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

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

14 **Scott Gerald Smith**
15 

16 Work Permit No. : GEWP-001829

17 Respondent.

BGC No.: BGC-HQ2016-00001A

OAH No. _____

ACCUSATION

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21 Complainant alleges as follows:

22 **PARTIES**

23 1. Wayne J. Quint, Jr. (Complainant) brings this Accusation solely in his official
24 capacity as the Director of the California Department of Justice, Bureau of Gambling Control
25 (Bureau).

26 2. On or about October 31, 2013, the California Gambling Control Commission
27 (Commission) issued a work permit to Scott Gerald Smith (Respondent), number GEWP-001829,
28 to be employed at the Empire Sportsmen's Association, a licensed gambling establishment,

2017 APR -7 PM 2: 06

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CALIFORNIA GAMBLING
CONTROL COMMISSION
RECEIVED BY
CGCC LEGAL DIVISION

1 located in Modesto, California. Respondent's work permit has been continuously renewed since
2 then and will expire on March 31, 2018, unless renewed.

3 JURISDICTION AND COST RECOVERY

4 3. Pursuant to the Gambling Control Act (Act), the Commission has jurisdiction over
5 the operation and concentration of gambling establishments and all persons and things having to
6 do with the operation of gambling establishments, which includes the licensure of gambling
7 enterprise employees. (Bus. & Prof. Code, §§ 19805, subd. (n), 19811, subd. (b), 19850, &
8 19912, subd. (a)(1).)¹ The Commission has all powers necessary and proper to carry out the
9 Act's policies and purposes, including the powers to discipline licensees and to take actions to
10 ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with
11 controlled gambling activities. (Bus. & Prof. Code, §§ 19823, subd. (a)(1), & 19824, subds. (b)
12 & (d).)

13 4. The Act tasks the Bureau with, among other responsibilities, investigating suspected
14 violations of the Act and initiating disciplinary actions. (Bus. & Prof. Code, §§ 19826, subds. (c)
15 & (e) & 19930, subd. (b).) Upon the Bureau filing an accusation, the Commission proceeds
16 under Government Code section 11500 et seq. (Bus. & Prof. Code, § 19930, subd. (b); see Cal.
17 Code Regs., tit. 4, § 12554, subd. (a).) The Commission's disciplinary powers include, among
18 other things, revocation and imposition of a fine or monetary penalty. (Cal. Code Regs., tit. 4, §
19 12554, subd. (d).)

20 5. In a matter involving revocation or suspension, the Bureau may recover its costs of
21 investigation and prosecuting the proceeding. (Bus. & Prof. Code, § 19930, subd. (d).)

22 CAUSE OF ACTION FOR REVOCATION

23 (Felony Conviction)

24 6. Respondent's work permit is subject to revocation in that on or about August 8,
25 2016, Respondent was convicted of a felony. Respondent was convicted of violating Vehicle
26 Code section 23152, subdivision (a)/23550, subdivision (a) (driving under the influence having

27 ¹ The statutes and regulations applicable to this Accusation are quoted in pertinent part in
28 Appendix A.

1 three or more prior, separate violations for driving under the influence), a felony, in the case of
2 *People v. Scott Gerald Smith* (Super. Ct. Stanislaus County, 2016, No. 1498784).

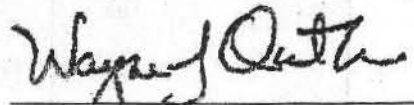
3 (Bus. & Prof. Code, §§ 19850, 19857, subds. (a) & (b), 19859, subd. (c); Cal. Code. Regs.,
4 tit. 4, §§ 12105, subd. (a), & 12558, subd. (b).)

5 **PRAYER**

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

- 8 1. Revoking work permit number GEWP-001829, issued to Scott Gerald Smith;
- 9 2. Award Complainant the costs of investigation and the costs of bringing this
10 Accusation before the Commission, pursuant to Business and Professions Code, section 19930, in
11 a sum according to proof; and
- 12 3. Take such other and further action as the Commission may deem appropriate.

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15 Dated: April 4, 2017.



16 WAYNE J. QUINT, JR., Director
17 Bureau of Gambling Control
18 California Department of Justice
19 Complainant
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APPENDIX A – STATUTORY AND REGULATORY PROVISIONS

Cost Recovery Provisions

1. Business and Professions Code section 19930 provides, in part:

(d) In any case in which the administrative law judge recommends that the commission revoke, suspend, or deny a license, the administrative law judge may, upon presentation of suitable proof, order the licensee or applicant for a license to pay the department the reasonable costs of the investigation and prosecution of the case.

* * *

(f) For purposes of this section, “costs” include costs incurred for any of the following:

(1) The investigation of the case by the department.

(2) The preparation and prosecution of the case by the Office of the Attorney General.

Jurisdictional Provisions

2. Business and Professions Code section 19811, subdivision (b) provides:

Jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments is vested in the commission.

3. Business and Professions Code section 19823, subdivision (a) provides:

The responsibilities of the commission include, without limitation, all of the following:

(1) Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

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4. Business and Professions Code section 19824 provides, in part:

The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter^[2], including, without limitation, the power to do all of the following:

* * *

(b) For any cause deemed reasonable by the commission . . . limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved. The commission may condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the commission takes action against the license of the gambling enterprise.

* * *

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

5. Business and Professions Code section 19826 provides, in part:

The department^[3] shall have all of the following responsibilities:

* * *

(c) To investigate suspected violations of this chapter or laws of this state relating to gambling

* * *

(e) To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.

² Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

³ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1 6. Business and Professions Code section 19930, subdivision (b) provides:

2 If, after any investigation, the department is satisfied that a
3 license, permit, finding of suitability, or approval should be suspended
4 or revoked, it shall file an accusation with the commission in
5 accordance with Chapter 5 (commencing with Section 11500) of Part
6 1 of Division 3 of Title 2 of the Government Code.

7 7. California Code of Regulations, title 4, section 12554, subdivisions (a) & (d),
8 provide, in pertinent part:

9 (a) Upon the filing with the Commission of an accusation by
10 the Bureau recommending revocation, suspension, or other discipline
11 of a holder of a license, registration, permit, finding of suitability, or
12 approval, the Commission shall proceed under Chapter 5
13 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of
14 the Government Code.

15 * * *

16 (d) Upon a finding of a violation of the Act, any regulations
17 adopted pursuant thereto, any law related to gambling or gambling
18 establishments, violation of a previously imposed disciplinary or
19 license condition, or laws whose violation is materially related to
20 suitability for a license, registration, permit, or approval, the
21 Commission may do any one or more of the following:

22 (1) Revoke the license, registration, permit, finding of
23 suitability, or approval;

24 (2) Suspend the license, registration, or permit;

25 * * *

26 (5) Impose any fine or monetary penalty consistent with
27 Business and Professions Code sections 19930, subdivision (c),
28 and 19943, subdivision (b).

Specific Statutory and Regulatory Provisions

29 8. Business and Professions Code section 19805, subdivision (n) provides:

30 As used in this chapter the following definitions shall apply:

31 * * *

32 (n) "gambling enterprise employee" means any natural
33 person employed in the operation of a gambling enterprise,

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including, without limitation, dealers, floor personnel, security employees, courtroom personnel, cage personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiter and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted establishment areas..

9. Business and Professions Code section 19850 provides:

Every person who, either as owner, lessee, or employee, whether for hire or not, either solely or in conjunction with others, deals, operates, carries on, conducts, maintains, or exposes for play any controlled game in this state, or who receives, directly or indirectly, any compensation or reward, or any percentage or share of the money or property played, for keeping, running, or carrying on any controlled game in this state, shall apply for and obtain from the commission, and shall thereafter maintain, a valid state gambling license, key employee license, or work permit, as specified in this chapter. In any criminal prosecution for violation of this section, the punishment shall be as provided in Section 337j of the Penal Code.

10. Business and Professions Code section 19857 provides, in part:

No gambling license shall be issued unless, based on all of the information and documents submitted, the commission is satisfied that 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.

11. Business and Professions Code section 19859 provides, in part:

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

* * *

- (c) Conviction of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California.

1 12. Business and Professions Code section 19912, subdivision (a)(1), provides, in
2 relevant part:

3 (a) (1) A person shall not be employed as a gambling
4 enterprise employee, . . . unless he or she is the holder of one of the
5 following:

6 13. California Code of Regulations, title 4, section 12105, subdivision (a) provides:

7 (a) An application for a work permit shall be denied by the
8 Commission if either of the following apply:

9 (1) The applicant meets any of the criteria for mandatory
10 disqualification under Business and Professions Code section
11 19859.

12 (2) The applicant is found disqualified pursuant to the
13 criteria set forth in subdivisions (a) or (b) of Business and
14 Professions Code section 19857.

15 14. California Code of Regulations, title 4, section 12558, subdivision (b) provides:

16 Pursuant to Business and Professions Code, section 19914, a
17 holder of a work permit shall be subject to a minimum penalty of a
18 three-day suspension, which may be stayed on terms and conditions
19 and any monetary penalty as described in Section 12554(d)(7) of this
20 chapter, up to a maximum penalty of revocation by the Commission if
21 the Commission finds that the holder:

22 * * *

23 (b) Does not currently meet any criterion for eligibility or
24 qualification.^[4]

25
26
27 ⁴ The relevant criteria are found in Business and Professions Code, sections 19857 and
28 19859.