

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. CGCC-2018-0712-9B

In the Matter of the Application for Approval  
of Third-Party Proposition Player License for:

ALEKSEY VASILIYEVICH TKACH

Applicant.

**DECISION AND ORDER**

Hearing Date: Thursday, March 21, 2019  
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, March 21, 2019.

2. The Bureau of Gambling Control (Bureau) was represented by Deputy Attorney General Ronald Diedrich with the Indian and Gaming Law Section, Department of Justice, Attorney General's Office.

3. Aleksey Vasiliyevich Tkach (Applicant) was present on his own behalf.

4. During the administrative hearing, Presiding Officer Jason Pope took official notice of the following: (1) Notice of Hearing with enclosures including Applicant's Application and the Bureau Report; (2) the Bureau's Statement of Reasons; (3) Notice of Defense signed by Applicant; and (4) the Commission's Conclusion of Prehearing Conference letter.

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

(1) Statement to Respondent; Statement of Reasons; Excerpts from the California Business and Professions Code and CCR; September 18, 2018, Certification of Service; and Notice of Defense, Bates Nos. 001-029;

(2) Commission Memorandum, Notices and Letters:

(a) June 4, 2018, Commission staff's Licensing Division

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

Memorandum, sans attachment, Bates Nos 030-031;  
(b) July 13, 2018, Referral of Third-Party Proposition Player Services License to an Evidentiary Hearing (CGCC-2018-0712-9B), sans enclosure, Bates Nos. 032-035;  
(c) September 27, 2018, Notice of Hearing, with attachments and proof of service, Bates Nos. 036-050;  
(d) February 6, 2019, Conclusion of Prehearing Conference, Bates Nos. 051-056.

- (3) The Bureau’s Registration/License History regarding Applicant, with Certification of Official Records, Bates Nos. 057-060;
- (4) Redacted copies of Applicant’s Application for Third Party Proposition Player Services License for Supervisor, Player or Other Employee and Level I Supplemental Information, Bates Nos. 061-074;
- (5) Redacted copy of the Bureau’s May 2018, Third-Party Player Background Investigation Report, Level III, for Applicant, Bates Nos. 075-083;
- (6) Redacted copy for the Superior Court records for the case of *People v. Aleksey Tkach* (Sup. Ct. Tehama County, 2017, No. 17CR-000174), Bates Nos. 084-091;
- (7) Redacted copy of the California Highway Patrol Arrest-Investigation Report of the incident leading to the conviction in the case of *People v. Aleksey Tkach* (Sup. Ct. Tehama County, 2017, No. 17CR-000174), Bates Nos. 092-098;
- (8) Redacted copies of February 2 & 9, 2018 correspondence between the Bureau and Aleksey Tkach, via designated agent Tanya Sundin, regarding additional information and documentation required to evaluate Aleksey Tkach’s Application, Bates Nos. 099-119.



1 Party Proposition Player Services License for Supervisor, Player or Other Employee from  
2 Applicant along with a Supplemental Information Application, (collectively Application) to  
3 convert his registration as a third-party proposition player to a license.

4 13. On the Application, Applicant stated that he had not been convicted of a  
5 misdemeanor within the last 10 years. Applicant also stated that he was not currently on  
6 probation.

7 14. During the course of the Bureau's background investigation, it was discovered that  
8 Applicant had been convicted of a misdemeanor for DUI and was currently on probation as a  
9 result of the conviction.

10 15. The Bureau asked Applicant to explain the discrepancy between the criminal  
11 history information contained in his Application and that obtained through the Bureau's  
12 investigation. Applicant responded on February 8, 2018, stating that he did not realize that a DUI  
13 counts as a misdemeanor. Further, Applicant wrote that he was not aware that he was on  
14 probation.

15 16. On or about May 24, 2018 the Bureau provided its Third-Party Player Background  
16 Investigation Report to the Commission where it concluded that Applicant was not qualified for  
17 licensure. The Bureau recommended that the Commission deny Applicant's application.

18 17. On or about July 12, 2018, the Commission considered Applicant's application  
19 and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054,  
20 subdivision (a), subsection (2).

21 18. On or about July 25, 2018, Applicant signed and sent a Notice of Defense to the  
22 Commission requesting an evidentiary hearing.

23 19. On September 14, 2018, the Bureau submitted a Statement of Reasons alleging  
24 four causes for denial of Applicant's Application for failing to disclose and/or providing  
25 misleading information regarding his DUI conviction and resulting probation.

26 20. The Commission heard Case No. CGCC-2018-0712-9B on March 21, 2019. The  
27 Complainant was represented throughout the pendency of the hearing by Deputy Attorney  
28

1 General Ronald Diedrich. Applicant was present on his own behalf without representation.

2 21. The Bureau admitted evidence demonstrating that Applicant was convicted of a  
3 misdemeanor DUI in February 2017 and was ordered to comply with seven probation conditions,  
4 including payment of a fine and completion of the First Offender DUI Class.

5 22. Applicant's testimony at the hearing was consistent with his February 8, 2018  
6 written statements to the Bureau. Applicant stated that he did not realize that his DUI was  
7 considered a misdemeanor or that the terms he had to abide by were considered "probation."  
8 Applicant testified that he was not represented by an attorney when he pled guilty to the DUI  
9 charge. Applicant stated that prior to receiving the DUI conviction, his only involvement in a  
10 legal proceeding had been receipt of a speeding ticket.

11 23. Applicant testified that when he filled out the Application he was primarily  
12 concerned about accurately identifying his residences for the past ten years. Applicant explained  
13 that he was "scrambling" to find his prior addresses and regrets not taking the time to review the  
14 paperwork from his arrest and court case to confirm that his responses on the Application were  
15 correct. Without reviewing his paperwork, Applicant did not realize that his DUI conviction was  
16 considered a misdemeanor.

17 24. Applicant testified that he understood that terms and conditions were imposed on  
18 his license as a result of the DUI conviction, but he didn't realize that imposition of these  
19 conditions was called "probation." Applicant testified that he is in compliance with the terms,  
20 including completion of a class and payment of a fine.

21 25. Applicant testified that he disclosed the DUI arrest on his local work permit  
22 applications and understood that the fact that he had a DUI conviction was a matter of public  
23 record that was available to the Bureau.

24 26. Applicant testified and admitted evidence establishing that, unlike the Application  
25 he submitted to the Bureau, the local work permit applications he filled out required disclosure of  
26 any "arrests" rather than misdemeanors. Applicant testified that he clearly understood that he was  
27 arrested and he disclosed the DUI arrest on two separate work permit applications in September  
28

1 2017 and April 2018.

2 27. Ms. Saelee, General Manager of Gold Gaming, testified on Applicant's behalf.  
3 Ms. Saelee testified that she has worked with Applicant on and off for approximately five years.  
4 Ms. Saelee testified that Applicant is helpful and honest and he is an asset to Gold Gaming.

5 28. Ms. Saelee testified that she is responsible for preparing performance reviews for  
6 employees of Gold Gaming and most of Applicant's ratings on his performance reviews have  
7 been excellent.

8 29. Tanya Sundin, Designated Agent and Office Administrator for Gold Gaming  
9 testified that Applicant worked for the company on and off for over ten years. Applicant began  
10 working as a proposition player in 2009 when he was employed by California Gaming and he  
11 worked there until he was laid off due to lack of work in 2011.<sup>1</sup> Applicant reapplied and was  
12 rehired by Gold Gaming in April 2013 and was employed until he resigned in November 2013.  
13 Applicant reapplied to Gold Gaming in May 2014 and has been a dedicated employee ever since.  
14 Ms. Sundin testified that the fact that Applicant was rehired more than once as a proposition  
15 player by California Gaming and Gold Gaming is evidence of his good character.

16 30. Applicant's testimony that he did not realize that his DUI conviction was  
17 considered a misdemeanor or that he was on probation was credible, as was Applicant's  
18 testimony that he did not intend to conceal the existence of his DUI conviction and resulting  
19 probation from the Bureau.

20 31. Applicant was candid and forthcoming while testifying at the hearing, including  
21 regarding the circumstances surrounding his DUI conviction. Applicant accepted responsibility  
22 for his failure to properly review his arrest and court records when filling out the Application and  
23 expressed regret for not taking more care to accurately complete the criminal history section of  
24 the Application.

25 32. Applicant has worked in the gaming industry on and off over a period of ten years  
26 and has never been disciplined by an employer or accused by regulators of engaging in conduct

---

27 <sup>1</sup> Applicant testified that while he worked at California Gaming, the company changed ownership  
28 and became Gold Gaming.

1 that posed a threat to the effective regulation and control of controlled gambling.

2 33. Applicant has met his burden of proving that he is a person of good character,  
3 honesty and integrity.

4 34. All documentary and testimonial evidence submitted by the parties that is not  
5 specifically addressed in this Decision and Order was considered but not used by the Commission  
6 in making its determination on Applicant's Application.

7 **LEGAL CONCLUSIONS**

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

11 36. At an evidentiary hearing pursuant to Business and Professions Code sections  
12 19870 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant  
13 to prove his qualifications to receive any license under the Gambling Control Act. (Title 4, CCR  
14 section 12060(i); Business and Professions Code section 19856(a).)

15 37. Public trust and confidence can only be maintained by strict and comprehensive  
16 regulation of all persons, locations, practices, associations, and activities related to the operation  
17 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
18 equipment. (Business and Professions Code section 19801(h).)

19 38. An application to receive a license constitutes a request for a determination of the  
20 applicant's general character, integrity, and ability to participate in, engage in, or be associated  
21 with, controlled gambling. (Business and Professions Code section 19856(b).)

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

26 40. An "unqualified person" means a person who is found to be unqualified pursuant  
27 to the criteria set forth in Business and Professions Code section 19857, and "disqualified person"  
28

1 means a person who is found to be disqualified pursuant to the criteria set forth in Business and  
2 Professions Code section 19859. (Business and Professions Code section 19823(b).)

3 41. The Commission has the power to deny any application for a license, permit, or  
4 approval for any cause deemed reasonable by the Commission. (Business and Professions Code  
5 section 19824(b).)

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

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

16 44. The commission shall deny a license to any applicant who is disqualified for  
17 failure of the applicant to provide information, documentation, and assurances required by this  
18 chapter or requested by the chief, or failure of the applicant to reveal any fact material to  
19 qualification, or the supplying of information that is untrue or misleading as to a material fact  
20 pertaining to the qualification criteria. (Business and Professions Code section 19859(b).)

21 45. A requester shall be ineligible for licensing as a third party proposition player if  
22 the requester has failed to meet the requirements of Business and Professions Code sections  
23 19856 or 19857. (CCR section 12218.11(e).)

24 46. Applicant has met his burden of proving that he is a person of good character,  
25 honesty, and integrity. Therefore, Applicant is qualified to receive a third party proposition player  
26 license pursuant to Business and Professions Code section 19857(a). As a result, Applicant is not  
27 ineligible to receive a third party proposition player license pursuant to CCR section 12218.11(e).  
28



1 exceeded the commission's jurisdiction.

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

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

8 **ORDER**

- 9 1. ALEKSEY VASILIYEVICH TKACH'S application for Third-Party Proposition  
10 Player License is APPROVED.  
11 2. No costs are to be awarded.  
12 3. Each side to pay its own attorneys' fees.

13 This Order is effective on April 29, 2019.

14 Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

15 Jim Evans, Chairman

16 Dated: 4/29/19 Signature: Paula LaBrie

17 Paula LaBrie, Commissioner

18 Dated: 4/29/19 Signature: Gareth Lacy

19 Gareth Lacy, Commissioner

20 Dated: 4/29/19 Signature: Trang To

21 Trang To, Commissioner