

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

DANIEL LEE ROY

Applicant.

CGCC Case No. CGCC-2020-0827-9

DEFAULT DECISION AND ORDER

Hearing Date: January 21, 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, January 21, 2021 at 10:00 a.m.

2. Daniel Lee Roy (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about September 3, 2019, the Bureau received an Application for Initial Regular Work Permit/Temporary Work Permit from Applicant.

4. On or about June 29, 2020, the Bureau of Gambling Control (Bureau) issued its Work Permit Initial Background Investigation Report in which it concluded that Applicant was unqualified for licensure pursuant to Business and Professions Code section 19857. The Bureau recommended that the Commission deny Applicant's application.

5. On or about August 27, 2020, the Commission referred Applicant's application to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (b).

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 September 2, 2020 which included a blank Notice of Defense form with instructions to return it to the Commission within 15 days of receipt or else the

1 Commission may issue a default decision. Commission staff received no response from Applicant
2 including a Notice of Defense form or otherwise as of October 21, 2020. (Exhibit A)

3 7. Second, Applicant further received notice of the hearing through a hearing notice
4 sent certified mail on November 20, 2020 to Applicant's address of record which included
5 Exhibit A and stated that the hearing was set to occur on Thursday, January 21, 2021 at 10:00
6 a.m.

7 **DETERMINATION OF ISSUES**

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

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

13 10. At an evidentiary hearing pursuant to Business and Professions Code sections
14 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
15 demonstrate why a license or other approval should be issued. (Cal. Code Regs., tit. 4, § 12060,
16 subd. (i).)

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

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

21 * * *

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

24 * * *

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

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12. 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;

13. 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 sections 12052, subdivision (c)(2)(F) and 12057.

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

15. 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.

16. 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, as required by Business and Professions Code section 19856(a) and Title 4, CCR section 12060, subdivision (i).

17. 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 work permit 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, sections 12052, subdivision (c)(2)(F) and 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, subsection (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, subsection (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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3 1. DANIEL LEE ROY'S application for Initial Regular Work Permit/Temporary
4 Work Permit is DENIED.


5 2. DANIEL LEE ROY may not apply to the Commission or the Bureau for any type
6 of license, registration, or work permit for one (1) year after the effective date of this Order.
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8 This Order is effective on February 22, 2021.
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11 Dated: 1/21/21

Signature: 
Paula LaBrie, Commissioner

12
13 Dated: 1/21/21

Signature: 
Gareth Lacy, Commissioner

14
15
16 Dated: 1/21/21

Signature: 
Trang To, Commissioner

DECLARATION OF SONNY XIONG

I, Sonny Xiong, declare as follows:

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

On September 2, 2020, I mailed a Gambling Control Act hearing referral letter to Daniel Roy at [REDACTED] by regular mail and certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Daniel Roy 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(b). This letter included a Notice of Defense form (CGCC-ND-002) with instructions to return the Notice of Defense to the Commission within 21 days of receipt in order to preserve their right to an administrative hearing.

Today is October 21, 2020 and I have not received the Notice of Defense form or any communication from Daniel Roy 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 October 21, 2020, in Sacramento, California.



Sonny Xiong