary work  
3 permit pursuant to CCR section 12128(b)(2).

4 4. On or about December 11, 2014, the Commission voted to refer consideration of  
5 Owens' Application to an evidentiary hearing. The Executive Director of the Commission  
6 referred consideration of Owens' Application to an evidentiary hearing pursuant to CCR section  
7 12050(b)(2).

8 5. On or about March 5, 2015, Owens submitted a Notice of Defense to the Commission  
9 requesting an evidentiary hearing.

10 6. On or about May 1, 2015, the Commission served a Notice of Hearing and Prehearing  
11 Conference on Owens and the Bureau.

12 7. On or about August 6, 2015, the Bureau filed a Statement of Reasons with the  
13 Commission and served the Statement of Reasons on Owens via certified mail. In its Statement  
14 of Reasons, the Bureau recommends the denial of Owens' Application.

15 8. The Commission heard Case No. CGCC-2014-1211-13 on October 14, 2015. The  
16 Bureau was represented throughout the hearing by Deputy Attorney General T. Michelle Laird.  
17 Respondent Andre Alex Owens represented himself throughout the hearing.

18 9. On or about April 28, 2003, Owens was convicted of six counts of violating North  
19 Carolina General Statutes section 14-56, breaking or entering into a motor vehicle, a Class I  
20 felony, in the case of *State of North Carolina v. Andre Alex Owens* (Wake County District Court,  
21 Case No. 01CR 85923). Owens was sentenced to 4 months in jail, placed on supervised  
22 probation, and ordered to complete 225 hours of community service and pay a fine.

23 10. During the hearing, Owens testified that the facts provided in paragraph 9 of this  
24 Decision and Order are true and accurate.

25 11. All documentary and testimonial evidence submitted by the parties that is not  
26 specifically addressed in this Decision and Order was considered but not used by the Commission  
27 in making its determination on Owens' Application.

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1 12. The matter was submitted for Commission consideration on October 14, 2015.

2 LEGAL CONCLUSIONS

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

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

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

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

17 17. An "unqualified person" means a person who is found to be unqualified pursuant to  
18 the criteria set forth in Section 19857, and "disqualified person" means a person who is found to  
19 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code  
20 section 19823(b).

21 18. 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 19. The burden of proving his or her qualifications to receive any license from the  
25 Commission is on the applicant. Business and Professions Code section 19856(a).

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

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

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

13 23. The Commission shall deny a license to any applicant who is disqualified for  
14 conviction of a felony, including a conviction by a federal court or a court in another state for a  
15 crime that would constitute a felony if committed in California. Business and Professions Code  
16 section 19859(c).

17 24. An application for a work permit shall be denied by the Commission if the applicant  
18 meets any of the criteria for mandatory disqualification under Business and Professions Code  
19 section 19859. CCR section 12105(a)(1).

20 25. Owens has been convicted of a felony. Therefore, Owens is disqualified from the  
21 issuance of a work permit pursuant to Business and Professions Code section 19859(c) and CCR  
22 section 12105(a)(1).

#### 23 NOTICE OF APPLICANT'S APPEAL RIGHTS

24 Owens has the following appeal rights available under state law:

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

26 An applicant denied a license, permit, registration, or finding of suitability, or whose  
27 license, permit, registration, or finding of suitability has had conditions, restrictions,  
28 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

1 specified in the decision, whichever is later. The request shall be made in writing to  
2 the Commission, copied to the Bureau, and shall state the reasons for the request,  
3 which must be based upon either newly discovered evidence or legal authorities that  
4 could not reasonably have been presented before the Commission's issuance of the  
5 decision or at the hearing on the matter, or upon other good cause which the  
6 Commission may decide, in its sole discretion, merits reconsideration.

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

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

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19 CCR section 12066, subsection (c) provides:

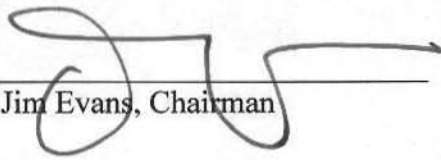
20 A decision of the Commission denying an application or imposing conditions on license  
21 shall be subject to judicial review as provided in Business and Professions Code section  
22 19870, subdivision (e). Neither the right to petition for judicial review nor the time for  
23 filing the petition shall be affected by failure to seek reconsideration.  
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ORDER

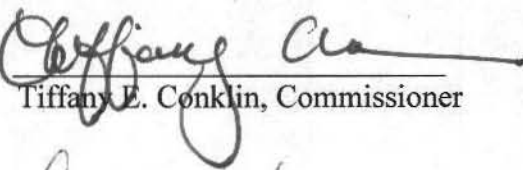
1. Andre Alex Owens' Application for an Initial Regular Work Permit is DENIED.<sup>1</sup>
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on December 4, 2015.

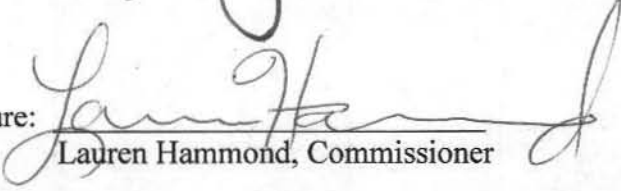
Dated: 11 | 4 | 15

Signature:   
Jim Evans, Chairman


Dated: Nov. 4, 2015

Signature:   
Tiffany E. Conklin, Commissioner

Dated: Nov. 4, 2015

Signature:   
Lauren Hammond, Commissioner

Dated: 11/4/15

Signature:   
Trang To, Commissioner

<sup>1</sup> Pursuant to CCR section 12128(b)(2), the Commission has already cancelled Owens' temporary work permit.