

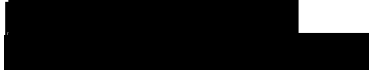
1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD L. DIEDRICH
Deputy Attorney General
4 State Bar No. 95146
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-1043
Fax: (916) 327-2319
7 E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

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

12
13
14 **In the Matter of the Accusation of Against:**

BGC Case No. BGC-HQ2012-00006AL

15 **FERNANDO ALLAN LOPEZ, JR.**

16 
17 **Finding of Suitability Number**
BGC-TRKE-002328.

DEFAULT DECISION AND ORDER

(Gov. Code, § 11520)

18
19 **Respondent.**

20
21 **FINDINGS OF FACT**

22 1. On or about November 20, 2012, Wayne J. Quint, Jr. (Complainant), solely in his
23 official capacity as the Chief of the California Department of Justice, Bureau of Gambling Control,
24 served by certified mail and filed Accusation No. BGC-HQ2012-00006AL (Accusation),¹ against

25
26 ¹ Also served and filed with the Accusation were a Statement to Respondent (Gov. Code, §
27 11505, subd. (b)), a Request for Discovery (Gov. Code, § 11507.6), copies of Government Code
28 sections 11507.5, 11507.6 and 11507.7, and two copies of the Notice of Defense form (Gov. Code,
§§ 11505 & 11506) for Respondent's use. Hereinafter, "Accusation" includes reference to the
Accusation and all the above-listed documents.

1 Fernando Allan Lopez, Jr. (Respondent) before the California Gambling Control Commission
2 (Commission) setting forth the bases for the revocation of Respondent's Finding of Suitability
3 Number BGC-TRKE-002328.²

4 2. On or about December 10, 2012, the Accusation that was attempted to be served on
5 Respondent was returned undelivered. It had been sent to the incorrect zip code.³

6 3. On or about December 12, 2012, the Accusation was served by certified mail on
7 Respondent and filed with the Commission. A copy of the Certificate of Service by Certified Mail
8 Service, with the receipt of service signed by Respondent, is attached as Attachment B and
9 incorporated herein by reference.

10 4. To date Respondent has failed to file a Notice of Defense to the Accusation or made
11 any type of oral or written request for a hearing to appeal or challenge the proposed revocation of
12 his Finding of Suitability.

13 JURISDICTION

14 5. Government Code section 11503 provides in pertinent part:

15 A hearing to determine whether a right, authority, license, or
16 privilege should be revoked . . . shall be initiated by filing an accusation.

17 6. Government Code section 11506, subdivision (c), provides in pertinent part:

18 The respondent shall be entitled to a hearing on the merits *if the*
19 *respondent files a notice of defense*, and shall be deemed a specific
20 denial of all parts of the accusation not expressly admitted. *Failure to*
21 *file a notice of defense shall constitute a waiver of respondent's right*
to a hearing, but the agency in its discretion may nevertheless grant a
hearing.

22 (Italics added.)

23 7. Government Code section 11520, subdivision (a) provides:

24 If the respondent either fails to file a notice of defense or to
25 appear at the hearing, the agency may take action based upon
respondent's express admissions or upon other evidence and

26 ² A copy of the Accusation is attached as Attachment A and incorporated herein by
27 reference.

28 ³ The Accusation was mailed to zip code 95962. The correct zip code is 95965.

1 affidavits may be used as evidence without any notice to
2 respondent; and where the burden of proof is on the respondent to
3 establish that respondent is entitled to the agency action sought, the
4 agency may take action without taking evidence.

4 **DETERMINATION OF ISSUES**

5 8. Based on the foregoing findings of fact, Respondent's Finding of Suitability is
6 subject to revocation.

7 9. Service of the Accusation was proper and in accordance with the law.

8 10. As a result of Respondent's failure to file a Notice of Defense to the Accusation, or
9 make any type of oral or written request for a hearing, the Commission has jurisdiction to
10 adjudicate this case by default and to order the revocation of Respondent's Finding of Suitability.

11 11. The Commission is authorized to revoke Respondent's Finding of Suitability based
12 upon the legal and factual allegations set forth in the Accusation and supported by the records of
13 the Superior Court of Butte County, as follows:

14 Respondent's Finding of Suitability is subject to revocation pursuant to Business and
15 Professions Code sections 19850, 19857 and 19859, and California Code of Regulations, title 4,
16 section 12568, subdivision (c); in that on February 8, 2012, Respondent was convicted of violating
17 Health and Safety Code section 11350, subdivision (a), possession of a controlled substance, a
18 felony, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2012, No.
19 CM034812).

20 Respondent's Finding of Suitability is also subject to revocation pursuant to Business and
21 Professions Code sections 19850, 19857 and 19859, and California Code of Regulations, title 4,
22 section 12568, subdivision (c), in that the Respondent has demonstrated a lack of the requisite
23 good general character, honesty and integrity; and his prior activities, criminal record, habits, and
24 associations pose a threat to the public interest of this state, or to the effective regulation and
25 control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal
26 practices, methods, and activities in the conduct of controlled gambling. Respondent has engaged
27 in repeated illegal behavior since 2003, demonstrating a pattern and practice of an inherent
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1 willingness to violate the law and a conscious disregard for the health safety and welfare of others.

2 Respondent's convictions include:

3 a. On February 8, 2012, Respondent was convicted of violating Health and Safety Code
4 section 11350, subdivision (a), possession of a controlled substance, a felony, in the case of *People*
5 *v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2012, No. CM034812).

6 b. On February 8, 2012, Respondent was convicted of violating Vehicle Code section
7 23152, subdivision (a), driving under the influence of drugs or alcohol, a misdemeanor, in the case
8 of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2012, No. CM034812).

9 c. On September 14, 2011, Respondent was convicted of violating Vehicle Code section
10 12500, driving without a valid license, an infraction; Vehicle Code section 40508, subdivision (b),
11 failure to appear, a misdemeanor; and Penal Code section 1214.1, failure to appear, a
12 misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2011,
13 No. NT209961).

14 d. On November 19, 2009, Respondent was convicted of violating Vehicle Code section
15 27315, subdivision (d), mandatory use of seat belts, an infraction, in the case of *People v.*
16 *Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2009, No. DT095304).

17 e. On March 25, 2005, Respondent was convicted of violating Vehicle Code section
18 27315, subdivision (d), mandatory use of seat belts, an infraction; and Penal Code section 1465.8,
19 a security surcharge/misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct.
20 Butte County, 2005, No. DT058951).

21 f. On January 29, 2004, Respondent was convicted of violating Vehicle Code section
22 26708, subdivision (a), restricted view, an infraction; Vehicle Code section 14601.1, subdivision
23 (a), driving on a suspended or revoked license, an infraction; Vehicle Code section 16028,
24 subdivision (a), failure to provide evidence of financial responsibility, an infraction; and Penal
25 Code section 1465.8, a security surcharge/misdemeanor, in the case of *People v. Fernando Allan*
26 *Lopez, Jr.*, (Super. Ct. Butte County, 2004, Nos. DT050331 & DT050333).

1 g. On August 7, 2003, Respondent was convicted of violating Vehicle Code section
2 22350, speeding, an infraction; and Vehicle Code section 40508, subdivision (a), failure to appear,
3 a misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County,
4 2003, No. DT046444).

5 h. On June 17, 2003, Respondent was convicted of violating Vehicle Code section
6 22350, speeding, an infraction; and Vehicle Code section 40508, subdivision (b), failure to appear,
7 a misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County,
8 2003, No. DT045292).

9 i. On March 3, 2003, Respondent was convicted of violating Vehicle Code section
10 27007, improper use of sound amplification, an infraction; in the case of *People v. Fernando Allan*
11 *Lopez, Jr.*, (Super. Ct. Butte County, 2003, No. DT042803).

12 **ORDER**

13 BASED UPON THE FOREGOING FINDINGS OF FACT AND DETERMINATION OF
14 ISSUES, IT IS ORDERED that Respondent Fernando Allan Lopez, Jr.'s Finding of Suitability is
15 revoked.

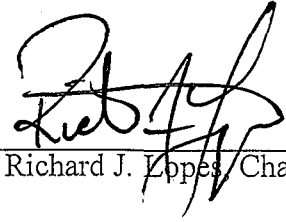
16 Pursuant to government Code section 11520, subdivision (c), Respondent may serve a
17 written motion requesting that this Default Decision and Order be vacated and stating the grounds
18 relied on within seven (7) days after service of this Default Decision and Order on Respondent.

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The Commission in its discretion may then vacate this Default Decision and Order and grant a hearing on a showing of good cause, as defined in the statute.

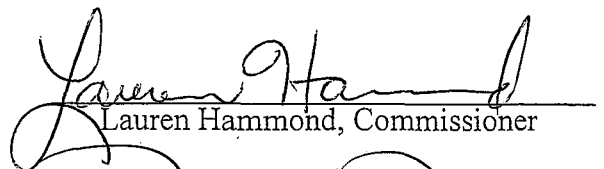
Dated: 7/25/2013


Richard J. Lopes, Chairperson

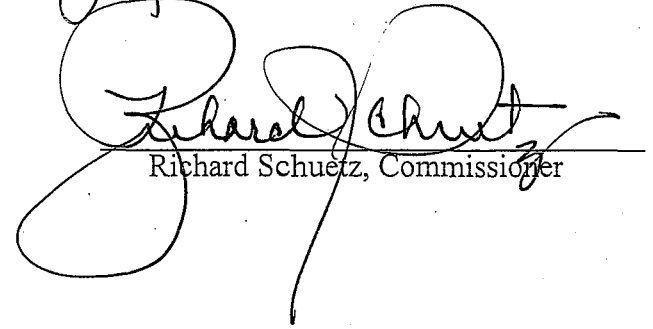
Dated: 7/25/2013


Tiffany E. Conklin, Commissioner

Dated: 7/25/2013


Lauren Hammond, Commissioner

Dated: 7/25/2013


Richard Schuetz, Commissioner