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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Statement of Reasons for Denial of License Application and Cancellation of Registration Regarding:

BRIANNA MONTEGRANDE-
KLINGENBERG Registration No. TPPL-
014337

Respondent.

BGC Case No. BGC-HQ2015-00011SL
CGCC Case No. CGADS-TPPL-014337

DECISION AND ORDER

Hearing Date: February 10, 2016
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(b), in Sacramento, California, on February 10, 2016.

T. Michelle Laird, 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.

Brianna Montegrande-Klingenberg (Klingenberg) 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) August 14, 2015 Notice of Hearing and Prehearing Conference, with enclosures, served by certified mail, return receipt requested;
- (b) September 14, 2015 Updated Notice of Hearing and Prehearing Conference, served by certified mail, return receipt requested;
- (c) December 11, 2015, letter regarding Conclusion of Prehearing Conference.

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

- (1) Statement of Reasons filed and served by the Bureau;
- (2) Notice of Defense;

- 1 (3) Notices from the Commission: (a) April 8, 2015 Referral of Initial Third
2 Party Proposition Player Services License Application to an Evidentiary
3 Hearing; (b) August 14, 2015 Notice of Hearing and Prehearing
4 Conference, with Attachments A and B; (c) September 14, 2015 Updated
5 Notice of Hearing and Prehearing Conference;
- 6 (4) Klingenberg's Application for Third Party Proposition Player Services
7 Registration, executed September 9, 2014, with Supplemental Information
8 and copy of California Driver's License;
- 9 (5) Klingenberg's Application for Third-Party Player Services License,
10 executed September 9, 2014;
- 11 (6) Level I Supplemental Information to Application for Third Party
12 Proposition Player Services License, executed September 9, 2014;
- 13 (7) Certified Copy of March 6, 2009 Minute Entry Order entering a plea of
14 guilty to a violation of Arizona Revised Statutes, sections 13-3405,
15 subdivision (A)(2); 13-3401; 13-1001; 13-701; and 13-702, attempted
16 possession of marijuana for sale, and the sentence imposed, in the *State of*
17 *Arizona v. Brianna Marie Montegrade* (Coconino County Superior Court
18 Case No. CR 2008-0924)(*"State v. Montegrade"*);
- 19 (8) Certified Copy of March 4, 2011 Petition for Termination of Probation and
20 Entry of Restitution Order; and March 21, 2011 Order granting same, in
21 *State v. Montegrade*;
- 22 (9) January 5, 2015 letter from Bureau to David Tierney, Designated Agent for
23 PT Gaming, LLC, requesting information regarding Klingberg's
24 employment and criminal history, and a copy of her work permit;
- 25 (10) January 19, 2015 email from Klingenberg to the Bureau responding to the
26 Bureau's request for additional information;
- 27 (11) "Payment Confirmation" from "FARE Enforcement Program" confirming
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1 payment made on January 21, 2015 in connection with restitution order
2 entered in *State v. Montegrande*;

3 (12) December 11, 2015 Conclusion of Prehearing Conference notice from the
4 Commission.

5 The matter was submitted on February 10, 2016.

6 FINDINGS OF FACT

7 1. Klingenberg holds a registration as a third-party proposition player, registration
8 number TPPL-014337.

9 2. Klingenberg worked as a third-party proposition player for PT Gaming, LLC, a
10 provider of third-party proposition player services licensed by the Commission.

11 3. On or about March 6, 2009, Klingenberg was convicted of the crime of Attempted
12 possession of Marijuana for Sale, a Class 4 Felony, in violation of Arizona Revised Statutes,
13 sections 13-3405, subdivision (A)(2); 13-3401; 13-1001; 13-701; 13-702 and 13-801, in *State v.*
14 *Montegrande*.

15 4. On or about September 11, 2014, The Bureau received Klingenberg's Application for
16 Third Party Proposition Player Services Registration and Supplemental Information form
17 executed on September 9, 2014.

18 5. The Bureau issued the Registration to Respondent and she presently holds Third Party
19 Proposition Player Registration No. TPPL-014337.

20 6. On or about September 11, 2014, the Bureau received Klingenberg's Application
21 for a Third-Party Proposition Player Services License for Supervisor, Player or Other Employee
22 (Application) to convert her registration as a third-party proposition player to a license and a
23 Level I Supplemental Information Form executed on September 9, 2014.

24 7. Klingenberg indicated on her Third Party Proposition Player Services Registration
25 Supplemental Information form and Application Level I Supplemental Information form that she
26 had never been convicted of a felony. Klingenberg signed both forms under penalty of perjury on
27 September 9, 2014.

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1 8. The Bureau submitted to the Commission a Third-Party Provider of Proposition Player
2 Services Background Investigation Report, Level III, dated March 12, 2015, recommending that
3 Respondent's application for licensure be denied.

4 9. On or about April 8, 2015, The Commission's Executive Director referred
5 consideration of Respondent's suitability for licensure to an evidentiary hearing.

6 10. On or about April 21, 2015, The Commission received Klingenberg's Notice of
7 Defense requesting an evidentiary hearing to consider her suitability for licensure.

8 11. On or about August 14, 2015, the Commission served a Notice of Hearing and
9 Prehearing Conference on Klingenberg, David Tierney of PT Gaming, LLC, and the Bureau.

10 12. On or about September 14, 2015, the Commission served an Updated Notice of
11 Hearing and Prehearing Conference on Klingenberg, David Tierney of PT Gaming, LLC, and the
12 Bureau.

13 13. On or about December 4, 2015, the Bureau filed a Statement of Reasons with the
14 Commission recommending the denial of Klingenberg's Application and the cancellation of her
15 registration as a third-party proposition player. A copy was served on Klingenberg by certified
16 mail.

17 14. The Commission heard Case No. CGADS-TPPL-014337 on February 10, 2016. The
18 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
19 Michelle Laird. Klingenberg failed to appear throughout the pendency of the hearing or make
20 any contact with the Commission or the Bureau.

21 15. The failure of an applicant to attend the hearing on his or her application may affect
22 the applicant's ability to apply for and/or receive a work permit, registration or license from the
23 Commission and/or from other jurisdictions.

24 16. Failing to attend the hearing, Klingenberg did not present or submit any information or
25 evidence in favor of granting her Application.

26 17. The matter was submitted for Commission consideration on February 10, 2016.

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LEGAL CONCLUSIONS

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

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

20. At an evidentiary hearing pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to prove his or her qualifications to receive any license under the Gambling Control Act. Title 4, CCR section 12060(i).

21. The burden of proving his or her qualifications to receive any license from the Commission is on the applicant. Business and Professions Code section 19856(a).

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

23. In reviewing an application for any license, the Commission shall consider whether issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the license will undermine public trust that the gambling operations with respect to which the license would be issued are free from criminal and dishonest elements and would be conducted honestly. Business and Professions Code section 19856(c).

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

25. An "unqualified person" means a person who is found to be unqualified pursuant to

1 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
2 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
3 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

10 28. An applicant shall be ineligible for registration if the application is for registration as
11 an owner, supervisor, or player, and the applicant has been subject to a final administrative or
12 judicial adjudication revoking a registration under Chapter 2.1 of Division 18 of Title 4 of the
13 California Code of Regulations or a state gambling license, key employee license, work permit,
14 finding of suitability or has had an application denied under Chapter 2.1 of Division 18 of Title 4
15 of the California Code of Regulations or the [Gambling Control] Act. Title 4, CCR section
16 12204(d).

17 29. Any regular registration issued in accordance with Chapter 2.1 of Division 18 of
18 Title 4 of the California Code of Regulations shall be subject to cancellation if the Commission
19 determines after a noticed hearing that the registrant is ineligible for registration, has failed in the
20 application for registration to reveal any fact material to the holder’s qualification for registration,
21 or has supplied information in the registration application that is untrue or misleading as to a
22 material fact pertaining to the criteria for issuance of registration. Title 4, CCR section 12205(a).

23 30. A requestor shall be ineligible for licensing if the request to convert is for licensing as
24 an owner, supervisor, or player, the requestor has been subject to a final administrative or judicial
25 adjudication revoking a registration or license under Chapter 2.1 of Division 18 of Title 4 of the
26 California Code of Regulations or a state gambling license, key employee license, work permit or
27 finding of suitability or has had an application denied under Chapter 2.1 of Division 18 of Title 4
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1 of the California Code of Regulations or the [Gambling Control] Act. Title 4, CCR section
2 12218.11(d).

3 31. A requestor shall be ineligible for licensing if the requestor has failed to meet the
4 requirements of Business and Professions Code sections 19856 or 19857. Title 4, CCR section
5 12218.11(e).

6 32. A requestor shall be ineligible for licensing if the requestor would be ineligible for a
7 state gambling license under any of the criteria set forth in Business and Professions Code section
8 19859, subdivisions (b), (e), or (f). Title 4, CCR section 12218.11(f).

9 33. Klingenberg did not meet her burden of proving that she is a person of good character,
10 honesty, and integrity. Therefore, Klingenberg is unqualified for licensure pursuant to Business
11 and Professions Code section 19857(a) and ineligible for licensing as a third-party provider of
12 proposition player services pursuant to Title 4, CCR section 12218.11(e).

13 34. Given that Klingenberg is ineligible for registration pursuant to Title 4, CCR section
14 12204(e), her regular registration is subject to cancellation pursuant to Title 4, CCR section
15 12205(a).

16 NOTICE OF APPLICANT'S APPEAL RIGHTS

17 Klingenberg has the following appeal rights available under state law:

18 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

19 An applicant denied a license, permit, registration, or finding of suitability, or whose
20 license, permit, registration, or finding of suitability has had conditions, restrictions,
21 or limitations imposed upon it, may request reconsideration by the Commission
22 within 30 calendar days of service of the decision, or before the effective date
23 specified in the decision, whichever is later. The request shall be made in writing to
24 the Commission, copied to the Bureau, and shall state the reasons for the request,
25 which must be based upon either newly discovered evidence or legal authorities that
26 could not reasonably have been presented before the Commission's issuance of the
27 decision or at the hearing on the matter, or upon other good cause which the
28 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

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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 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

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2 1. Brianna Montegrando-Klingenberg's Application for a Third-Party Proposition Player
3 Services License for Supervisor, Player or Other Employee is DENIED.

4 2. Brianna Montegrando-Klingenberg's regular registration as a third-party proposition
5 player, Registration Number TPPL-014337, is CANCELLED.

6 3. Brianna Montegrando-Klingenberg may not apply to the Commission or Bureau for a
7 license, registration, or work permit for one (1) year after the effective date of this Order.

8 4. No costs are to be awarded.

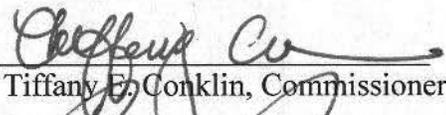
9 5. Each side to pay its own attorneys' fees.

10 This Order is effective on March 28, 2016.

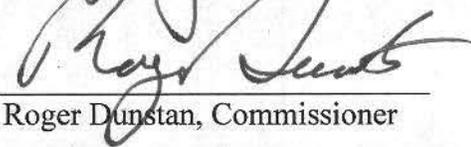
11 Dated: 2/25/16

11 Signature: 
12 Jim Evans, Chairman

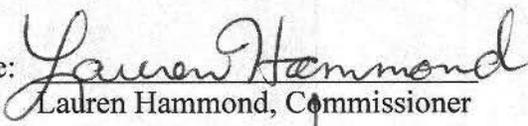
13 Dated: 2/25/2016

13 Signature: 
14 Tiffany E. Conklin, Commissioner

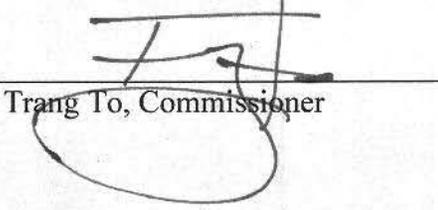
15 Dated: 2/25/2016

15 Signature: 
16 Roger Dunstan, Commissioner

17 Dated: 2/25/2016

17 Signature: 
18 Lauren Hammond, Commissioner

19 Dated: 2/25/2016

19 Signature: 
20 Trang To, Commissioner