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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Initial State Gambling License for:

Ning Low Garcia

Applicant.

CGCC Case No. CGCC-2021-0107-5A

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, June 10, 2021
Time: 10:00 a.m.

1. This matter was scheduled for hearing before the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on Thursday, June 10, 2021 at 10:00 a.m.

2. Ning Low Garcia (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about August 26, 2019, the Bureau of Gambling Control (Bureau) received an Application for State Gambling License from Applicant.

4. On or around November 19, 2020, the Bureau issued its Initial Background Investigation Report in which it concluded that Applicant was not qualified for licensure pursuant to Business and Professions Code section 19857 and disqualified for licensure pursuant to Business and Professions Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about January 7, 2021, the Commission considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application when Commission staff mailed an evidentiary hearing referral letter to Applicant's address of

1 record via regular mail and certified mail on January 13, 2021 which included a blank Notice of
2 Defense form with instructions to return it to the Commission within 21 days of service or else
3 the Commission may issue a default decision.

4 7. Applicant submitted a signed Notice of Defense dated, January 22, 2021.
5 However, on April 15, 2021 the Commission received an additional Notice of Defense, dated
6 April 14, 2021 which waved Applicant's right to a hearing. (Attachment A)

7 8. Applicant subsequently received notice of the hearing through a hearing notice
8 sent via email on April 21, 2021 to Applicant's email address which included Attachment A and
9 stated that the hearing was set to occur on Thursday, June 10, 2021 at 10:00 a.m.

10 **DETERMINATION OF ISSUES**

11 9. An application to receive a license constitutes a request for a determination of the
12 applicant's general character, integrity, and ability to participate in, engage in, or be associated
13 with, controlled gambling. (Bus. & Prof. Code § 19856, subd. (b).)

14 10. In addition, the burden of proving Applicant's qualifications to receive any license
15 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

16 11. At an evidentiary hearing pursuant to Business and Professions Code sections
17 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
18 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

19 12. An application will be denied if the Commission finds that the applicant has not
20 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.
21 4, § 12040(a)(1).)

22 13. Title 4, CCR section 12052, subdivision (c), provides in pertinent part:

23 (c) An applicant for any license, permit, finding of suitability,
24 renewal, or other approval shall be given notice of the meeting at which the
25 application is scheduled to be heard. Notice shall be given pursuant to
Section 12006.

26 * * *

27 (2) If the application is to be scheduled at an evidentiary
28 hearing, pursuant to subsections (a) or (b) of Section 12060, the
notice of hearing shall inform the applicant of the following:

(F) The waiver of an evidentiary hearing, failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at an evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

14. Title 4, CCR section 12057, subdivision (a), provides in pertinent part:

(a) When an applicant fails to submit a completed Notice of Defense, CGCC-ND-002 (Rev. 12/18) according to the timelines on the form, affirmatively waives his, her, or its right to an evidentiary hearing, or he, she, or it fails to appear at an evidentiary hearing, the Commission will, based on the interests of justice and judicial economy:

(1) Issue a default decision after the consideration of the Bureau report, any supplemental reports by the Bureau, and any other documents or testimony provided or which may be provided to the Commission before the decision is issued;

15. The Commission takes official notice of the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it in this matter as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR section 12052, subdivision (c)(2)(F).

16. The Commission has jurisdiction to adjudicate this case by default.

17. The Commission may deny Applicant's application based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it, pursuant to CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and Professions Code sections 19857 and 19859.

18. The Commission may further also deny Applicant's application based upon Applicant's failure to prove to the Commission Applicant is qualified to receive a license or other approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4, CCR section 12060(i).

19. Therefore, as the Applicant submitted a Notice of Defense form waiving his right to a hearing, did not attend the default hearing, and did not submit any information or evidence in

1 favor of granting Applicant's Application, Applicant did not meet Applicant's burden of
2 demonstrating why a license should be issued pursuant to Business and Professions Code section
3 19856(a) and Title 4, CCR section 12060(i). By failing to meet Applicant's burden of proving
4 Applicant's qualifications for licensure, Applicant has failed to satisfy the Commission that
5 Applicant is a person that is in all other respects qualified to be licensed pursuant to Business and
6 Professions Code section 19857(c). As a result, the Commission finds that pursuant to California
7 Code of Regulations, Title 4, sections 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and
8 12057, Applicant's Application is subject to denial.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

Title 4, CCR section 12064, subdivision (a) and (b) provide, in part:

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration shall be made in writing to the Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either:

- (1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission’s issuance of the decision or at the hearing on the matter; or,
- (2) Other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

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

A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

Title 4, CCR section 12066, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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ORDER

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1. NING LOW GARCIA'S Application for Approval of Initial State Gambling License is DENIED.

2. NING LOW GARCIA may not apply to the Commission or the Bureau for any type of license, registration or work permit for one (1) year after the effective date of this Order.

This Order is effective on Monday, July 12, 2021.

Dated: 6/10/21

Signature: 

Paula LaBrie, Chair

Dated: 6/10/21

Signature: 

Cathleen Galgiani, Commissioner

Dated: 6/10/21

Signature: 

Eric Heins, Commissioner

Dated: 6/10/21

Signature: 

Edward Yee, Commissioner

State of California

California Gambling Control Commission

Notice of Defense

CGCC-CH1-03 (New 05/20)

Page 1 of 2



State of California
California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
 www.cgcc.ca.gov

In the Matter of:

CGCC No.

2021-0107-5A

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issue by the Commission. The Notice of Defense must be received by the Commission and Bureau within 21 days of service by the Commission or Bureau.

SECTION 1: HEARING REQUEST

PLEASE ANSWER THE FOLLOWING

I REQUEST AN EVIDENTIARY HEARING WHERE THE COMMISSION WILL CONSIDER THE MERITS OF MY APPLICATION, THE BUREAU REPORT, AND ANY RECOMMENDATION OF THE BUREAU.

SECTION 2: HEARING WAIVER

PLEASE ONLY ANSWER THE FOLLOWING IF A HEARING IS NOT REQUESTED UNDER SECTION 1 ABOVE AND IF APPLICABLE:

1 I ACKNOWLEDGE AND ACCEPT THAT THE CONDITIONS, LIMITATIONS AND RESTRICTIONS ATTACHED TO THE NOTICE WILL BE PLACED ON MY LICENSE, REGISTRATION, FINDING OF SUITABILITY OR OTHER APPROVAL, AND I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)

I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)

2

THE WAIVER OF MY RIGHT TO AN EVIDENTIARY HEARING INCLUDES A WAIVER OF THE FOLLOWING ASSOCIATED RIGHTS:


- THE RIGHT TO BE HEARD AT THE HEARING
- THE RIGHT TO A COPY OF THE HEARING'S GOVERNING PROCEDURE
- THE RIGHT TO DISCOVERY
- THE RIGHT TO PRESENT ORAL EVIDENCE
- THE RIGHT TO PRESENT AND EXAMINE WITNESSES
- THE RIGHT TO INTRODUCE RELEVANT EXHIBITS
- THE RIGHT TO CROSS-EXAMINE OPPOSING WITNESSES
- THE RIGHT TO IMPEACH WITNESSES
- THE RIGHT TO OFFER REBUTTAL EVIDENCE
- THE RIGHT TO CHALLENGE EVIDENCE USED AGAINST ME
- THE RIGHT TO REQUEST RECONSIDERATION FOLLOWING THE DECISION'S ISSUANCE
- THE RIGHT TO PETITION FOR REVIEW OF THE DECISION UNDER SECTION 1085 OF THE CODE OF CIVIL PROCEDURE

THE WAIVER OF AN EVIDENTIARY HEARING MAY RESULT IN A DEFAULT DECISION BEING ISSUED BY THE COMMISSION BASED UPON THE BUREAU REPORT, ANY SUPPLEMENTAL REPORTS BY THE BUREAU AND ANY OTHER DOCUMENTS OR TESTIMONY ALREADY PROVIDED OR WHICH MAY BE PROVIDED TO THE COMMISSION, OR THAT THE HEARING MAY CONTINUE TO OCCUR ON THE ORIGINALLY NOTICED DATE WITHOUT APPLICANT PARTICIPATION.

SECTION 4. TRANSLATION REQUIREMENTS	
PLEASE ANSWER ONE OF THE FOLLOWING (IF YOU REQUIRE ASSISTANCE, PLEASE CONTACT THE COMMISSION AT (916) 263-0700):	
<input checked="" type="checkbox"/>	I UNDERSTAND ENGLISH AND HAVE READ AND UNDERSTAND THIS FORM.
<input type="checkbox"/>	I DO NOT UNDERSTAND ENGLISH AND HAVE HAD AN INTERPRETER READ AND EXPLAIN THIS FORM TO ME.
<input type="checkbox"/>	I WILL REQUIRE AN INTERPRETER AT THE HEARING.
	INTERPRETER LANGUAGE:

SECTION 5. REPRESENTED BY AN ATTORNEY	
PLEASE ONLY ANSWER THE FOLLOWING IF YOU ARE REPRESENTED BY AN ATTORNEY:	
<input type="checkbox"/>	I AM REPRESENTED BY AN ATTORNEY, WHOSE NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:
NAME:	
MAILING ADDRESS:	
CITY, STATE AND ZIP CODE:	
TELEPHONE NUMBER:	
EMAIL ADDRESS:	
<input type="checkbox"/>	MY ATTORNEY REQUESTS THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED VIA EMAIL, INSTEAD OF VIA MAIL.

SECTION 6. NOT REPRESENTED BY AN ATTORNEY (WITH OR WITHOUT LAY REPRESENTATION)	
PLEASE ANSWER THE FOLLOWING IF YOU ARE NOT REPRESENTED BY AN ATTORNEY OR IF YOU HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE:	
<input checked="" type="checkbox"/>	I AM NOT REPRESENTED BY AN ATTORNEY. IF AND WHEN AN ATTORNEY IS RETAINED, IMMEDIATE NOTIFICATION OF THE ATTORNEY'S NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS WILL BE PROVIDED TO THE COMMISSION AND THE BUREAU SO THAT THE ATTORNEY WILL BE ON THE RECORD TO RECEIVE LEGAL NOTICES, PLEADINGS, AND OTHER PAPERS. MY ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:
MAILING ADDRESS:	
CITY, STATE AND ZIP CODE:	
TELEPHONE NUMBER:	
EMAIL ADDRESS:	
<input checked="" type="checkbox"/>	I REQUEST THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED TO ME VIA EMAIL, INSTEAD OF VIA MAIL.
<input type="checkbox"/>	I WILL HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE DURING THE HEARING.

SECTION 7. SIGNATURE			
PLEASE FILL OUT THE FOLLOWING. FOR CAPACITY PLEASE LIST THE RELATIONSHIP TO THE APPLICANT (I.E. OWNER, OFFICER, DIRECTOR, MANAGING MEMBER, GENERAL PARTNER, ETC. WRITE N/A IF INDIVIDUAL SIGNING ON OWN BEHALF. LAY REPRESENTATIVES MAY NOT COMPLETE THIS SECTION ON BEHALF OF THE APPLICANT).			
PRINTED NAME	SIGNATURE	CAPACITY	DATE (MM/DD/YYYY)
Ning Low Garcia		N/A	04/14/2021