

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Issues
Against:

JOSHUA ALLEN HAMILTON

Respondent.

BGC Case No. BGC-HQ2012-00011AL
CGCC Case No. CGCC-2012-0891

DECISION AND ORDER

Hearing Date: June 19, 2014
Time: 10:00 am

This matter was heard by 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 12050(b)(2), in Sacramento, California, on June 19, 2014.

Ronald Diedrich, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Joshua Allen Hamilton (Hamilton) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) Statement of Issues, dated January 14, 2014, served by certified mail, return receipt requested;
- (b) Notice of Hearing and Prehearing Conference, dated May 2, 2014, served by certified mail, return receipt requested; and
- (c) Conclusion of Prehearing Conference letter, dated May 28, 2014.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (a) Statement of Issues filed and served by the Bureau;
- (b) Copies of the January 28, 2014, Notice of Change of Type of Hearing (from a hearing under the Administrative Procedure Act to one heard

1 pursuant to Business and Professions Code sections 19870 and 19871 and
2 Title 4, CCR section 12050(b)(2)); the May 2, 2014 Notice of Hearing and
3 Prehearing Conference; the May 28, 2014 Conclusion of Prehearing
4 Conference letter; and the June 3, 2014 letter from the Bureau to Hamilton;

5 (c) Registration and license history for Hamilton, including: (1) Application
6 for Third Party Proposition Player Services Registration, dated April 12,
7 2010; (2) Application for Third Party Proposition Player Services License
8 for Supervisor, Player or Other Employee, received by the Bureau on June
9 23, 2010; (3) Level 1 Supplemental Information; (4) Request for an
10 Additional/Transfer/Reinstatement Third Party Proposition Player Services
11 Registration/License, dated July 24, 2010; (5) Application for Third Party
12 Proposition Player Services Registration, received by the Commission on
13 May 10, 2012; (6) Application for Third Party Proposition Services
14 License for Supervisor, Player or Other Employee, received by the
15 Commission on September 8, 2010; and (7) Level 1 Supplemental
16 Information;

17 (d) Certified copy of the Complaint; the Register of Actions/Docket;
18 Defendant Hamilton's Acknowledgement of Advisal, Understanding and
19 Waiver of Constitutional Rights; and Order Granting Probation and
20 Sentence Elements from the Kern County Superior Court regarding
21 Hamilton's December 29, 2010, misdemeanor conviction for violating
22 Penal Code section 243, subdivision (e)(1), in the case People v. Hamilton
23 (Super. Ct. Kern County, 2010, BM780246A);

24 (e) Bakersfield Police Department, General Offense Hardcopy, Copy for
25 Outside Agency (police report) regarding the circumstances leading to
26 Hamilton's December 29, 2010, misdemeanor conviction for violating
27 Penal Code section 243, subdivision (e)(1), in the case People v. Hamilton
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1 (Super. Ct. Kern County, 2010, BM780246A);

2 (f) Certified copy of the Register of Actions/Docket from the Kern County
3 Superior Court regarding Hamilton's April 16, 2008, misdemeanor
4 conviction for violating Vehicle Code section 23152, subdivision (a), in the
5 case of People v. Hamilton (Super. Ct. Kern County, 2008, BM728826A)
6 and a copy of Vehicle Code section 23593 (advisement);

7 (g) Bakersfield Police Department, General Offense Hardcopy, Copy for
8 Outside Agency (police report) regarding the circumstances leading to
9 Hamilton's April 16, 2008, misdemeanor conviction for violating Vehicle
10 Code section 23152, subdivision (a), in the case of People v. Hamilton
11 (Super. Ct. Kern County, 2008, BM728826A);

12 (h) June 2, 2014, Declaration of Bureau Special Agent Thomas Win, with
13 attached transcripts of the May 14, 2014 interviews of Jessica Monarrez
14 and Officer Ronald Stephenson; and

15 (i) Precedential Decision 2007-01 of the Commission.

16 The matter was submitted on June 19, 2014.

17 FINDINGS OF FACT

18 1. Hamilton holds registration number TPPL-008545 as a third party proposition player
19 for Gaming Management, LLC, a licensed provider of third party proposition player services.

20 2. On or about September 8, 2010, Hamilton submitted an Application for a Third Party
21 Proposition Player Services License for Supervisor, Player or Other Employee (Application) to
22 the Commission to convert his registration to a license.

23 3. At its August 9, 2012 meeting, the Commission voted to preliminarily deny
24 Hamilton's Application. During this meeting, Hamilton orally requested an evidentiary hearing
25 to challenge the preliminary denial of his Application.

26 4. On or about October 19, 2012, the Executive Director of the Commission set the
27 matter for an administrative hearing to be conducted pursuant to Business and Professions Code
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1 section 19825 and Title 4, CCR section 12050(b)(1), an Administrative Hearing Act hearing
2 before an Administrative Law Judge.

3 5. On January 14, 2014, the Bureau filed and served a Statement of Issues on Hamilton
4 recommending the denial of his Application.

5 6. On January 28, 2014, the Executive Director of the Commission re-set the matter for
6 an administrative hearing to be conducted pursuant to Business and Professions Code sections
7 19870 and 19871 and Title 4, CCR section 12050(b)(2).

8 7. On May 2, 2014, the Commission served a Notice of Hearing and Prehearing
9 Conference, via certified mail, on Hamilton and the Bureau.

10 8. On May 20, 2014, the noticed Prehearing Conference was held before Presiding
11 Officer Jason Pope, Attorney III of the Commission. Hamilton failed to attend the prehearing
12 conference.

13 9. On May 28, 2014, the Commission served a Conclusion of Prehearing Conference on
14 Hamilton and the Bureau.

15 10. On June 3, 2014, the Bureau sent a letter to Hamilton, enclosing the June 2, 2014
16 declaration of Bureau Special Agent Thomas Win and reminding Hamilton of the administrative
17 hearing scheduled for June 19, 2014.

18 11. The Commission heard Case No. CGCC-2012-0891 on June 19, 2014. The Bureau
19 was represented throughout the pendency of the hearing by Deputy Attorney General Ronald
20 Diedrich. Hamilton failed to appear throughout the pendency of the hearing or make any contact
21 with the Commission or the Bureau.

22 12. On or about April 16, 2008, Hamilton was convicted of violating Vehicle Code section
23 23152(a), driving under the influence of drugs and/or alcohol, a misdemeanor, with an
24 advisement under Vehicle Code section 23593¹, in the case People v. Hamilton (Super. Ct. Kern
25 County, 2008, No. BM728826A). Hamilton was sentenced to three years' probation and ordered

26 ¹ The advisement provides as follows: "You are hereby advised that being under the influence of alcohol or
27 drugs, or both, impairs your ability to safely operate a motor vehicle. Therefore, it is extremely dangerous to human
28 life to drive while under the influence of alcohol or drugs, or both. If you continue to drive while under the influence
of alcohol or drugs, or both, and, as a result of that driving, someone is killed, you can be charged with murder."

1 to complete a DUI program, participate in a victim impact panel, and pay a fine and restitution.

2 13. On or about June 16, 2008, the Superior Court for Kern County issued a bench warrant
3 for Hamilton for failing to attend the required victim impact panel.

4 14. On or about July 1, 2008, Hamilton appeared in court and was again ordered to attend
5 the victim impact panel and provide the court with proof of compliance by September 26, 2008.

6 15. On or about October 1, 2008, the Superior Court for Kern County issued a bench
7 warrant for Hamilton for again failing to attend the required victim impact panel. Hamilton's
8 probation was revoked.

9 16. On or about April 14, 2009, the Superior Court of Kern County held a probation
10 violation hearing with regard to Hamilton's failures to attend the victim impact panel. Hamilton
11 failed to appear at the hearing and the court issued a bench warrant.

12 17. On or about April 27, 2009, Hamilton appeared in court. The Superior Court of Kern
13 County reinstated his probation and Hamilton served three days in jail in lieu of participating in
14 the victim impact panel.

15 18. On or about December 29, 2010, while on probation, Hamilton was convicted of
16 violating Penal Code section 243(e)(1), battery upon a spouse/cohabitant, a misdemeanor, in the
17 case People v. Hamilton (Super. Ct. Kern County, 2010, No. BM780246A). Hamilton was
18 sentenced to three years' probation and twenty days in jail, ordered to complete a work release
19 program, attend family violence counseling, complete eight hours of community service, and pay
20 a fine and restitution.

21 19. The factual circumstances underlying his conviction for violating Penal Code section
22 243(e)(1) involve Hamilton abusing his female cohabitant by pulling her by her hair, throwing
23 soup on her, grabbing her by the throat with both hands and choking her, slapping her in the face,
24 kicking her in the buttocks, and physically restraining her and covering up her mouth with his
25 hands. Hamilton's conduct involves moral turpitude, as that term is defined in People v. Mazza
26 (1985) 175 Cal.App.3d 836, 842.

1 5. Division 1.5 of the Business and Professions Code, the provisions of which govern the
2 denial of licenses on various grounds, does not apply to licensure decisions made by the
3 Commission under the Gambling Control Act. Business and Professions Code section 476(a).

4 6. The Commission has the responsibility of assuring that licenses, approvals, and
5 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
6 operations are conducted in a manner that is inimical to the public health, safety, or welfare.
7 Business and Professions Code section 19823(a)(1).

8 7. An “unqualified person” means a person who is found to be unqualified pursuant to
9 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
10 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
11 Professions Code section 19859. Business and Professions Code section 19823(b).

12 8. The Commission has the power to deny any application for a license, permit, or
13 approval for any cause deemed reasonable by the Commission. Business and Professions Code
14 section 19824(b).

15 9. No gambling license shall be issued unless, based on all of the information and
16 documents submitted, the commission is satisfied that the applicant is a person of good character,
17 honesty and integrity. Business and Professions Code section 19857(a).

18 10. No gambling license shall be issued unless, based on all of the information and
19 documents submitted, the commission is satisfied that the applicant is a person whose prior
20 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
21 public interest of this state, or to the effect regulation and control of controlled gambling, or
22 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
23 the conduct of controlled gambling or in the carrying on of the business and financial
24 arrangements incidental thereto. Business and Professions Code section 19857(b).

25 11. An applicant for a license to provide third party proposition player services shall be
26 ineligible for licensing if the applicant has failed to meet the requirements of Business and
27 Professions Code sections 19856 or 19857. Title 4, CCR section 12218.11(e).

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1 12. As a result of having engaged in conduct involving moral turpitude that led to a
2 misdemeanor criminal conviction of Penal Code section 243(e)(1), Hamilton has failed to
3 demonstrate that he is a person of good character, honesty and integrity pursuant to Business and
4 Professions Code section 19857(a). Therefore, Hamilton is unqualified for licensure pursuant to
5 Business and Professions Code section 19857(a) and ineligible for licensing to provide third party
6 proposition player services pursuant to Title 4, CCR section 12218.11(e).

7 13. As a result of Hamilton's pattern and practice of flagrant disregard for the law and
8 legal authority, Hamilton has failed to demonstrate that he is a person of good character, honesty
9 and integrity pursuant to Business and Professions Code section 19857(a). Therefore, Hamilton
10 is unqualified for licensure pursuant to Business and Professions Code section 19857(a) and
11 ineligible for licensing to provide third party proposition player services pursuant to Title 4, CCR
12 section 12218.11(e).

13 14. Hamilton's pattern and practice of flagrant disregard for the law and legal authority
14 pose a threat to the public interest of this state. Therefore, Hamilton has failed to demonstrate
15 that he is a person whose prior activities, criminal record, reputation and habits do not pose a
16 threat to the public interest of this state pursuant to Business and Professions Code section
17 19857(b). As a result, Hamilton is unqualified for licensure pursuant to Business and Professions
18 Code section 19857(b) and ineligible for licensing to provide third party proposition player
19 services pursuant to Title 4, CCR section 12218.11(e).

20 15. Given that Hamilton did not attend the Prehearing Conference or administrative
21 hearing despite receiving adequate notice for both, and did not make any type of oral or written
22 request prior to the hearing to excuse his absence at the hearing or request a continuance,
23 Hamilton failed to meet his burden of proving that he is qualified for a license to provide third
24 party proposition player services pursuant to Business and Professions Code section 19856(a) and
25 Title 4, CCR section 12050(b)(3).
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NOTICE OF APPLICANT’S APPEAL RIGHTS

Hamilton has the following appeal rights available under state law:

Title 4, CCR section 12050, subsection (c)(6) provides, in part:

An applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions imposed upon it may request reconsideration by the Commission within 30 days of notice of the decision. The request shall be in writing and shall outline the reasons for the request, which must be based upon either 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 upon other good cause for which the Commission in its discretion decides 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, California Code of Regulations (CCR) section 12050, subsection (d) provides:

An appeal of a denial or imposition of conditions by the Commission shall be subject to judicial review under Code of Civil Procedure section 1085 (pursuant to 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

1. Joshua Allen Hamilton's Application for a Third Party Proposition Player Services License for Supervisor, Player or Other Employee is DENIED.

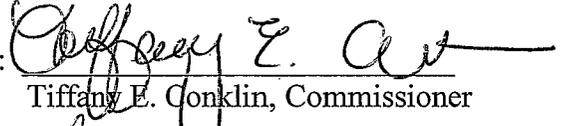
2. Joshua Allen Hamilton may not apply for a license, registration, or work permit for two (2) years after the effective date of this Order.

3. No costs are to be awarded.

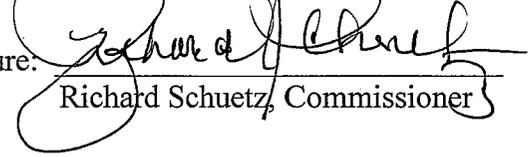
4. Each side to pay its own attorneys' fees.

This Order is effective on August 11, 2014.

Dated: July 10, 2014 Signature: 
Richard J. Lopes, Chairman

Dated: July 10, 2014 Signature: 
Tiffany E. Gonklin, Commissioner

Dated: July 10, 2014 Signature: 
Lauren Hammond, Commissioner

Dated: July 10, 2014 Signature: 
Richard Schuetz, Commissioner