IN THE MATTER OF THE APPLICATIONS OF SCOTT ONQUE FOR A CASINO KEY EMPLOYEE LICENSE AND RENEWAL OF HIS CASINO EMPLOYEE LICENSE

Initial Decision: April 10, 1989
Final Agency Decision: August 14, 1989
Approved for Publication: January 17, 1990

SYNOPSIS

Petitioner applied for renewal of a casino employee license and issuance of a casino key employee license. The Division of Gaming Enforcement opposed both, contending that petitioner lacked the good character, honesty and integrity as well as the financial stability, integrity and responsibility required by the Casino Control Act. The matter was transmitted to the Office of Administrative Law for a hearing.

The administrative law judge found that petitioner had demonstrated sufficient good character, honesty and integrity for licensure in both categories, but as to the financial criteria, he had established his qualification only with respect to his application for renewal of his casino employee license. The judge concluded that petitioner's efforts to satisfy his debts and other financial difficulties, however commendable, were too recent to demonstrate financial qualification for casino key employee licensure. He therefore recommended that the casino employee license be renewed but the casino key employee license application be denied.

Upon review of this initial decision, the Commission determined that the criteria for financial qualification under N.J.S.A. 5:12-89(b)1 are to be applied consistently to both groups of employee licenses. Noting that the only question presented was whether petitioner possessed current and prospective financial stability, the Commission found that the petitioner had presented clear and convincing evidence of same and thus both applications were granted.

Scott Onque, petitioner, pro se
Norma Stancil, Deputy Attorney General, for respondent (Peter N. Perretti, Jr., Attorney General of New Jersey, attorney)
CARNES, ALJ:

STATEMENT OF THE CASE

The petitioner, Scott Onque, applied to the Casino Control Commission (Commission) for the issuance of a casino key employee license (cage shift supervisor) and the renewal of a casino employee license (cage cashier), pursuant to N.J.S.A. 5:12-90. The respondent, Division of Gaming Enforcement (Division), opposed the issuance and renewal of the licenses by reason of its contention that the petitioner lacked the requisite good character, honesty and integrity, pursuant to sections 89b(2) and 90b, which incorporates section 89b(2) by reference, and that the petitioner lacked the requisite financial stability, integrity and responsibility for either casino key employee or casino employee licensure, pursuant to sections 89b(1) and 90b, which incorporates section 89b(1) by reference.

PROCEDURAL HISTORY

The petitioner filed with the Commission an application for the issuance of a casino key employee license, so that he could be employed as an assistant cage shift supervisor at TropicWorld Hotel and Casino. By letter to the Commission, dated August 25, 1988, the Division objected to the petitioner’s application for licensure as a cage shift supervisor. The petitioner filed with the Commission an application for the renewal of a casino employee license, so that he could be employed as a cage cashier at TropicWorld Hotel and Casino. By letter to the Commission, dated October 4, 1988, the Division objected to the petitioner’s application for licensure as a cage cashier. In both letters, the Division objected to the petitioner’s licensure, asserting that the petitioner had numerous debts, and that he had issued numerous bad checks, that he had defaulted on student loans, that he had been convicted of shoplifting, and that he had received disciplinary action from his employer for having shortages. Based upon these actions, the Division asserts that the petitioner lacks the requisite good character, honesty and integrity for casino key employee licensure, pursuant to section 89b(2), and for casino employee licensure, pursuant to section 90b, which incorporates section 89b(2) by reference. The Division further asserts, based upon these actions, that the petitioner lacks the requisite financial stability, integrity and responsibility for casino key employee licensure, pursuant to section 89b(1),
and for casino employee licensure, pursuant to section 90b, which incorporates section 89b(1) by reference. Based upon the first report, the Commission notified the petitioner on October 6, 1988, that there was a "substantial possibility" that his application would be denied and that he had the right to a hearing. By application dated October 11, 1988, and received by the Commission on October 12, 1988, the petitioner requested a hearing. By letter dated November 2, 1988, the Commission acknowledged receipt of the petitioner's request for hearing and consolidated both cases for purposes of the hearing, since the objection to renewal of his casino employee license was the same as the objection to his application for a casino key employee license. On November 2, 1988, the Commission transmitted the matter to the Office of Administrative Law, where it was received on November 9, 1988, for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.

A prehearing conference was held in the matter before Administrative Law Judge Edgar R. Holmes on December 29, 1988. The issues set forth at the prehearing conference to be resolved at the hearing were:

A. Whether the petitioner possesses the requisite good character, honesty and integrity for casino employee licensure, pursuant to N.J.S.A. 5:12-89b(2), as incorporated within section 90b.

B. Whether the petitioner possesses the requisite financial stability, integrity and responsibility for casino employee licensure, pursuant to N.J.S.A. 5:12-89b(1) as incorporated within section 90b.

A hearing was held on March 14, 1989, at the Main Courtroom, Pleasantville Police Building, Pleasantville, New Jersey, after which the record closed.

**THE FACTS**

The Division is challenging, in part, the petitioner's financial stability, integrity and responsibility. The basis of this objection is the petitioner's poor personal financial record. The petitioner obtained two student loans from Howard Savings Bank: one in March 1984 for $1,000, and one in December 1985 for $2,500. These loans were guaranteed by the New Jersey Higher Education Assistance Authority (NJHEAA). On September 22, 1987, the petitioner went into default
on his loan. As NJHEAA had guaranteed the loans, it paid Howard
Savings Bank $3,760.63, a total that included principal and interest.
As of December 14, 1988, the petitioner owed NJHEAA a balance
of $3,900.13. The petitioner began making payments on this debt at
a rate of $60 per month on August 23, 1988. He has since voluntarily
increased his monthly payment to $100 per month, and he is now
making regular payments.

In October 1981, the petitioner had obtained another school loan
in the amount of $1,650 from Stockton State College. The petitioner's
payments were scheduled to begin on March 8, 1987, in the amount
of $90 every three months. The petitioner defaulted on this loan and
the account was turned over to a collection agency. Prior to September
1988, the petitioner made verbal arrangements with the collection
agency to make payments on this debt. On September 1, 1988, the
petitioner began making payments of $100 per month on this debt.
He has now settled his account with the collection agency and is
making regular payments directly to Stockton State College.

The petitioner also has several credit card accounts which have
been "charged-off." A charged-off account is one that has been dis-
honored by the purchaser and written off as uncollectible by the store.
Over a period of two years, the petitioner opened three accounts with
Macy's (Bamberger's). One was a large purchase homemaker's ac-
count, one was a flexible account, and one was a New York account.
One account was charged-off in June 1985 in the amount of $182.63,
one was charged-off in August 1986 in the amount of $1009, and one
was charged-off in October 1986 in the amount of $459.56. In October
1987, a judgment was entered in Essex County against the petitioner
in the amount of $1,036.11 (plus court costs of $294.75), for the
August 1986 charge-off by Macy's. A wage attachment was issued
against the petitioner's salary at the Tropicana Hotel and Casino for
the amount of the judgment, to be paid in installments of $40.68 per
week. This garnishment has been fully satisfied by the petitioner. The
petitioner has also attempted to pay off the other two accounts by
submitting payments on those accounts. He submitted a monthly
repayment agreement to Macy's on February 23, 1989.

An account opened by the petitioner at Stern's Department store
was charged-off in March 1984 in the amount of $95. A judgment
was obtained against the petitioner regarding this account in Essex
County in October 1984. This judgment has been satisfied.

The petitioner's account by Pally's Jewelers (Citizen's Jewelers)
was charged-off in the amount of $281.17 in April 1986. This account
was turned over to a collection agency and remains unsatisfied.

The petitioner's account at Sears, Roebuck and Company was charged-off in May 1987, in the amount of $483.94. On May 22, 1988, a judgment was entered in the Superior Court in Atlantic County against the petitioner regarding the Sears account in the amount of $518.87. With interest and costs added, the total judgment was for $631.81. A wage attachment was issued against the petitioner's salary at the Tropicana Hotel and Casino for the amount of the judgment, to be paid in installments of $100.50 per week. This garnishment has been fully satisfied by the petitioner.

In 1982, the petitioner opened a revolving charge account at J.C. Penny. This account was charged-off in April 1984 the amount of $300. The petitioner paid off this account in the amount of $353 on December 3, 1988.

In May 1986, the petitioner opened an account with the Popular Club Plan. This account was charged-off in February 1988 in the amount of $100. At the time of the Division's investigation this account was still unsatisfied; however, it has since been satisfied.

In 1986, the respondent and two roommates rented an apartment. The telephone bill was listed in all three names; however, the electric company would only list its bill in one name. The petitioner opened the electric account in his name, and his roommates were supposed to split the electric bill with him. During the winter of 1987/1988, the petitioner and his roommates entered into the electric company's budget program. This resulted in the petitioner and his roommate paying a fixed amount for electricity throughout the winter, with any additional charges for usage being prorated throughout the year. In the spring of 1988, the petitioner and his roommates decided to vacate the apartment. The petitioner was billed $956.06 from the Atlantic Electric Company. The petitioner's roommates departed and refused to split the electric bill. On September 6, 1988, a judgment was entered in the Superior Court in Atlantic County against the petitioner regarding the Atlantic Electric Company bill in the amount of $965.06. With interest and costs, the total judgment came to $1133.26. A wage attachment was issued against the petitioner's salary at the Tropicana Hotel and Casino. This garnishment began in February 1989, and the respondent is currently paying this debt.

The petitioner's rent is currently $570 per month. On November 23, 1987, January 12, 1988, and February 10, 1988, the respondent issued checks to the Garden Courts Apartments to pay for his monthly rent. These checks were returned due to insufficient funds in the
petitioner's checking account. The petitioner has since been prompt in making his rent payments and has not issued any other bad checks to his landlord in the last year.

Between January 1987 and March 1988, the petitioner issued 28 checks that were returned due to insufficient funds in his checking account. During this same time period, the petitioner was charged 24 overdraft fees by his bank, First Fidelity. While banking at First Fidelity, the petitioner did not keep accurate records. He did not register all of his checks and did not balance his account. In order to correct this situation and get a clean start, the petitioner closed this account and opened a new account.

The petitioner opened a new checking account at Midlantic Bank in July 1988. This account has been managed much more efficiently. The petitioner has not had any checks returned for insufficient funds. He has maintained a positive, although sometimes minimal, balance, he has a savings account, and he has his salary deposited by his employer directly into his account.

On December 21, 1985, the petitioner was arrested for shoplifting by the Egg Harbor Township Police Department. The petitioner had been shopping at Sears at the Shore Mall. He had numerous small purchases in his hands. When he approached the cash register, he fumbled to get his credit card out of his wallet, which was in his back pocket. While holding his other purchases, he placed three small bottles of perfume—with a total value of $36—in his front pocket so that he could retrieve his credit card. He then forgot to take the perfume back out of his pocket when the cashier was ringing up his purchases. He was stopped and detained by store personnel before he left the store.

On January 13, 1986, in the Municipal Court of Egg Harbor Township, the petitioner pleaded guilty to the charge of shoplifting, in violation of N.J.S.A. 2C:20-11. The petitioner was sentenced to spend 15 days in jail, which sentence was suspended, and to pay a $150 fine, $25 in court costs, and a $25 Violent Crimes Compensation Board penalty. As a condition of the suspension of the jail sentence, the petitioner was required to attend a shoplifting course. The petitioner attended the course and satisfied all parts of his sentence on or before March 15, 1986.

The petitioner is 25 years old, single, and has no children. He attended Stockton State College from June 1981 through December 1986. He received minimal financial support from his family while he attended school. He worked part-time from September 1981
through March 1983 as a food service helper for CVI Foods at Stockton State College. He worked from eight to sixteen hours per week at an hourly rate of $3.35 per hour. He averaged ten hours per week and earned from $30 to $35 per week. He was terminated from this position for not reporting to work.

Since June 14, 1984, the petitioner has been employed at the Tropicana Hotel and Casino (now TropWorld) as a cage cashier. In 1987, the petitioner obtained a casino key employee license and was promoted to assistant cage shift supervisor. He held this position for one year until his key employee license expired and was not renewed due to the Division's letter of objection filed in this case. The petitioner was therefore returned to his former position of cage cashier. The petitioner presently earns $423 per week, and has a gross income of approximately $22,000 per year.

As a cage cashier, the petitioner functions either as a general cashier at the front window or as a cashier either in the main bank or chip bank. He is responsible for a $100,000 daily bank, which must be checked out accurately. As an assistant cage shift supervisor, he is responsible for checking and verifying all his cashiers' work. He is also responsible for counting down the drawers of all cage cashiers. Two days a week, when the cage shift supervisor was off, the petitioner was in charge and functioned as the acting cage shift supervisor.

The petitioner has received five disciplinary actions for shortages in his bank. On June 29, 1984, only two weeks after he was employed, the petitioner received a written warning regarding a $1,000 shortage in his drawer. An audit failed to recover the shortage, but all banks, as well as the cage summary, balanced at the conclusion of the shift. On August 28, 1984, the petitioner received a written warning regarding a $250 shortage in his drawer. An audit failed to recover the shortage, but all banks, as well as the cage summary, balanced at the conclusion of the shift. On December 26, 1984, the petitioner received a second written warning for sending out a $100,000 fill transaction instead of a $100,000 credit transaction while working in the chip bank. It was noted that the fill and credit slips are very similar and hard to distinguish. On December 22, 1985, the petitioner received a first written warning regarding a $500 shortage in his drawer. An audit failed to recover the shortage, but all banks, as well as the cage summary, balanced at the conclusion of the shift. Finally, on August 29, 1986, the petitioner received a verbal warning regarding a $130 shortage in his drawer. An audit failed to recover the shortage, but
all banks, as well as the cage summary, balanced at the conclusion of the shift.

The petitioner testified that variances do occur and are easy for any cashier to make. It is not uncommon, especially for new cashiers, to incur variances. His variances were not the result of theft.

The petitioner is also a substitute teacher at the Brighton Avenue School in Atlantic City. He has been a substitute teacher for three years. He earns $50 a day, but his income varies depending on his availability and the school's needs.

When the petitioner opened his credit card accounts, he was young and opened them in good faith. As his bills increased, however, he was unable to pay them. His living expenses consumed his salary. He attempted to pay the bills after the accounts were charged-off. He applied for a debt consolidation loan; however, he was turned down for the loan. The companies, however, wanted the full balances in a lump-sum payment and would not allow the petitioner to make payments on the debts over time. The petitioner could not make full payment at one time, so he thought that the garnishment procedure was the best way to pay his bills. Prior to September 1988, he made verbal arrangements to pay his other bills, and he began paying them in September 1988. He has paid or is now paying on all of his debts. His financial situation is on an upward trend, and he now values his credit rating.

The petitioner believes he has matured as an individual. Previously, he did not pay close attention to his credit. He was young and just starting out in school. He is now more responsible. He is not incurring any new debts until all his debts are satisfied. He now values his credit and is remorseful about his prior credit practices. He vows that he is a more mature individual and that he will not fall into a similar credit pattern again.

The petitioner was raised in Newark in a family with four children. His parents were divorced when he was only 13 years old. He graduated from high school, and moved to the Atlantic City area to attend Stockton State College. He now needs 32 credits to graduate with a degree in Bio Med Communications. Some credits have been deleted from his record until he fully pays his student loans. The petitioner regularly attends church and participates in the choir. He likes to work with children, and he helps coach basketball at the Brighton School. Being a substitute teacher enables him to work with children, and this gives him a sense of community fulfillment. He also
participates in the local chapter of the N.A.A.C.P.

Two witnesses testified on behalf of the petitioner. John E. Copriviza, casino cage manager and assistant casino controller of TropWorld, is the person who originally hired the petitioner. Mr. Copriviza was aware of the petitioner's shoplifting conviction and the garnishment actions, and he is the individual who signed the employee disciplinary actions. Mr. Copriviza supported the petitioner's testimony that shortages, particularly for new employees, are not unusual, but remarked that they are obviously not preferred. In 1987, the total variance at the Tropicana was $140,000, and for January and February of this year, the total variance was approximately $3,000 per month. There was never a question of honesty or integrity involved in the petitioner's variances. Mr. Onque even volunteered to take a lie detector test concerning his variances.

Mr. Copriviza is happy with the petitioner's performance. Mr. Onque is respected by his supervisors, has a good working relationship with the cashiers, has an excellent knowledge of cage procedures, and has a good relationship with customers. Mr. Copriviza promoted the petitioner from cage cashier to assistant cage supervisor in October 1987 over five other cage cashiers. In October 1988, the petitioner was nominated to be the Tropicana supervisor of the quarter. Mr. Copriviza had to demote the petitioner at the end of October 1988 because of the Division's objection to the issuance of a key employee license to the petitioner. The petitioner has been a good employee, and Mr. Copriviza recommends that he be granted a key employee license. Mr. Copriviza would like to retain the petitioner; in fact, the petitioner is one of two individuals the Tropicana would like to promote to the position of cage manager. Mr. Copriviza believes the petitioner has matured, accepted responsibility, and turned his life around.

Sharon Brown first met the petitioner at Stockton State College in 1981. She has known of his credit problems, yet she has never questioned his integrity. She has seen the petitioner at Community Baptist Church every Sunday, has seen him participate in the local chapter of the N.A.A.C.P., and has seen him involved in the community. He is one of the most honorable and trusted people she knows in the community.

The petitioner presented three letters of recommendation. The first is a letter of commendation dated August 29, 1988, and written by John M. Gallaway, president and general manager of the Tropicana. Attached to Mr. Gallaway's letter is a letter of apprecia-
tion written by a casino patron commending Mr. Onque for his prompt, professional and courteous service.

The second letter, dated February 9, 1989, is written by Van C. Bryant, casino cage shift supervisor at TropWorld. Mr. Bryant wrote:

Scott Onque has worked with me since June 13, 1984. He has worked as my Assistant Shift Supervisor on Swing Shift since October 10, 1987. During this time I have found him to be a supervisor of great professionalism and integrity.

Scott is respected and praised by his co-workers as well as his subordinates for his outstanding job as an Assistant Supervisor. He is very knowledgeable of the position and the jurisdiction that surrounds it in respects to the Casino Control Act.

If this letter is to have any bearing on your decision to license Scott, I highly recommend him to be licensed by the Commission as a Key Employee to continue the fine job he is doing with TropWorld.

The third letter, dated February 9, 1989, is written by Bruce Greenfield, principal of the Brighton Avenue School. Mr. Greenfield wrote:

I am writing this letter as a recommendation for Scott Onque who has served as a substitute teacher at the Brighton Avenue School for the past three years.

Scott is a very reliable young man who has done an excellent job working with students on all grade levels. He is conscientious, cooperative, trustworthy and will do whatever is needed to fulfill his role for the job or task he had undertaken.

I, as Principal of the Brighton Avenue School, would hire Scott without hesitation as a full-time teacher, if he so desired.

I know he will be an asset in whatever position he desires and for whomever he is employed.

The petitioner also submitted two management performance evaluations prepared by the Tropicana. The first, a 90-day review performed in January 1988, rates the petitioner's overall performance as "superior." The evaluation describes the petitioner as "an excellent example for his subordinates in customer relations." It says that he shows initiative, produces superior quality work, has sound judgment, and has excellent job potential. The second is an annual review performed in October 1988. Again, the petitioner's overall performance was rated as "superior." He took the time to learn policies and procedures, showed great improvement in his ability to communicate with supervisors, had total commitment to customer satisfaction, made sound and effective decisions, and exhibited initiative and
creativity. The ratings reflect a quality employee who is growing in maturity and experience.

The petitioner also submitted a certificate issued by the State Department of Education after the completion of a criminal record check done pursuant to N.J.S.A. 18A:6-7.1 certifying the petitioner as being approved for public school employment in this State.

Although the Division did not attempt to refute the petitioner’s testimony concerning the circumstances underlying the incident and his current good character, honesty and integrity, it is necessary to assess his credibility. Initially, his position in this matter must be recognized. As the petitioner and the applicant for a casino key employee and casino employee license, he has a direct interest in the outcome and a bias in these proceedings. However, during both the hearing and my review of the record, and from my observations of the petitioner’s demeanor, the plausibility of his testimony, the manner in which he participated in the proceedings and my examination of the documentary evidence and the documents submitted by other witnesses, it appeared that the petitioner testified truthfully in every regard. He candidly admitted his misconduct and credit problems and described in detail, experiencing great humiliation, the underlying circumstances. Accordingly, I am persuaded to accept the petitioner’s testimony in all respects.

I am persuaded that his misconduct and credit problems were, in part, due to immaturity. I am also inclined to believe that his financial problems were the result of his inexperience in dealing with his financial affairs. As indicated above, the petitioner has matured as an individual. Previously, he did not pay close attention to his credit. He was young and just starting out in school. Credit was freely given to him, yet he could not make the payments. His bills outstripped his income. He is now more responsible. He is not incurring any new debts until all his debts are satisfied. He now values his credit and is remorseful about his prior credit practices. He vows that he is a more mature individual and that he will not fall into a similar credit pattern again. His growing maturity and dramatically improved sense of responsibility has been demonstrated in the last two years by his outstanding success in the casino industry as a cage cashier and in his supervisory position as an assistant cage shift supervisor. He has either fully satisfied or is in the process of satisfying virtually all of his old debts.
FINDINGS OF FACT

1. The petitioner obtained two student loans from Howard Savings Bank: one in March 1984 for $1,000 and one in December 1985 for $2,500. These loans were guaranteed by the New Jersey Higher Education Assistance Authority (NJHEAA). On September 22, 1987, the petitioner went into default on his loan. As of December 14, 1988, the petitioner owed NJHEAA a balance of $3900.13. The petitioner began making payments on this debt at a rate of $60 per month on August 23, 1988. He has since voluntarily increased his monthly payment to $100 per month, and he is now making regular payments.

2. In October 1981, the petitioner had obtained another school loan in the amount of $1,650 from Stockton State College. The petitioner’s payments were scheduled to begin on March 8, 1987, in the amount of $90 every three months. The petitioner defaulted on this loan. On September 1, 1988, the petitioner began making payments of $100 per month on this debt. He has now settled his account with the collection agency and is making regular payments directly to Stockton State College.

3. Over a period of two years, the petitioner opened three accounts with Macy’s (Bamberger’s). One account was charged-off in June 1985 in the amount of $182.63, one was charged-off in August 1986 in the amount of $1009, and one was charged-off in October 1986 in the amount of $459.56. In October 1987, a judgment was entered in Essex County against the petitioner in the amount of $1,036.11 (plus court costs of $294.75), for the August 1986 charge-off by Macy’s. A wage attachment was issued against the petitioner’s salary at the Tropicana Hotel and Casino for the amount of the judgment, to be paid in installments of $40.68 per week. This garnishment has been fully satisfied by the petitioner. The petitioner has also attempted to pay off the other two accounts by submitting payments on those accounts. He submitted a monthly repayment agreement to Macy’s on February 23, 1989.
4. An account opened by the petitioner at Stern’s Department store was charged-off in March 1984 in the amount of $95. A judgment was obtained against the petitioner regarding this account in Essex County in October 1984. This judgment has been satisfied.

5. The petitioner’s account at Pally’s Jewelers (Citizen’s Jewelers) was charged-off in the amount of $281.17 in April 1986. This account was turned over to a collection agency and remains unsatisfied.

6. The petitioner’s account at Sears, Roebuck and Company was charged-off in May 1987, in the amount of $483.94. On May 22, 1988, a judgment was entered in the Superior Court in Atlantic County against the petitioner regarding the Sears account in the amount of $518.87. With interest and costs added, the total judgment was for $631.81. A wage attachment was issued against the petitioner’s salary at the Tropicana Hotel and Casino for the amount of the judgment, to be paid in installments of $100.50 per week. This garnishment has been fully satisfied by the petitioner.

7. In 1982, the petitioner opened a revolving charge account at J.C. Penney. This account was charged-off in April 1984 in the amount of $300. The petitioner paid off this account in the amount of $353 on December 3, 1988.

8. In May 1986, the petitioner opened an account with the Popular Club Plan. This account was charged-off in February 1988 in the amount of $100. At the time of the Division’s investigation this account was still unsatisfied; however, it has since been satisfied.

9. In 1986, the respondent and two roommates rented an apartment. The telephone bill was listed in all three names; however, the electric company would only list its bill in one name. The petitioner opened the electric account in his name, and his roommates were supposed to split the electric bill with him. During the winter of 1987/1988, the petitioner and his roommates entered into the electric company’s budget program. In the spring of 1988, the petitioner and his roommates decided to vacate the apartment. The petitioner was billed
$956.06 from the Atlantic Electric Company. The petitioner’s roommates departed and refused to split the electric bill. On September 6, 1988, a judgment was entered in the Superior Court in Atlantic County against the petitioner regarding the Atlantic Electric Company bill in the amount of $965.06. With interest and costs, the total judgment came to $1133.26. A wage attachment was issued against the petitioner’s salary at the Tropicana Hotel and Casino. This garnishment began in February 1989, and the respondent is currently paying this debt.

10. On November 23, 1987, January 12, 1988, and February 10, 1988, the respondent issued checks to the Garden Courts Apartments to pay for his monthly rent. These checks were returned due to insufficient funds in the petitioner’s checking account. The petitioner has since been prompt in making his rent payments and has not issued any other bad checks to his landlord in the last year.

11. Between January 1987 and March 1988, the petitioner issued 28 checks that were returned due to insufficient funds in his checking account. During this same time period, the petitioner was charged 24 overdraft fees by his bank, First Fidelity.

12. While banking at First Fidelity, the petitioner did not keep accurate records. He did not register all of his checks and did not balance his account. In order to correct this situation and get a clean start, the petitioner closed this account and opened a new account.

13. The petitioner opened a new checking account at Midlantic Bank in July 1988. This account has been managed much more efficiently. The petitioner has not had any checks returned for insufficient funds. He has maintained a positive, although sometimes minimal, balance, he has a savings account, and he has his salary deposited by his employer directly into his account.

14. On December 21, 1985, the petitioner was arrested for shoplifting by the Egg Harbor Township Police Department. The petitioner had been shopping at Sears at the Shore Mall. He had numerous small purchases in his
hands. When he approached the cash register, he fumbled to get his credit card out of his wallet, which was in his back pocket. While holding his other purchases, he placed three small bottles of perfume—with a total value of $36—in his front pocket so that he could retrieve his credit cards. He then forgot to take the perfume back out of his pocket when the cashier was ringing up his purchases. He was stopped and detained by store personnel before he left the store.

15. On January 13, 1986, in the Municipal Court of Egg Harbor Township, the petitioner pleaded guilty to the charge of shoplifting, in violation of N.J.S.A. 2C:20-11. The petitioner was sentenced to spend 15 days in jail, which sentence was suspended, and to pay a $150 fine, $25 in court costs, and a $25 Violent Crimes Compensation Board penalty. As a condition of the suspension of the jail sentence, the petitioner was required to attend a shoplifting course. The petitioner attended the course and satisfied all parts of his sentence on or before March 15, 1986.

16. The petitioner is 25 years old, single, and has no children.

17. He attended Stockton State College from June 1981 through December 1986. He received minimal financial support from his family while he attended school. He worked part-time from September 1981 through March 1983 as a food service helper for CVI Foods at Stockton State College. He worked from eight to sixteen hours per week at an hourly rate of $3.35 per hour. He averaged ten hours per week and earned from $30 to $35 per week. He was terminated from this position for not reporting to work.

18. Since June 14, 1984, the petitioner has been employed at the Tropicana Hotel and Casino (now TropWorld) as a cage cashier. In 1987, the petitioner obtained a casino key employee license and was promoted to assistant cage shift supervisor. He held this position for one year until his casino key employee license expired and was not renewed due to the Division’s letter of objection filed in this case. The petitioner was therefore returned
to his former position of cage cashier. The petitioner presently earns $423 per week, and has a gross income of approximately $22,000 per year.

19. The petitioner has received five disciplinary actions for shortages in his bank. On June 29, 1984, only two weeks after he was employed, the petitioner received a written warning regarding a $1,000 shortage in his drawer. On August 28, 1984, the petitioner received a written warning regarding a $250 shortage in his drawer. On December 26, 1984, the petitioner received a second written warning for sending out a $100,000 fill transaction instead of a $100,000 credit transaction while working in the chip bank. It was noted that the fill and credit slips are very similar and hard to distinguish. On December 22, 1985, the petitioner received a first written warning regarding a $500 shortage in his drawer. Finally, on August 29, 1986, the petitioner received a verbal warning regarding a $130 shortage in his drawer. In all shortage cases, an audit failed to recover the shortage, but all banks, as well as the cage summary, balanced at the conclusion of the shift.

20. Variances do occur and are easy for any cashier to make. It is not uncommon, especially for new cashiers, to incur variances. His variances were not the result of theft. There was never a question of honesty or integrity involved in the petitioner’s variances. Mr. Onque even volunteered to take a lie detector test concerning his variances.

21. The petitioner is a substitute teacher at the Brighton Avenue School in Atlantic City. He has been a substitute teacher for three years. He earns $50 a day, but his income varies depending on his availability and the school’s needs.

22. The petitioner was raised in Newark in a family with four children. His parents were divorced when he was only 13 years old. He graduated from high school, and moved to the Atlantic City area to attend Stockton State College.

23. The petitioner regularly attends church and participates in the choir. He likes to work with children, and he helps
coach basketball at the Brighton School. Being a substitute teacher enables him to work with children, and this gives him a sense of community fulfillment. He also participates in the local chapter of the N.A.A.C.P.

24. Mr. Onque is respected by his supervisors, has a good working relationship with the cashiers, has an excellent knowledge of cage procedures, and has a good relationship with customers. He was promoted from cage cashier to assistant cage supervisor in October 1987 over five other cage cashiers. In October 1988, the petitioner was nominated to be the Tropicana supervisor of the quarter. The petitioner is one of two individuals the Tropicana would like to promote to the position of cage manager.

**APPLICABLE LAW**

*N.J.S.A.* 5:12-89, licensing of casino key employees, provides in pertinent part:

b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

1. Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

2. Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission
of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

_N.J.S.A. 5:12-90_, licensing of casino employees, provides in pertinent part:

a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section; except that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of this act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum.

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.
DISCUSSION

The Division contends that the petitioner lacks the requisite financial stability, integrity and responsibility for casino key employee licensure, pursuant to section 89b(1), and for casino employee licensure, pursuant to section 90b, which incorporates section 89b(1) by reference. The Division further contends that the petitioner lacks the requisite good character, honesty and integrity for casino key employee licensure, pursuant to section 89b(2), and for casino employee licensure, pursuant to section 90b, which incorporates section 89b(2) by reference.

(A) N.J.S.A. 5:12-89b(1) and N.J.S.A. 5:12-90b

Under section 89b(1) for casino key employee licensure, and under section 90b, which incorporates section 89b(1) by reference, for casino employee licensure, Mr. Onque was required to establish, by clear and convincing evidence, his financial stability, integrity and responsibility. In the Matter of the Application of Resorts International Hotel, Inc. for a Casino Licensure, 10 N.J.A.R. 244, 250 (1979). In Resorts, the Commission held that this standard encompasses all financial aspects of the applicant, the holding company and the other qualifiers. In addition to basic financial solvency or soundness, the standard relates to honesty and forthrightness in business dealings. Further, it includes the care and prudence exercised by the entity or individual in managing, preserving and enhancing the assets entrusted to such entity or individual. Id at 250.

In Velasquez v. Division of Gaming Enforcement, OAL DKT. CCC 4251-87 (July 7, 1988), aff’d. Casino Control Comm. (September 23, 1988), Judge Law held that the petitioner’s recent attempts to establish a payback schedule, although commendable, were “too recent to demonstrate his ‘financial stability, integrity and responsibility.’” In In the Matter of the Application of Gilbert L. Smith as a Casino Employee, OAL DKT. CCC 2252-79 (November 8, 1979), mod., Casino Control Comm. (March 20, 1980), the Commission rejected the ALJ’s finding of a lack of financial stability and stated:

Although evidence of financial stability may also be probative of financial integrity, these concepts are not identical. Central to the question of financial stability is the Applicant’s solvency or soundness. In the Matter of the Application of Resorts International Hotel, Inc. for a Casino License, supra at 7. Of primary importance to the Commission is the Applicant’s present financial stability. Proofs
adduced at the hearing establish that the Applicant was, at the time of the hearing, indebted to four judgment creditors in the sum of approximately $1,300. The Commission may certainly take notice of the fact that residents of this State are and have been for some time enduring double digit inflation in general, high unemployment and soaring consumer prices. Atlantic City in particular, where the Applicant has resided for the past 19 years, has in the past several decades suffered from blight and economic decay. See N.J.S.A. 5:12-1(b). Against this backdrop, the indebtedness of the Applicant in the approximate sum of $1,300 cannot be viewed as uncommon. Furthermore, the Commission is satisfied that the record on this issue permits the inference that the judgments against the Applicant which were outstanding as of October, 1979 have been, or will be, satisfied within a reasonable period of time. We believe we may properly anticipate that employment in the casino industry will enable the Applicant to make substantial progress in this regard in the foreseeable future. In light of all of the foregoing, the Commission finds that the Applicant presently possesses the financial stability required by N.J.S.A. 5:12-89(b)(1). [Final Commission Decision at 13-14]

The petitioner's prior financial record in this case is dismal. The record herein demonstrates that petitioner has engaged in a course of conduct in his business dealings that runs counter to the accepted standards of honesty and forthrightness. His history of having been arrested, not paying his debts, having his wages garnished and subsequently having made restitution on the issuance of bad checks fails to engender confidence in his basic financial solvency or his honesty and forthrightness in business dealings. Although the existence of unsatisfied debts has a negative impact upon the petitioner's financial integrity and responsibility, there are other factors here which serve to mitigate the effect. The petitioner has matured as an individual. Previously, he did not pay close attention to his credit. He was young and just starting out in school. He is now more responsible. He is not incurring any new debts until all his old debts are satisfied. He now values his credit and is remorseful about his prior credit practices. He vows that he is a more mature individual and that he will not fall into a similar credit pattern again.

His growing maturity and dramatically improved sense of responsibility has been demonstrated in the last two years by his outstanding success in the casino industry as a cage cashier and in his supervisory position as an assistant cage shift supervisor. He has demonstrated care and prudence in his ability to manage, preserve and enhance the assets entrusted to him. He is responsible each day
for large sums of money. The petitioner's undisputed efforts to cure his economic problems are further probative of his financial integrity and responsibility. He did not intend to dishonor his debts. He applied for a debt consolidation loan; however, his application was rejected. He attempted to arrange repayment schedules; however, the creditors wanted a lump-sum payment. When the petitioner could not make a lump-sum payment, garnishment orders were entered. He entered negotiations to repay other debts last September, as he was then more financially solvent. He has now either fully satisfied or is in the process of satisfying virtually all of his old debts. These attempts to reestablish his financial stability and integrity are indicative of the petitioner's effort to regain financial stability, an effort which, in turn, reflects positively upon the petitioner's financial integrity and responsibility.

Based upon the above, I CONCLUDE that the petitioner's efforts, however commendable, are too recent to demonstrate that his financial stability, integrity and responsibility are sufficient for casino key employee licensure. I CONCLUDE, therefore, that petitioner has failed to meet his burden of proof, by clear and convincing evidence, that he meets the statutory criteria of financial stability, integrity and responsibility for a casino key employee license under section 89b(1).

I further CONCLUDE, however, that based upon these same efforts, the petitioner has established his present financial stability, and that he has established, by clear and convincing evidence, that he meets the statutory criteria of financial stability, integrity and responsibility for a casino employee license under section 90b.

(B) N.J.S.A. 5:12-89b(2) and N.J.S.A. 5:12-90b

Under section 90b, which incorporates section 89b(2) by reference, Mr. Onque was required to establish, by clear and convincing evidence, his reputation for good character, honesty and integrity. Application of Resorts International, 10 N.J.A.R. at 248. In Resorts, the Commission held that an unfavorable reputation, although it raises questions that must be addressed by an applicant, is not the determinative criterion for licensure. Rather, the individual's actual character and attributes of good character, honesty and integrity are the key. The reverse must also be said to be true: a good reputation may be undeserved by the existence of proof of bad character. In any event, when the Division raises objection to licensure under section 89b(2) of the Act, it is incumbent upon an applicant to present clear and convincing proof of facts upon which the trier may reach a reasonable conclusion as to suitability. In re Boardwalk Regency
Casino License Application, 180 N.J. Super. 324 (App. Div. 1981); In the Matter of the Applications of Boardwalk Regency Corporation and the Jemm Company for Casino Licenses, 10 N.J.A.R. 295, 297-98 (1980). In accordance with the regulatory strictness intended by the Legislature, it is imperative that the character and background of an applicant be scrutinized closely. Id. at 296.

It is readily apparent that the petitioner's misconduct was aberrant and that he is otherwise a person of good character, honesty and integrity. The misconduct did not involve his licensed employment, and the underlying circumstances somewhat mitigated the seriousness of the misconduct and his credit problems. In addition, the petitioner has fully accepted responsibility for his misconduct and credit problems. He has regained control over his behavior, is repaying or has repaid his debts, has performed admirably within the casino industry during the past several years, and has become a respected member of his community. Accordingly, the petitioner presents no risk to the public or to the integrity of the gaming industry in this State. The petitioner has earned the privilege of licensure. An examination of the whole person clearly and convincingly establishes that Mr. Onque is a person of good character, honesty and integrity, and that he is entirely suitable for licensure in this State. See, Boardwalk Regency Corp.

I CONCLUDE that the petitioner has established, by clear and convincing evidence, his good character, honesty and integrity under sections 89b(2) and 90b.

DISPOSITION

It is ORDERED that the application of Scott Onque for the issuance of a casino key employee license be DENIED.

It is further ORDERED that the application of Scott Onque for the renewal of a casino employee license be GRANTED.

This recommended decision may be adopted, modified or rejected by the CASINO CONTROL COMMISSION, which by law is empowered to make a final decision in this matter.

FINAL DECISION BY THE CASINO CONTROL COMMISSION:

Scott Onque filed applications with the Casino Control Commission (Commission) for issuance of a casino key employee license and for renewal of his casino employee license. By order dated June 1, 1989, both applications were granted by the Commission, which rejected
the initial decision of the Administrative Law Judge (ALJ). The case having presented a significant issue of statutory interpretation, the Commission now issues this opinion setting forth its rationale.

The Division of Gaming Enforcement (Division) objected to both of Mr. Onque's applications. The basis of its objection was that Mr. Onque failed to meet the statutory criteria of financial stability, integrity and responsibility set out in section 89b of the Casino Control Act (Act) for issuance of a key employee license. The same criteria are adopted and made applicable to casino employee licenses by section 90b of the Act. The Division thus also objected to Mr. Onque's application for renewal of his casino employee license, again asserting that he lacked the necessary financial stability, integrity and responsibility. Both applications were forwarded to the Office of Administrative Law (OAL) for a consolidated hearing.

The ALJ concluded that Mr. Onque had not yet established his financial stability, integrity and responsibility sufficiently to warrant issuance of a key employee license. Yet, on the same facts, he concluded that the standard of financial stability, integrity and responsibility had been met as to the application for extension of the casino employee license. While there was also an issue of good character, honesty and integrity, that standard was found to have been met as to both licenses and there has been no challenge to that finding.

The Division excepted to the ALJ's findings, asserting that the standard of financial stability, integrity and responsibility had to be applied consistently for both key employee and casino employee license applications. It is this question which we now address.

Subsection 89b reads, in relevant part:

(1) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

1. Citations to sections or subsections of the Act will be by reference to the section number only. The formal citation may be obtained by prefixing "N.J.S.A. 5:12-" to the section number.
Subsection 90b states that an applicant for a casino employee license must "meet the qualification criteria . . . contained in section 89 of this Act." Subsection 90b adds only that the standards for business ability and casino experience may be satisfied by a showing of casino job experience and knowledge of the provisions of the Act and regulations pertaining to the particular position involved, or by successful completion of a course of study at a licensed school in an approved curriculum. This experiential language does not appear in 89b. Significantly, the list of criteria set forth in section 89b are not otherwise relisted in section 90 which governs casino employee licensure.

The most obvious difference between the requirements for a casino employee license under section 90 and those for a key employee license under section 89 is the notion of rehabilitation. Under section 90, an applicant who would otherwise be disqualified for licensure by virtue of commission of a disqualifying offense under section 86 may still be licensed if he or she can affirmatively demonstrate rehabilitation based upon specified factors. A key employee license applicant is not entitled to show rehabilitation under section 89, which mandates denial of a key employee license in all cases where the applicant is disqualified under section 86.

Statutory construction starts with the directive in N.J.S.A. 1:1-1 that, unless there is an express indication to the contrary, the words shall be given their generally accepted meaning. If there is no ambiguity, the statutory language must be read literally. State v. Butler, 89 N.J. 220 (1982). Clear and unambiguous statutes are not open to interpretation. Cold Indian Springs Corp. v. Ocean Twp., 154 N.J. Super. 75 (Law Div. 1977), aff'd 161 N.J. Super. 586 (App. Div. 1978) and 81 N.J. 502 (1980).

The New Jersey courts have recognized the axiom "expressio unius est exclusio alterius" (express mention of one thing implies exclusion of all others). This maxim is not a rule, but merely an aid in determining legislative intent. Allstate Insurance Company v. Malec, 104 N.J. 1,8 (1986). Thus, absent reasons to conclude otherwise, if one thing is specifically mentioned, other things not mentioned that would fit within the same category are excluded. Squires v. Atlantic County Freeholder Board, 200 N.J. Super. 496, 503 (Law Div. 1985). In this case, the business experience standard and the availability of rehabilitation are the only differences between the standards of section 89 for casino key employees and of section 90 for casino employees. Thus, while the Legislature anticipated the need for training for casino
employees and, more importantly, mitigated the severity of the section 86 disqualification standards for casino employees, it did not lower or vary the affirmative criteria for licensure, including financial suitability.

This conclusion is buttressed by reference to our prior decisions regarding the financial fitness of individual licensees. The Commission considered the license application of an individual who had incurred debts similar to those sustained by Mr. Onque herein in In the Matter of the Application of Gilbert L. Smith for Licensure as a Casino Employee, OAL Docket No. CCC 2252-79 (March 20, 1980). Discussing the concept of financial stability, we cited to our decision in In the Matter of the Application of Resorts International Hotel, Inc. for a Casino License, 10 N.J.A.R. 244 (1979), as setting the standard upon which financial stability should be adjudicated. We also cited Resorts for this purpose in the 1986 license renewal proceedings for Elsinore Shore Associates. In re Elsinore License Renewal, 11 N.J.A.R. 382, 385 (1986). If the same notion of financial stability is to be applied to casinos and casino employees, surely there is no justification for establishing a dividing line between casino key employees and casino employees. Therefore, we conclude that the financial criteria under subsection 89b are incorporated by reference in subsection 90b and that they are to be applied consistently to both groups of licensees. This conclusion is in accord with the policies of the Act favoring strict regulation of all persons participating in casino gaming, N.J.S.A. 5:12-1(b)(6), and by our projections of the harm which casino employees can bring to public confidence in casino operations. Ibid.

Based upon the above analysis, and with financial suitability, specifically financial stability, being the only issue as to Mr. Onque, it follows that we must either grant both the key employee license and the renewal of his casino employee license or deny both. The Division has urged us to do the latter, but our review of the fact findings made by the ALJ convinces us that issuance of both licenses is the correct result. What our decisions on financial stability reveal is that prime emphasis will be placed upon current and prospective financial stability. For example, in In the Matter of the Application of John J. Taylor for Licensure as a Casino Key Employee, OAL Docket No. CCC4044-79 (May 8, 1980), the Commission upheld the ALJ's determination that neither the applicant's previous financial problems nor the fact that he had filed for bankruptcy on two separate
occasions prevented him from establishing his present financial stability in light of the fact that he was presently meeting his financial obligations.

In Application of Leonard Grabel for a Casino Employee License, OAL Docket No. CCC 4210-82 (August 2, 1984), the applicant defaulted on at least ten accounts which had been written off by the creditors. He was unable to earn sufficient money to pay his bills, especially at the time of his divorce and while he was courting his second wife, because, by his own admission, he lived beyond his means. That admission notwithstanding, the Commission rejected the initial decision and granted the license sought by Mr. Grabel based largely on the fact that, as of the time of the hearing, his financial situation had stabilized. Past failings were outweighed by the status at the time of consideration of the license application.

Here, the ALJ made a specific finding that "petitioner has established his present financial stability." The record before us supports that conclusion. Notwithstanding the fact that Mr. Onque has had a number of credit accounts charged off as uncollectible and that he fell behind on student loans, these failures are being, or have already been, rectified. Most of the credit accounts have now been satisfied and those remaining are being paid off in regular installments, as are the student loans. Petitioner's past financial indiscretions may be attributed in large part to immaturity and failure to take his obligations seriously while a student and in the early years of employment. He is currently well regarded by his supervisors at TropWorld which would now like to promote him to a Cage Manager position, requiring a key employee license.

Given all of the above circumstances, it is our conclusion that Mr. Onque has clearly and convincingly demonstrated his present and prospective financial stability. Thus, both applications should be granted.

CONCLUSION

For the above reasons, we reject the initial decision insofar as it concludes that the criteria of financial stability, integrity and responsibility are different under subsections 89b and 90b, and we further reject the initial decision insofar as it concludes that Mr. Onque has failed to establish his financial suitability pursuant to those
subsections. The application for a key employee license is granted as is the application for renewal of Mr. Onque’s casino employee license.

You must check the New Jersey Citation Tracker in the companion looseleaf volume to determine the history of this case in the New Jersey courts.