

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. GCADS-GEWP-001924

In the Matter of the Application for Approval  
of Initial Work Permit Regarding:

MARK GILL

Applicant.

**DEFAULT DECISION AND ORDER**

Hearing Date: August, 27, 2015

Time: 1:30 p.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 August, 27, 2015.

2. Mark Gill (Applicant) failed to appear and was not represented at the hearing.

**FINDINGS OF FACT**

3. On or about January 7, 2013, the Commission received an Initial Regular Work Permit/Temporary Work Permit Application from Applicant.

4. On or about March 6, 2015, the Bureau of Gambling Control (Bureau) issued its Work Permit Employee Background Investigation Report in which it concluded that Applicant was unqualified for licensure pursuant to Business and Profession Code section 19857 and disqualified for licensure pursuant to Business and Profession Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about April 3, 2015, the Commission's Executive Director referred Applicant's application to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in two ways. First, Commission staff mailed an evidentiary hearing referral letter via certified mail to Applicant's address of record on April 3, 2015 which included a blank Notice of Defense

1 form with instructions to return it to the Commission within 15 days of receipt or else the  
2 Commission may issue a default decision. A copy of the letter was mailed to Applicant's  
3 Designated Agent Mark Adam. Commission staff received no response from Applicant including  
4 a Notice of Defense form or otherwise as of April 23, 2015. (Exhibit A)

5 7. Second, Applicant further received notice of the hearing through a hearing notice  
6 sent certified mail on May 14, 2015 to Applicant's address of record which included Exhibit A  
7 and stated that the hearing was set to occur on Thursday, August 27, 2015 at 1:30 p.m. A copy of  
8 the letter was mailed to Applicant's Designated Agent Mark Adam. Commission staff received  
9 the notice of hearing package back because it was not deliverable as addressed and the United  
10 States Post Office was unable to forward.

11 **DETERMINATION OF ISSUES**

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

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

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

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

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

25 \* \* \*

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

28 \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(F) The waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure of an applicant to appear at an evidentiary hearing, may result in:

1. 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 might be provided to the Commission . . . .

12. 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)(1).

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

14. 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 section 12052, subdivision (c)(2)(F)(1), and Business and Professions Code sections 19857 and 19859.

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

16. Therefore, as the Applicant failed to return a Notice of Defense form, did not attend the default hearing, and did not submit any information or evidence in favor of granting Applicant's Application, Applicant did not meet Applicant's burden of demonstrating why a finding of suitability should be issued pursuant to Business and Professions Code section 19856(a) and Title 4, CCR section 12060(i). The Commission further finds that pursuant to California Code of Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1), Applicant's Application is subject to denial.

///  
///  
///

1 NOTICE OF APPLICANT'S APPEAL RIGHTS

2 Applicant has the following appeal rights available under state law:

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

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

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

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

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

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

27 Title 4, CCR section 12066, subsection (c) provides:

28 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.

///  
///  
///

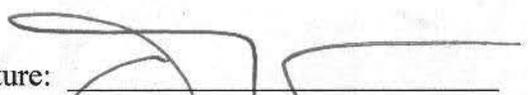
**ORDER**

1  
2  
3 1. Mark Gill's Application for Initial Regular Work Permit/Temporary Work Permit  
4 is DENIED.

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

7  
8 This Order is effective on 9/28/15.

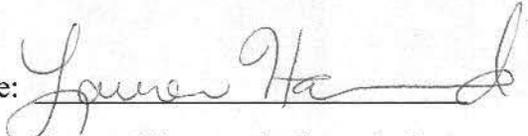
9  
10 Dated: 8.27.15

11 Signature:   
12 Jim Evans, Chairman

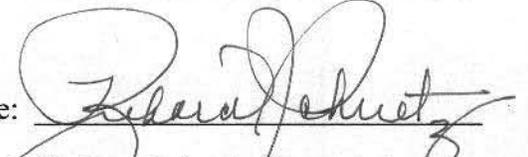
13  
14 Dated: \_\_\_\_\_

15 Signature: \_\_\_\_\_  
16 Tiffany E. Conklin, Commissioner

17 Dated: 8-27-15

18 Signature:   
19 Lauren Hammond, Commissioner

20 Dated: Aug 27, 2015

21 Signature:   
22 Richard Schuetz, Commissioner

23  
24  
25  
26  
27  
28

## DECLARATION OF STEPHANIE CLARK

I, Stephanie Clark, declare as follows:

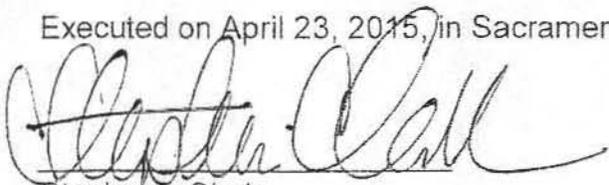
I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Mark Gill's case has been assigned to me for processing.

On April 3, 2015 I mailed a Gambling Control Act hearing referral letter to Mark Gill at [REDACTED] by certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Mark Gill that consideration of his application was being referred to a Gambling Control Act hearing pursuant to CCR, Title 4, Division 18, Chapter 1, section 12060(a). This letter included a Notice of Defense form (CGCC-ND-002) with instructions to return the Notice of Defense to the Commission within 15 days of receipt in order to preserve their right to an administrative hearing.

Today is April 23, 2015 and I have not received the Notice of Defense form or any communication from Mark Gill regarding a request for a Gambling Control Act hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Executed on April 23, 2015, in Sacramento, California.



Stephanie Clark