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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Gambling Establishment Key Employee
License and Renewal Work Permit Regarding:

DAVID WHATLEY

Applicant.

BGC Case No. BGC-HQ2020-00037SL
CGCC Case Nos. CGCC-2020-1029-12A;
CGCC-2020-1029-12B

DECISION AND ORDER

Hearing Dates: May 13, 2021
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, in Sacramento, California, and held via Zoom video conference, on May 13, 2021.

Jeremy Stevens, Deputy Attorney General, State of California (DAG Stevens), represented complainant Yolanda Morrow, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

David Whatley (Whatley) was present at the hearing on his own behalf. Whatley’s designated agents, Stephen Scudero and Eddie Beaudin were also present on his behalf.

During the evidentiary hearing, Presiding Officer Russell Johnson took official notice of the following documents: Notice and Agenda of Commission Hearing; the Commission’s Conclusion of Prehearing Conference Letter; the Commission’s Notice of Hearing which includes as attachment A, Whatley’s key employee and work permit renewal applications and attachment B, the Bureau’s Background Investigation Report and Renewal Checklist Level I; the Bureau’s Statement of Reasons; and two Notices of Defense, one signed by Whatley and one signed on Whatley’s behalf by his Designated Agent, Stephen Scudero.

During the evidentiary hearing, Presiding Officer Russell Johnson accepted into evidence the following exhibits offered by the Bureau:

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- (1) Statement to Respondent dated 3/23/2021; Statement of Reasons dated 3/22/2021; California Code of Regulations, title 4, section 12060; Business & Professions Code 19870 & 19871; and Certificate of Service dated 3/23/2021, Bates Nos. 001-022, Bates Nos. 001-022;
- (2) CGCC Referral to Evidentiary Hearing dated 11/4/2020; Notice of Defense signed 11/17/2020; CGCC Notice of Hearing with Attachments dated 2/23/2021, Bates Nos. 023-041;
- (3) Application for Interim Key Employee License for David A. Whatley at The Nineteenth Hole dated 6/4/2019; Application for Gambling Establishment Key Employee License for David A. Whatley at The Nineteenth Hole Casino & Lounge dated 7/8/2019; Key Employee Supplemental Background Investigation Information for David A. Whatley dated 7/6/2019; Application for Work Permit Renewal for David Whatley dated 8/12/2020; Work Permit Questionnaire for David A. Whatley dated 8/12/2020, Bates Nos. 042-064;
- (4) BGC Gambling Establishment Key Employee Initial Background Investigation Report, Level III, for David Adam Whatley, The Nineteenth Hole dated September 2020, with Renewal Checklist – Level I, Bates Nos. 065-070;
- (5) CGCC Correspondence and E-mails, Bates Nos. 071-078;
- (6) BGC Correspondence, E-mails and Contact Sheets, Bates Nos. 079-156;
- (7) License History and Certification of Records; Appointment of Designated Agent, Bates Nos. 157-161;
- (8) Court records regarding David Adam Whatley, conviction 10/24/2014 in *People v. Whatley* (Super. Ct. Martinez County, 2014, No. 01-169337-3); Concord Police Department arrest records (CR# 14-01105) dated 1/21/2014, Bates Nos. 162-170.

1 During the evidentiary hearing, Presiding Officer Russell Johnson accepted into evidence
2 the following exhibits offered by Whatley:

3 (A) Applicants Exhibits, collectively marked as Exhibit A;

- 4 i. Notice of Defense signed by David Whatley, Bates Nos. APP000001-
5 APP000002;
- 6 i. Letter of Support by Barbara Evers, Bates Nos. APP000003;
- 7 ii. Letter of Support by Tami Akers, Bates Nos. APP000004;
- 8 iii. Letter of Support by Stephen Scudero and Eddie Beaudin, Bates Nos.
9 APP000005-APP000006;
- 10 iv. Letter of Support by Jillian Campbell, Bates Nos. APP000007-
11 APP000008;
- 12 v. Statement to the Commission by Whatley, Bates Nos. APP000009;
- 13 vi. Letter of Support by Debbie Warren, Bates Nos. APP000010;
- 14 vii. Letter of Support by Brian Swanson, Bates Nos. APP000011-
15 APP000012;
- 16 viii. Duplicate Letter of Support by Debbie Warren, Bates Nos. APP000013;
- 17 ix. Letter of Support by John A. Quesada, Bates Nos. APP000014;
- 18 x. Letter of Support by Jessica O'Brian, Bates Nos. APP000015;
- 19 xi. Letter of Support by David Perez, Jr, Bates Nos. APP000016;
- 20 xii. Letter of Support by Melissa Hatlen, Bates Nos. APP000017;
- 21 xiii. Letter of Support by Erika Larson, Bates Nos. APP000018;
- 22 xiv. Letter of Support by Charmaine Flores, Bates Nos. APP000019;
- 23 xv. Letter of Support by Christopher Immekus, Bates Nos. APP000020;
- 24 xvi. Letter of Support by Gina Temple, Bates Nos. APP000021;
- 25 xvii. Letter of Support by Brett Borman, Bates Nos. APP000022;
- 26 xviii. Letter of Support by Ashley Rangle, Bates Nos. APP000023;
- 27 xix. Letter of Support by Alejandro Castellano, Bates Nos. APP000024;
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- 1 xx. Letter of Support by Korey Barragan, Bates Nos. APP000025;
2 xxi. Letter of Support by Darren MacLean, Bates Nos. APP000026;
3 xxii. Letter enclosing letters of support and in support of Whatley by Stephen
4 Scudero, Bates Nos. APP000027-000028.

5 The record was closed and the matter was submitted on May 13, 2021.

6 FINDINGS OF FACT

7 **Procedural History**

8 1. Whatley has been employed by the Nineteenth Hole Casino and Lounge Partnership
9 (Nineteenth Hole) in various positions, including as a poker dealer, since April 2010.

10 2. On or about June 10, 2019, the Bureau received an Application for Interim Key
11 Employee License from Whatley to allow for his employment as a key employee for the
12 Nineteenth Hole.

13 3. On or about June 13, 2019, the Commission issued to Whatley an interim key
14 employee license, number GEKE-0020540 with an expiration date of June 30, 2021.

15 4. On or about July 15, 2019, the Bureau received from Whatley an Application for
16 Gambling Establishment Key Employee License and Key Employee Supplemental Information
17 (Supplemental) with attached schedules, dated July 6 and July 8, 2019, (collectively referred to
18 herein as Key Application) to allow for his employment as a key employee for the Nineteenth
19 Hole.

20 5. On August 21, 2020, the Bureau received from Whatley an application for a Work
21 Permit Renewal (Renewal Application), dated August 12, 2020. Whatley's work permit was set
22 to expire on September 30, 2020. However, it was administratively extended to October 31, 2020
23 pursuant to executive orders issued by Governor Gavin Newsom as a result of a state of
24 emergency due to the COVID-19 pandemic.

25 6. On or about September 9, 2020, the Commission received from the Bureau a Level III
26 Gambling Establishment Key Employee Initial Background Investigation Report regarding
27 Whatley's applications. In this report, the Bureau recommended that the Commission deny
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1 Whatley's Key Application.

2 7. On or about September 15, 2020, the Commission sent a Notice of Cancellation of
3 Interim Portable Personal Key Employee License to Whatley. The Notice of Cancellation was
4 based on former CCR section 12354(e)(5) as a result of the Bureau's recommendation of the
5 denial of Whatley's Key Application.

6 8. On October 29, 2020, the Commission referred the consideration of the Key
7 Application and Renewal Application to a Gambling Control Act evidentiary hearing to be held
8 pursuant to CCR section 12054(a)(2). Also on October 29, 2020, the Commission issued Whatley
9 an interim renewal work permit¹ with a condition, number GEWP-001598, which expires on
10 September 30, 2022.

11 9. On or about November 17, 2020, the Commission received a notice of defense signed
12 by Whatley's designated agent, Steve Scudero, requesting an evidentiary hearing on the
13 consideration of Whatley's applications.

14 10. On or about February 23, 2021, the Commission sent a Notice of Hearing to Whatley
15 and his designated agents, and DAG Stevens. The hearing was set for May 13, 2021.

16 11. On or about March 22, 2021, the Commission received a Statement of Reasons from
17 the Bureau. This Statement of Reasons was sent on March 23, 2021 to Whatley and his
18 designated agents. In the Statement of Reasons, the Bureau requests that the Commission deny
19 the Key Application and Renewal Application on the basis that Whatley allegedly provided
20 untrue or misleading information on his Key Application and made loans to patrons with personal
21 funds.

22 12. The Commission heard this matter via Zoom video conference on May 13, 2021. The
23 Bureau was represented by DAG Stevens. Whatley attended the hearing, along with his
24 designated agents present on his behalf.

25 **Failure to Disclose Derogatory Employment History**

26 13. On the Key Application submitted by Whatley, he identified on the Supplemental that
27 he worked for Starbucks from August 2002 to April 2010 as a Barista/Shift Supervisor. The

28 ¹ The condition states: David Whatley may not extend loans to any customers of the Nineteenth Hole.

1 Supplemental requires applicants to identify for each place of employment, the reason for leaving,
2 and if terminated, to explain the circumstances. For Whatley’s employment at Starbucks, he
3 wrote that his reason for leaving Starbucks was “to become a poker dealer.”

4 14. In the course of conducting a background investigation on Whatley, the Bureau found
5 that Whatley had disclosed on his 2010 and 2012 work permit applications that he was terminated
6 from Starbucks. The Bureau contacted Whatley and asked him to explain the discrepancy
7 between the information disclosed on his prior work permit applications and the Key Application.
8 On November 15, 2019, Whatley responded to the Bureau: “Indeed I was discharged. I didn’t
9 realize that I had previously stated I was discharged already on previous work permits &
10 extensions for said work permit. I fear ineligibility for Key Employee...Starbucks used a weight
11 scale for cash back then. Even if a till was off by a very short amount, disciplinary action is
12 taken...”

13 15. In response to further inquiry by the Bureau, on November 25, 2019, Whatley
14 provided an additional explanation regarding his reason for not disclosing his discharge from
15 Starbucks on the Key Application. Whatley wrote “I feared I would be denied for my application
16 for Key Employee. I should have been more truthful in this regard.”

17 **Loans to Customers**

18 16. During the course of the Bureau’s background investigation it was discovered that
19 multiple cash deposits were made into Whatley’s checking account during the period April 27,
20 2018 to June 27, 2019 totaling \$81,159.94.

21 17. The Bureau inquired into the source of the \$81,159.94 in cash deposits. Whatley
22 responded to the Bureau that he saves cash on hand “in case I want to loan out small amounts to
23 friends, family, customers.” Whatley also identified the deposits as being from tips and
24 paychecks.

25 18. Upon receipt of Whatley’s admission that he made loans to customers, the Bureau
26 requested additional information from Whatley, including the purpose and terms of the customer
27 loans. Whatley responded to the Bureau that “predominantly I loan out money to customers.
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1 We're a smaller cardroom so if it's slow and I loan out money, it gives the business a chance to
2 have its games go longer...I don't ask for addresses and extensive contact information from
3 customers. I go by an honor system... ”

4 19. Whatley testified at the evidentiary hearing that he loaned money to Nineteenth Hole
5 customers approximately 5 to 10 times and none of the loans were for more than \$100. Whatley
6 further testified that he did not charge interest on the loans and the purpose of the loans were to
7 allow games to last longer. Whatley testified that he did not keep written records regarding the
8 customer loans and would keep track of them by memory.

9 20. Whatley testified that the \$81,159.94 in unidentified cash deposits comprised of loan
10 payments, tips, paychecks, and proceeds from a settlement agreement between Whatley and the
11 Nineteenth Hole. However, Whatley also testified that the settlement proceeds he received from
12 Nineteenth Hole were paid by check.

13 21. Whatley's designated agent, Mr. Scudero, testified that Whatley and other employees
14 received a settlement check from the Nineteenth Hole in 2019 or 2020 in relation to a suit for
15 missed meal and break periods. The settlement was paid in the form of a payroll check. Mr.
16 Scudero also testified that he was unaware that Whatley was making loans to customers of the
17 Nineteenth Hole until it was brought to his attention as a result of the Bureau's background
18 investigation. The Nineteenth Hole did not have a written policy regarding making loans to
19 customers. However, after learning of Whatley's customer loans, a formal written policy
20 prohibiting making loans to customers was prepared and distributed to Nineteenth Hole
21 employees.

22 **Assessment of Whatley's Suitability for Licensure**

23 22. Whatley submitted multiple letters in support of his applications from his coworkers,
24 local business owners, friends, and the owners of the Nineteenth Hole. The letters demonstrate
25 that Whatley is well regarded by his employer and coworkers, his friends, and members of his
26 community.

27 23. There are two important issues that have a negative impact on Whatley's suitability for
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1 licensure. The first is Whatley’s failure to disclose his termination from Starbucks on the Key
2 Application. The second relates to his written statements and testimony regarding the loans he
3 made to patrons.

4 *Failure to Disclose Termination from Starbucks on Key Application*

5 24. Applications for licensure by the Commission are submitted on forms furnished by the
6 Bureau. An applicant for licensing shall make full and true disclosure of all information to the
7 Bureau and Commission as necessary to carry out the policies of this state relating to licensing,
8 registration, and control of gambling.

9 25. An application for licensure consists of two parts. The first part includes instructions,
10 applicant information, and job title/description. The application’s instructions provide that the
11 applicant “must provide truthful information in all your responses in this application.” The
12 application’s instructions also provide that “any misrepresentation or failure to disclose
13 information required on this application may constitute sufficient cause for denial or revocation.”

14 26. The second part of an application is the Supplemental. The Supplemental requires that
15 the applicant disclose, among other things, experience and employment history. The
16 Supplemental includes a Declaration, to be signed by the applicant under the penalty of perjury,
17 that the statements contained therein are true, accurate and complete. Whatley signed the
18 declaration on the Supplemental on July 8, 2019.

19 27. All of the information requested on the application and Supplemental has been
20 considered through the legislative and regulatory processes and determined necessary in order for
21 the Commission to discharge its duties properly. The answers to each of these questions are
22 material to qualification. An applicant is neither expected, nor permitted, to determine the
23 importance of the information requested, and instead is required to provide full and complete
24 information as requested.

25 28. The Bureau relies, in large part, on the applicant’s disclosures while conducting a
26 background investigation. The failure to honestly and accurately disclose complete information
27 on an application subverts the Bureau’s efforts to conduct a thorough and complete investigation.
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1 29. Both the substance of an applicant’s disclosures, and the truthfulness and
2 thoroughness of an applicant’s disclosures, are considered by the Bureau in making a
3 recommendation as to the applicant’s suitability for licensure, and by the Commission in making
4 a determination whether to approve or deny a license application.

5 30. On the Supplemental Whatley disclosed his employment at Starbucks with
6 employment dates from August 2002 to April 2010, and his reason for leaving as “to be a poker
7 dealer.” Whatley’s disclosure regarding his reason for leaving Starbucks was incomplete and
8 misleading. While it is true that his position immediately following his employment at Starbucks
9 was as a poker player, the true reason that he left Starbucks was because he was terminated.
10 Whatley only disclosed his termination from Starbucks after the Bureau commenced its
11 background investigation and inquired into the discrepancy between Whatley’s prior work permit
12 applications and his Key Application.

13 31. According to Whatley’s written response to the Bureau, he was terminated from
14 Starbucks for a shortage of funds in his register. The reason for leaving a prior position is material
15 to qualification, and being terminated due to mishandling funds is an important fact that the
16 Bureau would likely investigate further in assessing an applicant’s suitability. The fact that the
17 Commission might later determine that Whatley’s termination is not itself cause for denying his
18 application does not excuse his failure to disclose it outright or his efforts to provide the
19 misleading characterization. An applicant is required to make full and true disclosure of all
20 information asked on the application because that information is material and necessary for the
21 Commission to carry out the policies of the Gambling Control Act.

22 32. Whatley did not provide any information that would excuse his failure to disclose the
23 termination and the sum of his written statements and testimony indicate that he intentionally
24 withheld the fact that he was terminated from Starbucks to improve his chances at licensure.

25 33. The Bureau and Commission assess the substance, truthfulness, and thoroughness of
26 an applicant’s disclosures. Furthermore, an applicant who fails to disclose pertinent and required
27 information on an application or who provides misleading information does not get to decide that
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1 this information was not required because the disclosures, if properly made, would not have
2 revealed any fact that would result in denial of the application. Because each question on the
3 application is material, an unexcused failure to disclose information or providing misleading
4 information on an application is highly probative of an applicant's qualification for licensure.

5 *Loans to Customers of the Nineteenth Hole*

6 34. The Commission's regulation, 4 CCR section 12388 permits a cardroom business
7 licensee to extend credit to a customer if stringent requirements are satisfied, including record
8 keeping requirements, verification of the customer's identity, a signed credit application, and
9 verification that the customer has not signed a self-exclusion form or has self-restricted access to
10 credit, in addition to several other requirements.

11 35. As a key employee, Commission regulations did not authorize Whatley to extend
12 credit to customers and the fact that he did so without following any of the public protection
13 measures required by the Commission's regulation for cardroom business licensees to extend
14 credit to patrons, identified above, is particularly concerning to the Commission. Whatley's
15 history of making loans to patrons outside of the permissible regulatory framework, calls into
16 question his character, honesty and integrity.

17 36. Further, Whatley's testimony that he only made 5 to 10 customer loans at no more
18 than \$100 each is not credible given the large amount of cash deposited into his checking account
19 in the slightly over one year period reviewed by the Bureau. Whatley testified that the funds for
20 the cash deposits came from loans, paychecks, tips, and a settlement with his employer. However,
21 Whatley and his employer testified that the settlement funds and his paychecks were paid to
22 Whatley by check and not in cash.

23 37. While there is insufficient evidence in the record to determine the exact source of the
24 cash deposits, Whatley's testimony that the \$81,159.94 included paychecks and settlement
25 proceeds was not credible. Further, given the large amount of unaccounted for cash deposited by
26 Whatley, the Commission concludes that his written statements to the Bureau and testimony at
27 the hearing that he only made 5 to 10 small loans to customers was also not credible. The fact that
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1 Whatley was not forthcoming with the Bureau and Commission regarding the source of the cash
2 deposits and the extent of his lending activity, further calls his honesty, character, and integrity
3 into question.

4 38. All documentary and testimonial evidence submitted by the parties that is not
5 specifically addressed in this Decision and Order was considered but not used by the Commission
6 in making its determination on Whatley’s Key Application and Renewal Application.

7 39. The matter was submitted for Commission consideration on May 13, 2021.

8 LEGAL CONCLUSIONS

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

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

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

20 43. An “unqualified person” means a person who is found to be unqualified pursuant to
21 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
22 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
23 section 19823(b).

24 44. The Commission has the power to deny any application for a license, permit, or
25 approval for any cause deemed reasonable by the Commission. Business and Professions Code
26 section 19824(b).

27 45. The Commission has the power to take actions deemed to be reasonable to ensure that
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1 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
2 gambling activities. Business and Professions Code section 19824(d).

3 46. Every key employee shall apply for and obtain a key employee license. Business and
4 Professions Code section 19854(a).

5 47. No person may be issued a key employee license unless the person would qualify for a
6 state gambling license. Business and Professions Code section 19854(b).

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

10 49. The burden of proof is always on the applicant to prove his, her, or its qualifications to
11 receive any license or other approval under the Gambling Control Act. Business and Professions
12 Code section 19856(a) and CCR section 12060(i).

13 50. 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 character,
15 honesty, and integrity. Business and Professions Code section 19857(a).

16 51. The commission shall deny a license to any applicant who is disqualified for the
17 failure of the applicant to provide information, documentation, and assurances required by this
18 chapter or requested by the chief, or failure of the applicant to reveal any fact material to
19 qualification, or the supplying of information that is untrue or misleading as to a material fact
20 pertaining to the qualification criteria. Business and Professions Code section 19859(b).

21 52. Applications for a state license or other commission action shall be submitted to the
22 department on forms furnished by the department. Business and Professions Code section
23 19864(a).

24 53. The department shall furnish to the applicant supplemental forms, which the applicant
25 completes and files with the department. These supplemental forms shall require, but shall not be
26 limited to requiring, complete information and details with respect to the applicant's personal
27 history, habits, character, criminal record, business activities, financial affairs, and business
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1 associates, covering at least a 10-year period immediately preceding the date of filing of the
2 application. Business and Professions Code section 19865.

3 54. An applicant for licensing or for any approval or consent required by this chapter,
4 shall make full and true disclosure of all information to the department and the commission as
5 necessary to carry out the policies of this state relating to licensing, registration, and control of
6 gambling. Business and Professions Code section 19866.

7 55. An application will be denied if the Commission finds that the applicant has not
8 satisfied the requirements of Business and Professions Code section 19857. CCR section
9 12040(a)(1).

10 56. An application will be denied if the Commission finds that any of the provisions of
11 Business and Professions Code section 19859 apply to the applicant. CCR section 12040(a)(2).

12 57. An applicant fails to demonstrate good character, honesty, and integrity by providing
13 misleading, incomplete, inconsistent, not credible, unsupported, and untrue responses on the
14 applications for licensure, in response to Bureau inquiries, and while testifying at an evidentiary
15 hearing. Whatley failed to reveal facts material to his qualification for licensure and provided
16 misleading information by failing to disclose his termination from Starbucks on his Key
17 Application. As a result, Whatley is disqualified for licensure pursuant to Business and
18 Professions Code section 19859(b) and his Key Employee Application shall be denied pursuant to
19 CCR section 12040(a)(2).

20 58. Whatley's response to Bureau inquiries and his testimony at the evidentiary hearing
21 regarding the source of the cash deposits into his account was misleading and not credible.
22 Whatley attempted to characterize the cash deposits as including a settlement payment and
23 paychecks from the Nineteenth Hole. However, the evidence established that these payments
24 were made to Whatley by check. Further, Whatley's testimony that he only made 5 to 10 small
25 loans to patrons was not credible given the large amount of cash deposits over the period
26 reviewed by the Bureau. Additionally, Whatley's actions of making personal loans to customers
27 outside of the allowable regulatory framework indicates that Whatley lacks the requisite good
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1 character and integrity to be associated with controlled gambling.

2 59. Therefore, Whatley has failed to meet his burden of demonstrating that he is a person
3 of good character, honesty, and integrity. As a result, Whatley is unqualified for a work permit
4 pursuant to Business and Professions Code section 19857(a) and his Renewal Application must
5 also be denied pursuant to CCR section 12040(a)(1).

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1 NOTICE OF APPLICANT’S APPEAL RIGHTS

2 Whatley has the following appeal rights available under state law:

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

4 (a) After the Commission issues a decision following a GCA hearing conducted
5 pursuant to Section 12060, an applicant denied a license, permit, registration, or
6 finding of suitability, or whose license, permit, registration, or finding of
7 suitability has had conditions, restrictions, or limitations imposed upon it, may
8 request reconsideration by the Commission. A request for reconsideration must
9 be:

10 (1) Made in writing to the Commission, copied to the Complainant. The
11 Bureau may provide a written response to the Commission within 10 calendar days
12 of receipt of the request; and

13 (2) Received by the Commission and Complainant within 30 calendar days of
14 service of the decision, or before the effective date specified in the decision,
15 whichever is earlier.

16 (b) A request for reconsideration must state the reasons for the request, which
17 must be based upon either:

18 (1) Newly discovered evidence or legal authorities that could not reasonably
19 have been presented before the Commission’s issuance of the decision or at the
20 hearing on the matter; or,

21 (2) Other good cause which the Commission may decide, in its sole discretion,
22 merits reconsideration.

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

24 A decision of the commission denying a license or approval, or imposing any
25 condition or restriction on the grant of a license or approval may be reviewed by
26 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5
27 of the Code of Civil Procedure shall not apply to any judicial proceeding described
28 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.

CCR section 12066, subsection (c) provides:

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

ORDER

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2 1. David Whatley's Application for Gambling Establishment Key Employee License
3 is DENIED.

4 2. David Whatley's Application for a Renewal Work Permit is DENIED.


5 3. No costs are awarded.


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

7 This Order is effective on July 26, 2021.

8
9 Dated: 6/23/21 Signature: 
10 Paula LaBrie, Chair

11
12 Dated: 6/23/21 Signature: 
13 Cathleen Galgiani, Commissioner

14
15 Dated: 06-23-2021 Signature: 
16 Eric Heins, Commissioner

17
18 Dated: 6/23/21 Signature: 
19 Edward Yee, Commissioner