

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Third-Party Player Services License for
Supervisor, Player or Other Employee
Regarding:

CINDY QUIROZ YANEZ

Applicant.

CGCC Case No. GCCC-2018-1101-10A

DECISION AND ORDER

Hearing Dates: Wednesday, May 1, 2019
Time: 10:00 a.m.

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 12060, in Sacramento, California, on Wednesday, March 27, 2019 at 10:00 a.m.

Deputy Attorney General Jennifer Henderson (Henderson), Department of Justice, Attorney General's Office, State of California, represented complainant Stephanie Shimazu, Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (Complainant).

Applicant Cindy Quiroz Yanez was present on her own behalf without representation (Applicant).

During the administrative hearing, Presiding Officer Russell Johnson took official notice of the Conclusion of Prehearing Conference Letter, the Complainant's Statement of Reasons, Applicant's signed Notice of Defense, and the Notice of Hearing, which enclosed Applicant's State Gambling Application and the Bureau's Report.

During the administrative hearing, Presiding Officer Russell Johnson accepted into evidence the following exhibits offered by the Complainant:

- (1) Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code, §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; April 5, 2019, Certificate of Service by Certified Mail Service; and Notice of

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

- Defense, dated November 19, 2018, Bates Nos. 001-026;
- (2) California Gambling Control Commission (Commission) Memorandum, Notices and Letters:
- a. November 1, 2018, Commission staff’s Licensing Division Memorandum, sans attachment, Bates Nos. 027-029;
 - b. November 9, 2018, Referral of Third-Party Proposition Player Services to an Evidentiary Hearing (CGCC-2018-01101-10A), sans enclosure, Bates Nos. 030-031;
 - c. February 12, 2019, Notice of Hearing, with attachments and proof of service, Bates Nos. 032-056;
 - d. March 12, 2019, Email rescheduling Prehearing conference, Bates Nos. 057-058;
 - e. March 29, 2019, Conclusion of Prehearing Conference, Bates Nos. 059-067.
- (3) The Bureau of Gambling Control’s (Bureau’s) Certification of Official Records, Registration History for Cindy Quiroz Yanez, Bates Nos. 068-069;
- (4) Redacted copies of Cindy Yanez’s Application for Third Party Proposition Player Services License for Supervisor, Player or Other Employee and Level I Supplemental Information (collectively, Application), Bates Nos. 070-086;
- (5) Redacted copy of the Bureau’s September 2018, Third-Party Player Background Investigation Report, Level III, for Cindy Quiroz Yanez., Bates Nos. 087-094;
- (6) Redacted copies of the certified court records in the case of People v. Cindy Quiroz Yanez (Supt. Ct. Santa Cruz, 2007, Case No. M38706.), Bates Nos. 095-123;

1 The matter was submitted on Wednesday, May 1, 2019.

2 **FINDINGS OF FACT**

3 1. On or about September 4, 2014, the Commission issued Applicant a registration,
4 Number TPPL – 014270 as a third-party proposition player. This has been continuously renewed
5 and remains valid until April 30, 2020.

6 2. On or about October 21, 2014, the Bureau received an Application for Approval of
7 Third-Party Player Services License for Supervisor, Player or Other Employee from Applicant.
8 On or about December 19, 2014 Applicant submitted a supplemental application. Together these
9 documents are referred to herein collectively as “Application.”

10 3. On or about September 7, 2018, the Bureau submitted a Third-Party Player
11 Background Investigation Report (Bureau Report) to the Commission recommending the
12 Commission deny Applicant’s Application.

13 4. On or about November 9, 2018, the Commission referred Applicant’s Application to
14 an evidentiary hearing, pursuant to CCR section 12054, subdivision (a)(2) to be held pursuant to
15 CCR section 12060 with the Bureau to serve as Complainant. The referral included a Notice of
16 Defense with instructions to the Applicant to return it within 15 days or else the Commission may
17 deny her Application by default.

18 5. On or about November 27, 2018, Applicant submitted a Notice of Defense.

19 6. On or about February 12, 2019, the Commission sent a Notice of Hearing and
20 Prehearing Conference, via US mail, to Applicant and Henderson.

21 7. On or about March 29, 2019, the noticed prehearing conference was held before
22 Presiding Officer Russell Johnson. Deputy Attorney General Henderson attended on behalf of the
23 Complainant. Applicant was present on her own behalf.

24 8. On or about March 29, 2019, the Commission sent a Conclusion of Prehearing
25 Conference letter to Applicant and Henderson which included instructions.

26 9. On or about April 8, 2018, the Complainant filed a Statement of Reasons with the
27 Commission. In its Statement of Reasons, Complainant recommended that the Commission deny
28

1 Applicant's Application.

2 10. The Commission heard CGCC Case No. GCCC-2018-1101-10A on Wednesday, May
3 1, 2019. The Complainant was represented throughout the hearing by Deputy Attorney General
4 Henderson. Applicant appeared on her own behalf with the assistance of her Designated Agent
5 Brian Stonoff.

6 Applicant's Testimony

7 11. On or about June 7, 2007, Respondent was convicted of violating Vehicle Code
8 section 20002, subdivision (a), failure by a driver involved in an accident to immediately stop, as
9 a misdemeanor, in the case of People v. Cindy Quiroz Yanez (Supt. Ct. Santa Cruz, 2007, Case
10 No. M38706).

11 12. Applicant testified about the circumstances of this incident. She was 19 at the time
12 and drinking with her friends and boyfriend. She had just dropped off her boyfriend and friends at
13 his condo when she hit a car and then backed into a fence before leaving the scene. She
14 eventually ended up at an apartment complex where she awoke in the back seat. She did not recall
15 how she got there. She had various missed calls on her phone from her friends and boyfriend. She
16 also spoke with her father who told her to return to the scene.

17 13. When Applicant returned to the scene of the accident she contacted the police at
18 the direction of her father, and met with the owner of the vehicle she hit. She also gave her
19 statement to the police when they arrived. Applicant was certain that she did not tell the police
20 officer that she was drinking as she was afraid of getting a DUI. However, the Police report
21 stated she admitted to drinking. When confronted with this discrepancy, she believed the police
22 report was in error. Applicant's testimony in this regards was confusing at best since she
23 disclosed a DUI on her Application and the initial citation given to her from the police reflected a
24 DUI along with the hit and run.

25 14. Applicant testified that this behavior was abnormal for her as she was not a drinker
26 and had blacked out that night. She didn't remember the incident itself and only reconstructed it
27 from the information obtained from her friends at the scene. She didn't remember getting to the
28

1 apartment where she awoke in her parked car.

2 Applicants Statements to the Bureau

3 15. Applicant provided differing statements to the Police, the Bureau, and
4 Commission. In the statement to the police she stated:

5 I, Cindy was driving my red ford mustang early in the morning on March 25, 2007. I
6 was trying to park my car in between two other cars when I accidentally hit the
7 Envoy. I was scared and didn't know how to react, so I left. But after thinking things
8 over, I came back to talk to the lady to work things out.

9 16. In the initial Application package provide to the Bureau on or around October 14,
10 2014 she stated:

11 On March 25, 2007 I was out with friends and I was inebriated and opted to drive. I
12 had a blackout and apparently hit a vehicle and drove away but do not remember
13 doing so. Unfortunately I was unable to pay and fell behind on monthly payments but
14 did pay amount in full.

15 17. In follow up to the Commission and Bureau inquires, she provided an email
16 statement through her designated agent, Brian Stonoff on Thursday, October 11, 2018 which
17 stated:

18 On The [sic] night that this incident happen I was out with friends, I was young and
19 naive. I wasn't thinking of the consequences. I tried to park in between 2 cars but the
20 space was limited. I knew I had hit something and I then realized that I had
21 accidentally hit a car. I had never been in any kind of trouble before so I was scared,
22 and left the scene. I knew that I had done wrong, so I later went to apologize to the
23 owner of the car. I called the police myself an told them that I had been involved in
24 an accident and that I had left the scene but that I was back at the location where the
25 incident happened and that even though she was ultimately not convicted of a DUI. I
26 was with the owner of the car involved. I don't remember specific times about when
27 this happened but I believe the incident happened around 2am. When I contacted the
28 police department I don't remember the time, all I remember is that it was early
afternoon. When I submitted my statement to the Gambling control bureau I wasn't
specific nor did I go into details. It's been over 11 years so it's hard to remember
many details.

18 18. The Complainant and Commissioners inquired from Applicant about the
19 discrepancies between these statements and her testimony at the hearing. Applicant stated that
20 she did not tell the police she was drinking as she was scared of a DUI as discussed above. She
21 also stated that her follow up statement to the Commission was more detailed than the statement
22 to the Bureau and she should have provided more information initially. She also stated she was
23 not trying to hide the incident from the Bureau as she provided the police report with her

1 statement to the Bureau.

2 19. Ultimately the Commission does not believe these discrepancies reflect any
3 dishonesty or intent to deceive the Bureau or Commission. Applicant's conviction was over 10
4 years old from the date of the hearing and while there are differences between the various
5 statements, the Commission concludes these differences are attributed simply to poor recollection
6 generally and between what she remembered happened and what she speculated happened.
7 Additionally Applicant appeared truthful, forthright, and remorseful when testifying about the
8 incident and her statements. It should be noted that Applicant did provide the court documents
9 with her application and did disclose a DUI for which she was not convicted.

10 20. Applicant also testified that this incident was a wakeup call for her. She stepped
11 away from that boyfriend and focused on working and staying out of trouble. She is a single mom
12 and a provider with her parents living with her. She has also worked in the industry for 9 years
13 with no incidents in the industry and no further criminal convictions following the hit and run.

14 Testimony of Brian Stonoff

15 21. Brian Stonoff, Applicant's Designated Agent and current boss testified on Applicant's
16 behalf. He spoke very highly of her indicating she is a trusted employee and very dependable. She
17 handles chips, transactions between bankers and people, and performs daily counts. She is a lead
18 supervisor who is his right hand person.

19 22. The matter was submitted for Commission consideration on Wednesday, May 1, 2019.

20 **LEGAL CONCLUSIONS**

21 23. Division 1.5 of the Business and Professions Code, the provisions of which govern the
22 denial of licenses on various grounds, does not apply to licensure decisions made by the
23 Commission under the Gambling Control Act. (Bus. & Prof. Code § 476, subd. (a).)

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

27 25. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
28

1 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
2 demonstrate why a license or other approval should be issued. (Cal. Code Regs., tit. 4, § 12060,
3 subd. (i); Bus. & Prof. Code § 19856, subd. (a).)

4 26. Public trust and confidence can only be maintained by strict and comprehensive
5 regulation of all persons, locations, practices, associations, and activities related to the operation
6 of lawful gambling establishments and the manufacture and distribution of permissible gambling
7 equipment. (Bus. & Prof. Code § 19801, subd. (h).)

8 27. The Commission has the responsibility of assuring that licenses, approvals, and
9 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
10 operations are conducted in a manner that is inimical to the public health, safety, or welfare. (Bus.
11 & Prof. Code § 19823, subd. (a)(1).)

12 28. An “unqualified person” means a person who is found to be unqualified pursuant to
13 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
14 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
15 Professions Code section 19859. (Bus. & Prof. Code § 19823, subd. (b).)

16 29. The Commission has the power to deny any application for a license, permit, or
17 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code § 19824,
18 subd. (b).)

19 30. No gambling license shall be issued unless, based on all of the information and
20 documents submitted, the commission is satisfied that the applicant is a person of good character,
21 honesty and integrity. (Bus. & Prof. Code § 19857, subd. (a).)

22 31. No gambling license shall be issued unless, based on all of the information and
23 documents submitted, the commission is satisfied that the applicant is a person whose prior
24 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
25 public interest of this state, or to the effective regulation and control of controlled gambling, or
26 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
27 the conduct of controlled gambling or in the carrying on of the business and financial
28

1 arrangements incidental thereto. (Bus. & Prof. Code § 19857, subd. (b).)

2 32. The commission shall deny a license to any applicant who is disqualified for failure of
3 the applicant to provide information, documentation, and assurances required by this chapter or
4 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
5 supplying of information that is untrue or misleading as to a material fact pertaining to the
6 qualification criteria. (Bus. & Prof. Code § 19859, subd. (b).)

7 33. A requester shall be ineligible for licensing [as a third party proposition player] if the
8 requester has failed to meet the requirements of Business and Professions Code sections 19856 or
9 19857. (Cal. Code Regs., tit. 4, § 12218.11, subd. (e).)

10 34. Applicant has met her burden of proving that she is a person of good character,
11 honesty, and integrity. Therefore, Applicant is qualified to receive a third party proposition player
12 license pursuant to Business and Professions Code section 19857(a). As a result, Applicant is not
13 ineligible to receive a third party proposition player license pursuant to CCR section 12218.11(e).

14 35. Applicant has met her burden of proving that she is a person whose prior activities,
15 criminal record, if any, reputation, habits, and associations do not pose a threat to the public
16 interest of this state, or to the effective regulation and control of controlled gambling, or create or
17 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the
18 conduct of controlled gambling or in the carrying on of the business and financial arrangements
19 incidental thereto. Therefore, Applicant is qualified to receive a third party proposition player
20 license pursuant to Business and Professions Code section 19857(b). As a result, Applicant is not
21 ineligible to receive a third party proposition player license pursuant to CCR section 12218.11(e).

22 36. Applicant has met her burden of proving that she is not disqualified from licensure
23 pursuant to Business and Professions Code section 19859 nor ineligible for licensing as a third
24 party proposition player pursuant to CCR section 12218.11.

25 ///
26 ///
27 ///

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

NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

CCR section 12064, subsections (a) and (b) provide, 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, 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. The request 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 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 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.

CCR section 12066, subsection (c) provides:

A decision of the Commission denying an application or imposing conditions on 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

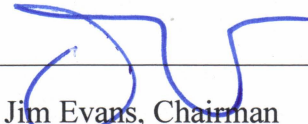
1
2 1. CINDY QUIROZ YANEZ' Application for Approval of Third-Party Proposition
3 Player Services License is hereby APPROVED.

4 2. No costs are to be awarded.

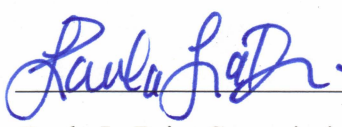
5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on May 30, 2019.

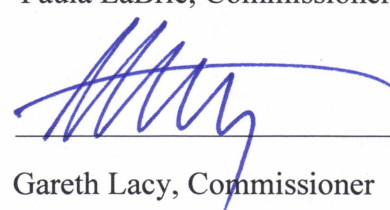
7
8 Dated: 5/30/19

Signature: 
9 Jim Evans, Chairman

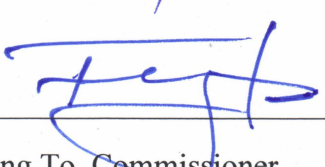
10
11 Dated: 5/30/19

Signature: 
12 Paula LaBrie, Commissioner

13
14 Dated: 5/30/19

Signature: 
15 Gareth Lacy, Commissioner

16
17 Dated: 5/30/19

Signature: 
18 Trang To, Commissioner

19
20
21
22
23
24
25
26
27
28