

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

CRYSTAL PIPER,
a.k.a. Crystal Corrine Piper-Chavez

Respondent.

Case No. BGC-HQ2013-00004AL

OAH No. 2015071027

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on February 1, 2016, in Los Angeles. The record was closed and the matter submitted for decision at the conclusion of the hearing.

James G. Waian, Deputy Attorney General, represented Wayne J. Quint Jr. (complainant).

No appearance was made by or on behalf of Crystal Piper (respondent).

FACTUAL FINDINGS

Parties and Jurisdiction

1. On or about November 15, 2011, respondent, who is also known as Crystal Corrine Piper-Chavez, submitted to the California Gambling Control Commission (Commission) an application for a finding of suitability as a tribal key employee and a supplemental background investigation information form (application).

2. At the time of her application, respondent was employed as an Interim Cage Manager, which is a tribal key employee position, at the Paiute Palace Casino, located on the Bishop Paiute Reservation in Bishop, California. Because this casino is owned by the Bishop Paiute Tribe and operated pursuant to a tribal-state compact, respondent's tribal key employee license, license number TRKE-012797, was issued by the Bishop Paiute Tribal Gaming Agency and not the Commission. In such instances, the Commission subsequently makes a determination of suitability for licensure under the California Gambling Control Act. (Tribal-State Compact between the State of California and the Bishop Paiute Tribe, §§ 6.4.4, 6.5.6.)

3. At its February 7, 2013 meeting, the Commission heard and denied respondent's application for a finding of suitability. Respondent was present at the meeting, during which she requested the Commission for an evidentiary hearing to appeal the denial.

4. The Commission elected to refer the matter for an evidentiary hearing to be held in accordance with the California Administrative Procedure Act, Government Code section 11340 et seq. (Bus. & Prof Code, § 19825.)

5. A. On a date not established in 2015, complainant brought the Statement of Issues in his official capacity as Chief of the California Department of Justice (Department), Bureau of Gambling Control (Bureau). Pursuant to Business and Professions Code sections 19810, 19826 and 19827, the Department has been delegated power and responsibility for investigating and prosecuting cases under the Gambling Control Act for the Commission.

B. The Statement of Issues alleges grounds exist to affirm the denial of respondent's application based on her history of convictions, violation of probation in some of those cases, and failure to disclose her complete criminal record in her application.

6. Respondent did not submit a Notice of Defense or otherwise make a written request for a hearing to contest the allegations of the Statement of Issues. However, the Commission decided to honor respondent's verbal request for a hearing made at its February 7, 2013 meeting and nonetheless refer the matter to be set for a hearing.

7. The Statement of Issues and a Notice of Hearing were timely served on respondent at the only address she provided in her application. Those documents were returned to complainant as "undeliverable" by the United States Postal Service with no forwarding information. Complainant made reasonable efforts to find an alternate mailing address for respondent, including contacting her last known employer, the Bishop Paiute Tribe, and making several calls to the only telephone number listed on the application. Those reasonable efforts were unsuccessful. Respondent failed to update the Commission or Department with a new address or telephone number. Under these circumstances, the hearing proceeded as a default. (Gov. Code, §§ 11504, 11509 & 11520.)

Respondent's Convictions

8. Respondent has the following history of convictions:

A. On August 16, 1993, respondent was convicted, upon her plea of guilty, of violating Vehicle Code section 23152, subdivision (b), driving with 0.08 percent or more, by weight, of alcohol in her blood, a misdemeanor, with an advisement pursuant to Vehicle Code section 23593, subdivision (a), in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 1993, No. ICMBCR-M-93-0000172-002).

B. On August 16, 1993, respondent was convicted, upon her guilty plea, of violating Vehicle Code section 40508, subdivision (b), failure to pay a fine, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 1993, No. ICMBCR-M-93-0000172-002).

C. On August 7, 1995, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 14601.1, subdivision (a), driving while license was suspended, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 1995, No. ICMBCR-TR-94-0008706-001).

D. On September 13, 1995, respondent was convicted, upon her plea of guilty, of violating Penal Code section 647, subdivision (f), public intoxication, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 1995, No. ICMBCR-M-95-0000340-002).

E. On January 13, 1999, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b), driving with 0.08 percent or more, by weight, of alcohol in her blood, a misdemeanor, with an advisement pursuant to Vehicle Code section 23593, subdivision (a), in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 1999, No. ICMBCR-M-98-0100102-002).

F. On March 15, 2000, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 14601.2, subdivision (a), driving while license was suspended for driving under the influence, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2000, No. ICMBCR-TR-00-0025551-001).

G. On March 15, 2000, respondent was convicted by the court of violating Penal Code section 166.4, contempt for failure to obey a court order, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2000, No. ICMBCR-TR-00-0025551-001).

H. On August 28, 2002, respondent was convicted, upon her plea of guilty, of violating Penal Code section 647, subdivision (f), public intoxication, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2002, No. ICMBCR-M-02-0031253-001).

I. On September 18, 2006, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 14601.2, subdivision (a), driving while license was suspended for driving under the influence, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2006, No. ICMBCR-TR-04-0036039-002).

J. On November 19, 2007, respondent was convicted, upon her plea of nolo contendere, of violating Penal Code section 243, subdivision (e)(1), battery upon a cohabitant, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2007, No. ICMBCR-M-07-0043974-002).

K. On June 25, 2008, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 14601.1, subdivision (a), driving while license was suspended, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2008, No. ICMBCR-TR-08-0046184-002).

L. On December 3, 2008, respondent was convicted, upon her plea of nolo contendere, of violating Vehicle Code section 14601.2, subdivision (a), driving while license was suspended for driving under the influence, a misdemeanor, in the case of *People v. Crystal Corrine Piper-Chavez* (Super. Ct. Inyo County, 2008, No. ICMBCR-TR-08-0046942-002).

Violation of Probation

9. Respondent was placed on probation as a result of many of the above-described convictions. She violated the terms and conditions of probation in the following cases:

A. On March 15, 2000, the Superior Court of the State of California, Inyo County, found respondent in violation of her probation from her January 13, 1999 conviction for driving under the influence described above in Factual Finding 8.E.

B. On November 19, 2007, the Superior Court of the State of California, Inyo County, found respondent in violation of her probation from her September 18, 2006 conviction for driving while her license was suspended described above in Factual Finding 8.I.

C. On December 3, 2008, the Superior Court of the State of California, Inyo County, found respondent in violation of her probation from her November 19, 2007 conviction for battery upon a cohabitant described above in Factual Finding 8.J.

D. On August 31, 2009, the Superior Court of the State of California, Inyo County, found respondent in violation of her probation from her four convictions described above in Factual Findings 8.I. through 8.L.

Failure to Disclose Information on the Application

10. In the supplemental background investigation information portion of the application respondent completed and submitted to the Commission, respondent was asked, "HAVE YOU EVER BEEN CONVICTED OF A CRIME, PLED GUILTY OR PLED NOLO CONTENDERE (NO CONTEST) TO A CRIME?"

11. In her response to that question, respondent disclosed her convictions described above in Factual Findings 8.I., 8.K., and 8.L., but she failed to disclose her other nine convictions described above in Factual Finding 8.

Other Relevant Information

12. In light of respondent's failure to appear at the hearing, no evidence of mitigation or rehabilitation was presented.

13. None of the above-described convictions have been expunged or dismissed.

LEGAL CONCLUSIONS

1. *Burden and Standard of Proof.* An applicant for a license bears the burden of proving fitness for the requested license. (*Coffin v. Department of Alcoholic Beverage Control* (2006) 139 Cal.App.4th 471.) The standard of proof in such matters is the preponderance of the evidence. (See Evid. Code, § 115.) Respondent's application for a finding of suitability is akin to a license and is treated that way for these purposes.

2. A. *First Alleged Cause for Denial (Conviction of Crime of Moral Turpitude).* Respondent's application is not subject to denial pursuant to Business and Professions Code section 19859, subdivisions (a) and (d),¹ in that it was not established that respondent was convicted of a misdemeanor involving moral turpitude for which she has not been granted relief pursuant to Penal Code sections 1203.4 or 1203.45.

B. Complainant contends respondent's misdemeanor conviction of November 19, 2007, for violating Penal Code section 243, subdivision (e)(1) [battery upon a cohabitant], was a crime involving moral turpitude. However, complainant concedes that the Commission, in its 2007 precedential decision of *In the Matter of Chanthou Suon*, File No. DC 108056 (OAH No. N2007010839), determined that a conviction for violating Penal Code section 243, subdivision (e), is not a conviction of a crime of moral turpitude. Complainant further concedes that there are no facts in the present case distinguishing it from the Commission's 2007 precedential decision.

C. Pursuant to Government Code section 11425.60, an administrative decision that has been properly designated and indexed may be relied upon as binding precedent. In this case, complainant concedes the Commission's 2007 precedential decision applies. Since that precedential decision determined that the crime of violating Penal Code section 243, subdivision (e), does not involve moral turpitude, cause does not exist for denying respondent's application on the basis of section 19859, subdivisions (a) and (d). (Factual Findings 8.J. & 13)

¹ All further unspecified statutory references are to the Business and Professions Code.

3. *Second Alleged Cause for Denial (Criminal Convictions).* Respondent's application is subject to denial pursuant to sections 19805, 19857, and 19859, subdivision (a). As demonstrated by her 12 convictions spanning from 1993 to 2008, respondent has engaged in repeated illegal behavior, indicating a pattern and practice of an inherent willingness to violate the law and a conscious disregard for the health, safety, and welfare of others. By such activity, respondent has demonstrated a lack of the requisite good general character, honesty, and integrity. This poses a threat to the public interest of this state and the effective regulation and control of controlled gambling, and creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling. (Factual Findings 8 & 13.)

4. *Third Alleged Cause for Denial (Disregard for the Law).* Respondent's application is further subject to denial pursuant to sections 19805, 19857, subdivisions (a) and (b), and 19859, subdivision (a). Since 1993, respondent has demonstrated a pattern and practice of flagrant disregard for the requirements of law and legal authority, as, in addition to the 12 criminal convictions suffered by her, respondent has been found in violation of the terms and conditions of probation from many of her convictions. By such activity, respondent has demonstrated a lack of the requisite good general character, honesty and integrity. This poses a threat to the public interest of this state and the effective regulation and control of controlled gambling, and creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling. (Factual Findings 8, 9 & 13.)

5. *Fourth Alleged Cause for Denial (Failure to Disclose).* Respondent's application is further subject to denial pursuant to sections 19805, 19857, subdivision (a), and 19859, subdivision (b). Respondent failed to disclose on her application nine of her 12 convictions despite being requested to provide her complete criminal history. By such activity, respondent failed to demonstrate that she is a person of good general character, honesty, and integrity. She also failed to provide information, documentation, and assurances required by the Gambling Control Act or the Bureau material to her qualification. (Factual Findings 1, 8 & 10-11.)

6. *Disposition.* Complainant has proven cause exists to deny respondent's application. By failing to appear at the hearing and explain the underlying circumstances, or provide evidence of mitigation and/or rehabilitation, respondent has failed to meet her burden of establishing that she is fit for a finding of suitability as a tribal key employee. (Factual Findings 1-13, Legal Conclusions 1 & 3-5.)

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ORDER

The application for a finding of suitability as a tribal key employee of respondent Crystal Piper, a.k.a. Crystal Corrine Piper-Chavez, is denied.

DATED: February 4, 2016

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ERIC SAWYER,
Administrative Law Judge
Office of Administrative Hearings

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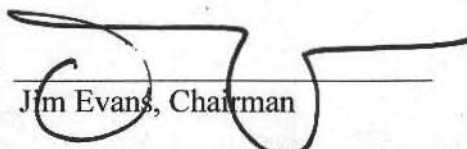
DECISION AND ORDER

DECISION AND ORDER OF THE COMMISSION:

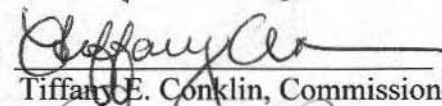
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by a majority vote of the California Gambling Control Commission as its final decision and order in this matter and is effective upon execution below by the Commission members.

IT IS SO ORDERED

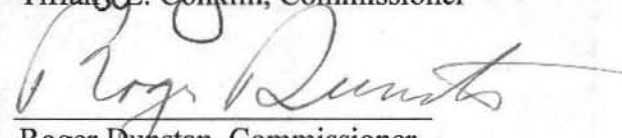
Dated: 3/10/16

Signature: 
Jim Evans, Chairman

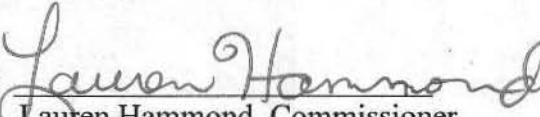
Dated: 3/10/2016

Signature: 
Tiffany E. Conklin, Commissioner

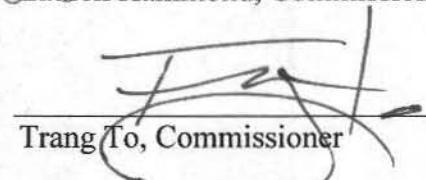
Dated: 3/10/2016

Signature: 
Roger Dunstan, Commissioner

Dated: 3-10-16

Signature: 
Lauren Hammond, Commissioner

Dated: 3/10/16

Signature: 
Trang To, Commissioner