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

12  
13 **In the Matter of the Statement of Reasons  
for Denial of License Application:**

BGC Case No. BGC-HQ2015-00008SL

CGCC Case No: CGCC-2015-DSWP

14  
15 **DONALD EUGENE HARTE**

16 

STATEMENT OF REASONS

17  
18 **Respondent.**

19  
20 Complainant alleges as follows:

21 **PARTIES**

22 1. Wayne J. Quint, Jr. (Complainant) brings this Statement of Reasons for denial of an  
23 Application for Initial Regular Work Permit solely in his official capacity as the Chief of the  
24 California Department of Justice, Bureau of Gambling Control (Bureau).

25 2. On or about August 9, 2013, Donald Eugene Harte (Respondent) submitted an  
26 Application for Initial Regular Work Permit/Temporary Work Permit BGC-021 (Rev. 04/13),  
27 and Work Permit Questionnaire (BGC-LIC. 049 (Rev. 11/07)) (collectively: Application) to the  
28 California Gambling Control Commission (Commission).

1 3. On December 18, 2014, the Commission granted Respondent a Temporary Work  
2 Permit (GEWP-002013). On February 12, 2015, Respondent's Temporary Work Permit was  
3 cancelled pursuant to California Code of Regulations, title 4, section 12128, subdivision (b)(2).

4 4. On March 2, 2015, the Commission's Executive Director referred consideration of  
5 Respondent's suitability for licensure to an evidentiary hearing pursuant to California Code of  
6 Regulations, title 4, section 12060, subdivision (a).

7 5. On March 10, 2015, Respondent filed a Notice of Defense dated March 5, 2015.

8 **FIRST CAUSE FOR DENIAL OF LICENSE APPLICATION**  
9 **(Disqualification – Criminal Conviction)**

10 6. Respondent's Application is subject to mandatory denial pursuant to Business and  
11 Professions Code section 19859, subdivision (d), and California Code of Regulations, title 4,  
12 section 12105, subdivisions (a)(1) and (b)(2)(E), in that the Respondent was convicted of a  
13 misdemeanor involving a crime of moral turpitude or dishonesty. On or about March 20, 2006,  
14 Respondent was convicted of violating the following statutes: Title 47 Oklahoma Statutes section  
15 1151, subdivision (A)(2) (equivalent to California Veh. Code, § 4463), altering or changing a  
16 license plate; Title 63 Oklahoma Statutes section 2-402 (equivalent to California Health & Saf.  
17 Code, § 11357), possession of marijuana; Title 21 Oklahoma Statutes section 1289.13 (equivalent  
18 to California Pen. Code, § 26100), transporting a loaded firearm; Title 21 Oklahoma Statutes  
19 section 1220 (equivalent to California Veh. Code, § 23223), and transporting intoxicating  
20 beverage in the case of *The State of Oklahoma v. Donald Eugene Harte* (Dist. Ct. Pottawatomie  
21 County, 2005, No. CM-2005-771). Respondent's criminal conviction, for which he has not been  
22 granted relief, occurred less than ten years prior to the submission of his Application.

23 **SECOND CAUSE FOR DENIAL OF LICENSE APPLICATION**  
24 **(Unqualified – Prior Criminal Convictions)**

25 7. Respondent's Application is subject to denial pursuant to Business and Professions  
26 Code section 19857, subdivisions (a) and/or (b), and California Code of Regulations, title 4,  
27 section 12105, in that Respondent has demonstrated a history of conduct that establishes he lacks  
28 the requisite character, honesty and integrity necessary for licensure. Further, Respondent's prior

1 activities, criminal records and habits would pose a threat to the public interest of this state and  
2 his licensure would undermine the public's trust. In addition to the conduct alleged in paragraph  
3 6 above, and incorporated herein by reference:

4 a. On or about February 1, 1980, Respondent was convicted of violating  
5 Unemployment Insurance Code section 2101, providing false information to obtain benefits, a  
6 misdemeanor and crime of moral turpitude, in the case of *People v. Donald Eugene Harte* (Super.  
7 Ct. Santa Clara County, 1980, No. C8010322). Respondent's criminal conviction occurred more  
8 than ten years prior to the submission of his Application;

9 b. On or about November 19, 1979, Respondent was convicted of violating Penal  
10 Code section 314.1, indecent exposure, a misdemeanor and crime of moral turpitude, in the case  
11 of *People v. Donald Eugene Harte* (Super. Ct. Santa Clara County, 1979, No. C7901777).  
12 Respondent's criminal conviction occurred more than ten years prior to the submission of his  
13 Application;

14 c. On or about March 28, 1974, Respondent was convicted of violating Penal  
15 Code sections 12031 and 12025, carrying a loaded firearm in a public place and carrying a  
16 concealed weapon, misdemeanors, in the case of *People v. Donald Eugene Harte* (Super. Ct. San  
17 Mateo County, 1974, No. DC64758). Respondent's criminal convictions occurred more than ten  
18 years prior to the submission of his Application;

19 d. On or about March 15, 1972, Respondent was convicted of violating Vehicle  
20 Code sections 40508 and 21658, subdivision (A), failure to appear, a misdemeanor and unsafe  
21 lane change, an infraction, in the case of *People v. Donald Eugene Harte* (Super. Ct. San Mateo  
22 County, 1972, No. 570792). Respondent's criminal convictions occurred more than ten years  
23 prior to the submission of his Application;

24 e. On or about April 2, 1971, Respondent was convicted of violating Penal Code  
25 section 415, disturbing the peace, a misdemeanor, in the case of *People v. Donald Eugene Harte*  
26 (Super. Ct. San Mateo County, 1971, No. DC 4143). Respondent's criminal conviction occurred  
27 more than ten years prior to the submission of his Application;

28

1 f. On or about January 15, 1971, Respondent was convicted of violating Penal  
2 Code section 487.2, grand theft, a misdemeanor and crime of moral turpitude, in the case of  
3 *People v. Donald Eugene Harte* (Super. Ct. San Francisco County, 1971, No. F-74896).  
4 Respondent's criminal conviction occurred more than ten years prior to the submission of his  
5 Application.

6 **THIRD CAUSE FOR DENIAL OF LICENSE APPLICATION**  
7 **(Disqualified or Unqualified – Failure to Disclose or Provide Information)**

8 8. Respondent's Application is subject to denial pursuant to Business and Professions  
9 Code sections 19859, subdivision (b), and/or 19857, subdivision (a), 19866 and 19914, and  
10 California Code of Regulations, title 4, section 12105, subdivision (a)(1) and/or (a)(2) in that he  
11 failed to disclose or provide documentation requested by the Bureau:

12 a. Respondent failed to disclose in his Application that he had been convicted of  
13 violating Title 47 Oklahoma Statutes section 1151, subdivision (A)(2) (equivalent to California  
14 Veh. Code, § 4463), altering or changing a license plate, and 21 Oklahoma Statutes section  
15 1289.13 (equivalent to California Pen. Code, § 26100), transporting a loaded firearm as pled in  
16 paragraph 6 above and incorporated herein by reference;

17 b. Respondent stated to the Bureau that all the charges filed against him in the  
18 case of: *The State of Oklahoma v. Donald Eugene Harte* (Dist. Ct. Pottawatomie County, 2005,  
19 No. CM-2005-771), were dismissed, when in fact, they were not;

20 c. Respondent failed to provide information and documentation as requested by  
21 the Bureau as part of the background investigation process. Specifically, during the course of the  
22 investigation, the Bureau requested a statement regarding Respondent's prior criminal  
23 convictions. Respondent provided a response by e-mail on October 20, 2014, in which he failed  
24 to provide any of the requested information.

25 **JURISDICTION**

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

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

1 establishments is vested in the commission.

2 10. Business and Professions Code section 19823 provides:

3 (a) The responsibilities of the commission include, without  
4 limitation, all of the following:

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

9 (2) Assuring that there is no material involvement,  
10 directly or indirectly, with a licensed gambling operation, or  
11 the ownership or management thereof, by unqualified or  
12 disqualified persons, or by persons whose operations are  
13 conducted in a manner that is inimical to the public health,  
14 safety, or welfare.

15 (b) For the purposes of this section, "unqualified person" means a  
16 person who is found to be unqualified pursuant to the criteria set forth in  
17 Section 19857, and "disqualified person" means a person who is found  
18 to be disqualified pursuant to the criteria set forth in Section 19859.

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

20 The commission shall have all powers necessary and proper to  
21 enable it fully and effectually to carry out the policies and purposes of  
22 this chapter, including, without limitation, the power to do all of the  
23 following:

24 \* \* \*

25 (b) For any cause deemed reasonable by the commission,  
26 deny any application for a license, permit, or approval provided  
27 for in this chapter or regulations adopted pursuant to this chapter,  
28 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.

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12. California Code of Regulations, title 4, section 12060, provides, in part:

(a) If the Executive Director determines it is appropriate, he or she may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. . . .

\* \* \*

(i) The burden of proof is on the applicant at all times to prove his, her, or its qualifications to receive any license or other approval under the Act.

13. California Code of Regulations, title 4, section 12120, subdivision (b), provides, in part:

(b) Upon issuance or denial of a regular work permit by the Commission, the temporary work permit previously issued shall become void and shall not be used thereafter.

14. California Code of Regulations, title 4, section 12124, provides:

Denial of an application for a temporary work permit or cancellation of a temporary work permit shall not suspend the processing and review of the related application for a regular work permit.

**SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

15. Business and Professions Code section 19856, subdivision (a) provides, in part:

The burden of proving his or her qualifications to receive any license is on the applicant.

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

No gambling license shall be issued unless, based on all 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.

1 17. Business and Professions Code section 19859 provides:

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

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

6 (b) Failure of the applicant to provide information,  
7 documentation, and assurances required by this chapter or  
8 requested by the chief,<sup>1</sup> or failure of the applicant to reveal any  
9 fact material to qualification, or the supplying of information that  
is untrue or misleading as to a material fact pertaining to the  
qualification criteria.

10 \* \* \*

11 (d) Conviction of the applicant for any misdemeanor  
12 involving dishonesty or moral turpitude within the 10-year  
13 period immediately preceding the submission of the application,  
unless the applicant has been granted relief pursuant to Section  
1203.4, 1203.4a, or 1203.45 of the Penal Code . . . .

14 18. Business and Professions Code section 19912 provides, in part:

15 (a) (1) A person shall not be employed as a gambling enterprise  
16 employee, or serve as an independent agent, except as provided in paragraph  
(2), unless he or she is the holder of one of the following:

17 \* \* \*

18 (B) A work permit issued by the commission  
19 pursuant to regulations adopted by the commission for  
the issuance and renewal of work permits. . . .

20 \* \* \*

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

24 19. California Code of Regulations, title 4, section 12105 provides, in part:

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

27 <sup>1</sup> "Chief" refers to the head of the entity within the department (Department of Justice)  
28 that is responsible for fulfilling the obligations imposed upon the department by this chapter.  
(Bus. & Prof. Code, § 19805, subs. (d) & (h).)

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

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

(b) Any application for a work permit may be denied by the Commission if it finds any of the following:

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(2) Within ten years immediately preceding the submission of the application, the applicant was convicted of any of the following offenses:

\*\*\*

(E) A misdemeanor involving dishonesty or moral turpitude . . .

\*\*\*


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

PRAYER

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

1. Denying Respondent's Application for Initial Regular Work Permit/Temporary Work Permit;
2. Taking such other and further action as the Commission may deem appropriate.

Dated: August 19, 2015

  
 \_\_\_\_\_  
 Wayne J. Quint, Jr., Chief  
 Bureau of Gambling Control  
 California Department of Justice  
 Complainant