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*By CGCC Legal Division at 3:22 pm, 1/23/18*

8  
9 **BEFORE THE**  
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**  
11 **STATE OF CALIFORNIA**  
12

13  
14 **In the Matter of the Statement of Reasons for**  
15 **Denial of Application for Work Permit**  
16 **Renewal:**

**BGC Case No. BGC-HQ2017-0020SL**

**CGCC Case No: CGCC-2017-0921-13**

17 **Duangmanee Charoensuk**  
18 [REDACTED]

**STATEMENT OF REASONS**

19  
20 **Respondent.**  
21

22 Complainant alleges as follows:

23 **PARTIES**

24 1. Nathan DaValle (Complainant) brings this Statement of Reasons for Denial of  
25 Application for Work Permit Renewal solely in his official capacity as the Acting Director of the  
26 California Department of Justice, Bureau of Gambling Control (Bureau).

27 2. On or about July 7, 2017, the Bureau received an Application for Work Permit  
28 Renewal, dated June 29, 2017, and Work Permit Questionnaire, dated June 29, 2017, (collectively,

1 Application) from Duangmanee Charoensuk (Respondent) to allow her continued employment as  
2 a dealer at the Napa Valley Casino, a licensed gambling establishment in American Canyon,  
3 California.

4 3. On or about February 11, 2016, Respondent was initially issued a work permit by the  
5 California Gambling Control Commission (Commission) to allow for her employment as a dealer  
6 at Napa Valley Casino, which she began on or about September 2015.

7 4. On or about August 28, 2017, the Bureau submitted a Work Permit Renewal  
8 Background Investigation Report to the Commission recommending Respondent's Application be  
9 denied.

10 5. At its September 21, 2017 meeting, the Commission referred the determination of  
11 Respondent's suitability to have her work permit renewed to an evidentiary hearing.<sup>1</sup>

12 6. On or about September 25, 2017, the Commission's Deputy Director, Licensing  
13 Division, advised Respondent in writing that the evidentiary hearing will be conducted pursuant to  
14 California Code of Regulations, title 4, section 12060,<sup>2</sup> as well as provided her with a Notice of  
15 Defense form.

16 7. Respondent submitted a Notice of Defense, dated October 10, 2017.

17 8. On or about October 2, 2017, the Bureau was notified by Napa Valley Casino that  
18 Respondent was terminated, for cause, on or about September 25, 2017, from her employment at  
19 that licensed gambling establishment.

20 9. On or about December 27, 2017, in response to the Bureau's inquiry, Respondent  
21 advised that she was currently not employed; but, still desired an evidentiary hearing regarding her  
22 Application.

23  
24 <sup>1</sup> At that meeting, the Commission also issued Respondent an Interim Renewal License,  
25 with the condition that beginning October 1, 2017, and every 90 days thereafter, Respondent must  
26 provide the Bureau with status updates regarding her payment plan for paying the balance due on  
her fine to the Solano County Superior Court. On December 28, 2017, the Bureau confirmed with  
the court that on August 31, 2017, Respondent had paid the balance in full.

27 <sup>2</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
28 pertinent part in Appendix A.

1 **BURDEN OF PROOF**

2 10. Respondent has the burden to prove she is qualified to have her work permit renewed.  
3 (Bus. & Prof. Code, § 19856, subd. (a).)  
4

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(Misdemeanor Criminal Conviction)**

7 11. Respondent's Application is subject to denial in that on or about May 31, 2017,  
8 Respondent was convicted, upon a plea of nolo contendere, to the reduced count of violating  
9 Vehicle Code section 23103.5, reckless driving, a misdemeanor, in the case of *People of the State*  
10 *of California v. Duangmanee Charoensuk* (Super. Ct. Solano County, 2017, Case No. VCR228687  
11 M7). Respondent was represented by private counsel at the time she entered her plea.

12 12. Respondent was sentenced to 36 months of probation, ordered to attend a wet-reckless  
13 class, and ordered to pay a fine. Respondent completed the wet-reckless class and, as noted above  
14 in footnote 1, has now paid the fine in full. As part of her conviction, Respondent was also given  
15 an advisement pursuant to Vehicle Code section 23593, subdivision (a).<sup>3</sup>  
16 (Bus. & Prof. Code, §§ 19856, 19857, subds. (a) & (b), &19912; & Cal. Code. Regs., tit, 4, §  
17 12105, subds. (a)(2) [mandatory denial], (c) & (e).)  
18

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Honesty, Integrity & Failure to Disclose – Untrue Statement in Application)**

21 13. Respondent's Application is subject to denial in that Respondent failed to disclose in  
22 her Application the May 31, 2017 conviction alleged above in paragraph 11. Respondent, under  
23 penalty of perjury, affirmatively stated in her application that she had not been convicted of a  
24

25 \_\_\_\_\_  
26 <sup>3</sup> Vehicle Code section 23593, subdivision (a), states: "You are hereby advised that being  
27 under the influence of alcohol, drugs, or both, impairs your ability to safely operate a motor  
28 vehicle. Therefore, it is extremely dangerous to human life to drive while under the influence of  
alcohol, drugs, or both, and, as a result of that driving, someone is killed, you can be charged with  
murder."

1 misdemeanor in the past 10 years, despite the fact that only about one month prior to her signing  
2 and submitting her application she had suffered such a conviction.

3 (Bus. & Prof. Code §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b) [mandatory denial],  
4 & 19912; & Cal. Code. Regs., tit. 4, § 12105, subds. (a)(1) [mandatory denial], (a)(2) [mandatory  
5 denial], (c) & (e).)

6  
7 **THIRD CAUSE FOR DENIAL OF APPLICATION**

8 **(Honesty, Integrity & Failure to Disclose)**

9 14. Respondent's Application is subject to denial in that Respondent, in addition to the  
10 conduct alleged in paragraph 13 above, has provided false, or significantly and materially  
11 misleading statements as follows:

12 a. At the September 21, 2017 Commission meeting, Respondent provided false or  
13 misleading information regarding her failure to disclose her May 31, 2017 conviction, which is  
14 alleged above in paragraph 11, in that she indicated that she did not understand that the criminal  
15 conviction needed to be disclosed on the Application.

16 b. At the September 21, 2017 Commission meeting, Respondent failed to disclose that  
17 just four days prior, on September 17, 2017, she was arrested in Solano County by the California  
18 Highway Patrol for violating Penal Code section 273.5, subdivision (a), inflicting corporal injury  
19 upon a spouse, a felony. Subsequent to the September 21, 2017 Commission meeting, on or about  
20 October 3, 2017, the Solano County District Attorney advised that the case would not be  
21 prosecuted. (*People of the State of California v. Duangmanee Charoensuk* (Super. Ct. Solano  
22 County, 2017, Case No. \_\_\_\_).)

23 c. On or about October 12, 2017, Respondent sent a letter to the Commission and the  
24 Bureau in which she provided false, or significantly and materially misleading statements  
25 regarding the reason for the termination of her employment from Napa Valley Casino.  
26 Respondent stated that she was terminated from her employment at Napa Valley Casino because  
27 of the questions put to her employer at the Commission's September 21, 2017 meeting, at which  
28

1 she stated the Commission failed to afford her the opportunity to answer for herself or provide  
2 further information. In fact, Respondent was terminated from her employment at Napa Valley  
3 Casino for her dishonesty to her employer, as well as her admitted dishonesty to the Highway  
4 Patrol Officer during her above-noted September 17, 2017 arrest.  
5 (Bus. & Prof. Code §§ 19856, 19857, subds. (a) & (b), 19859, subds. (a) & (b) [mandatory denial],  
6 & 19912; & and Cal. Code. Regs., tit. 4, § 12105, subds. (a)(1) [mandatory denial], (a)(2)  
7 [mandatory denial], (c) & (e).)

8  
9 **PRAYER**

10 WHEREFORE, Complainant requests that following the hearing to be held on the matters  
11 herein alleged, the Commission issue a decision:

- 12 1. Denying Respondent's Application to renew her Work Permit;
- 13 2. Cancelling Respondent's Interim Renewal License; and
- 14 3. Taking such other and further action as the Commission may deem appropriate.

15  
16 Dated: January 22, 2018.

  
\_\_\_\_\_  
Nathan Davalle, Acting Director  
Bureau of Gambling Control  
California Department of Justice  
Complainant



1 person licensed or approved. The commission may condition, restrict,  
2 discipline, or take action against the license of an individual owner  
3 endorsed on the license certificate of the gambling enterprise whether or  
4 not the commission takes action against the license of the gambling  
5 enterprise.

6 \* \* \*

7 (d) Take actions deemed to be reasonable to ensure that no  
8 ineligible, unqualified, disqualified, or unsuitable persons are associated  
9 with controlled gambling activities.

10 4. Business and Professions Code section 19870 provides:

11 (a) The commission, after considering the recommendation of  
12 the chief and any other testimony and written comments as may be  
13 presented at the meeting, or as may have been submitted in writing to  
14 the commission prior to the meeting, may either deny the application or  
15 grant a license to an applicant who it determines to be qualified to hold  
16 the license.

17 (b) When the commission grants an application for a license or  
18 approval, the commission may limit or place restrictions thereon as it  
19 may deem necessary in the public interest, consistent with the policies  
20 described in this chapter.

21 (c) When an application is denied, the commission shall prepare  
22 and file a detailed statement of its reasons for the denial.

23 (d) All proceedings at a meeting of the commission relating to a  
24 license application shall be recorded stenographically or by audio or  
25 video recording.

26 (e) A decision of the commission denying a license or approval,  
27 or imposing any condition or restriction on the grant of a license or  
28 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.

1           5. Business and Professions Code section 19871 provides:

2                   (a) The commission meeting described in Section 19870 shall be  
3 conducted in accordance with regulations of the commission and as  
4 follows:

5                           (1) Oral evidence shall be taken only upon oath or  
6 affirmation.

7                           (2) Each party shall have all of the following rights:

8                                   (A) To call and examine witnesses.

9                                   (B) To introduce exhibits relevant to the issues of the  
10 case.

11                                   (C) To cross-examine opposing witnesses on any  
12 matters relevant to the issues, even though the matter was  
13 not covered on direct examination.

14                                   (D) To impeach any witness, regardless of which  
15 party first called the witness to testify.

16                                   (E) To offer rebuttal evidence.

17                           (3) If the applicant does not testify in his or her own  
18 behalf, he or she may be called and examined as if under cross-  
19 examination.

20                           (4) The meeting need not be conducted according to  
21 technical rules relating to evidence and witnesses. Any relevant  
22 evidence may be considered, and is sufficient in itself to support a  
23 finding, if it is the sort of evidence on which responsible persons  
24 are accustomed to rely in the conduct of serious affairs, regardless  
25 of the existence of any common law or statutory rule that might  
26 make improper the admission of that evidence over objection in a  
27 civil action.

28                           (b) Nothing in this section confers upon an applicant a right to  
discovery of the department's<sup>[4]</sup> investigative reports or to require  
disclosure of any document or information the disclosure of which is  
otherwise prohibited by any other provision of this chapter.

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<sup>4</sup> Hereinafter, "department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)



1 6. Business and Professions Code section 19912, provides in part:

2 (d) Application for a work permit for use in any jurisdiction  
3 where a locally issued work permit is not required by the licensing  
4 authority of a city, county, or city and county, shall be made to the  
5 department, and may be granted or denied for any cause deemed  
6 reasonable by the commission. . . .

7 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

8 7. Business and Professions Code section 19856, provides:

9 (a) Any person who the commission determines is qualified to  
10 receive a state license, having due consideration for the proper  
11 protection of the health, safety, and general welfare of the residents of  
12 the State of California and the declared policy of this state, may be  
13 issued a license. The burden of proving his or her qualifications to  
14 receive any license is on the applicant.

15 (b) An application to receive a license constitutes a request for  
16 a determination of the applicant's general character, integrity, and  
17 ability to participate in, engage in, or be associated with, controlled  
18 gambling.

19 (c) In reviewing an application for any license, the  
20 commission shall consider whether issuance of the license is inimical  
21 to public health, safety, or welfare, and whether issuance of the  
22 license will undermine public trust that the gambling operations with  
23 respect to which the license would be issued are free from criminal  
24 and dishonest elements and would be conducted honestly.

25 8. Business and Professions Code section 19857 provides:

26 No gambling license shall be issued unless, based on all the  
27 information and documents submitted, the commission is satisfied that  
28 the applicant is all of the following:

(a) A person of good character, honesty and integrity.

(b) A person whose prior activities, criminal record, if any,  
reputation, habits, and associations do not pose a threat to the public  
interest of this state, or to the effective regulation and control of  
controlled gambling, or create or enhance the dangers of unsuitable,  
unfair, or illegal practices, methods, and activities in the conduct of  
controlled gambling or in the carrying on of the business and financial  
arrangements incidental thereto.

1 (c) A person that is in all other respects qualified to be licensed as  
2 provided in this chapter.

3 9. Business and Professions Code section 19859 provides in pertinent part:

4 The commission shall deny a license to any applicant who is  
5 disqualified for any of the following reasons:

6 (a) Failure of the applicant to clearly establish eligibility and  
7 qualification in accordance with this chapter.

8 (b) Failure of the applicant to provide information,  
9 documentation, and assurances required by the chapter or requested by  
10 the chief, or failure of the applicant to reveal any fact material to  
11 qualification, or the supplying of information that is untrue or  
12 misleading to a material fact pertaining to the qualification criteria.

13 10. California Code of Regulations, title 4, section 12105, provides in part:

14 (a) An application for a work permit shall be denied by the  
15 Commission if either of the following applies:

16 (1) The applicant meets any of the criteria for mandatory  
17 disqualification under Business and Professions Code section  
18 19859.

19 (2) The applicant is found unqualified pursuant to the  
20 criteria set forth in subdivisions (a) or (b) of Business and  
21 Professions Code section 19857.

22 \* \* \*

23 (c) The grounds for denial set forth in this section apply in  
24 addition to any grounds prescribed by statute.

25 \* \* \*

26 (e) The provisions of Business and Professions Code sections  
27 19857, 19859, and 19914, subdivision (a) shall be deemed incorporated  
28 by reference into this regulation for the purposes set forth in this section.  
For the purposes of this section, the criteria incorporated by reference in  
these regulations from Business and Professions Code section 19914,  
subdivision (a), apply to conduct or events occurring prior to the filing  
of an application for a work permit.