BEFORE THE

CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval of Initial Third-Party Proposition Player Services License Regarding: JACKIE SUM TPPL-014490 Applicant.	CGCC Case No. GCADS-TPPL-014490 **DEFAULT DECISION AND ORDER** Hearing Date: Thursday, July 26, 2018 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, July 26, 2018.

2. Jackie Sum (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about December 16, 2014, the Bureau of Gambling Control (Bureau) received an Application for Approval of Third-Party Proposition Player Services License for Supervisor, Player or Other Employee from Applicant.

4. Applicant was issued a Third-Party Player Registration, Registration No. TPPL-014490 which is valid until November 15, 2018.

5. On or about November 2, 2017, the Bureau issued its Third-Party Player Background Investigation Report in which it concluded that Applicant was unqualified for licensure pursuant to Business and Profession Code section 19857 and disqualified for licensure pursuant to Business and Profession Code section 19859. The Bureau recommended that the Commission deny Applicant's application

6. On or about December 28, 2017, the Commission's Executive Director considered Applicant's application and decided to refer the matter to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

7. Applicant received notice of Commission consideration of Applicant's application in several ways. First, Commission staff mailed an evidentiary hearing referral letter via certified mail to Applicant's address of record on December 28, 2017 which included a blank Notice of Defense form with instructions to return it to the Commission within 15 days of receipt or else the Commission may issue a default decision. A copy of the letter was mailed to Applicant's Designated Agent. Commission staff received a Notice of Defense dated January 4, 2018 signed by Applicant.

8. Second, Applicant received notice of the hearing through a hearing notice sent certified mail on February 23, 2018 to Applicant's address of record that the hearing was originally set to occur on Wednesday, June 6, 2018 at 10:00 A.M. A copy of the letter was mailed to Applicant's Designated Agent.

9. On or about May 25, 2018, the Commission received confirmation from Mr. Sum via an email exchange between Deputy Attorney General Ron Diedrich, Applicant and Administrative Hearings Coordinator Pam Mathauser that he wished to withdraw his request for an evidentiary hearing and instead waive his right to a hearing on his application. (Exhibit A)

10. Third and finally, Applicant received notice of a Continued Hearing Without Applicant Participation sent certified mail on May 29, 2018 to Applicant's address of record that the hearing is set to occur on Thursday, July 26, 2018 at 10:00 a.m. A copy of the letter was mailed to Applicant's Designated Agent.

DETERMINATION OF ISSUES

11. 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. (Bus. & Prof. Code § 19856, subd. (b).)

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

13. At an evidentiary hearing pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to

demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

> (c) An applicant for any license, permit, finding of suitability, renewal, or other approval shall be given notice of the meeting at which the application is scheduled to be heard. Notice shall be given pursuant to Section 12006.
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> * * *
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> (2) If the application is to be scheduled at an evidentiary hearing, pursuant to subsections (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:
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> * * *
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> (F) The waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure of an applicant to appear at an evidentiary hearing, may result in:
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> 1. A default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which might be provided to the Commission . . . .

15. An applicant for an owner, supervisor or player registration is ineligible for a registration if they have had an application denied under Title 4, CCR Chapter 2.1 or the Gambling Control Act. (Cal. Code Regs., tit. 4, § 12204, subd. (d).)

16. Title 4, CCR section 12205, subdivision (a) states in pertinent part:

> Any regular registration issued in accordance with this chapter shall be subject to cancellation pursuant this this section. A registration shall be cancelled if the Commission determines after a noticed hearing that the registration is ineligible for registration…

17. 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 section 12052, subdivision (c)(2)(F)(1).

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

19. 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 section 12052, subdivision (c)(2)(F)(1), and Business and Professions

Code sections 19857 and 19859.

20. The Commission may further also deny Applicant's application based upon Applicant's failure to prove to the Commission Applicant is qualified to receive a license or other approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4, CCR section 12060(i).

21. Therefore, as the Applicant ultimately withdrew his Notice of Defense and waived his right to a hearing, 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 license 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, section 12052, subdivision (c)(2)(F)(1), Applicant's Application is subject to denial.

22. In addition, as Applicant's application is subject to denial, Applicant would no longer be eligible for a registration under Title 4, CCR section 12204, subdivision (d) and Applicant's current registration is subject to cancellation pursuant to Title 4, CCR section 12205, subdivision (a).

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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, subdivision (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, subdivision (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

1. Jackie Sum's Application for Approval of Initial Third-Party Proposition Player Services License for Supervisor, Player or Other Employee is DENIED.

2. Jackie Sum's Third-Party Player Registration, No. TPPL-014490 is cancelled.

3. Jackie Sum may not apply to the Commission or the Bureau for any type of license, registration or work permit for one (1) year after the effective date of this Order.

This Order is effective on 7/26/18.

Dated: 7/26/18 Signature: _____
Jim Evans, Chairman

Dated: 7/26/18 Signature: _____
Paula LaBrie, Commissioner

Dated: 7/26/18 Signature: _____
Trang To, Commissioner

ATTACHMENT A

Mathauser, Pamela

From: Ronald Diedrich <[redacted]
Sent: Thursday, May 24, 2018 10:02 AM
To: Mathauser, Pamela; Patterson, Kate
Cc: Jackie Sum; [redacted]n
Subject: Jackie Sum - Evidentiary HEaring

Good morning Ms. Patterson & Ms. Mathauser,

As you can see from the below email correspondence, Mr. Sum has now voluntarily waived his right to a hearing with the full understanding that the matter will be sent to a default proceeding.

Please advise the parties when the hearing scheduled for June 6, 2018, is taken off calendar.

Thank you for your assistance with this matter.

Ron Diedrich, Deputy Attorney General
Attorney General's Office
Indian and Gaming Law Section
916-210-7834
[redacted]

Attorneys for the Complainant

From: Jackie Sum [mailto[redacted]]
Sent: Thursday, May 24, 2018 9:54 AM
To: Ronald Diedrich <[redacted]>
Cc: freda[redacted]n
Subject: Re: Evidentiary Hearing

I Jackie Sum, am replying to all questions from this email.
1. Yes
2. Yes
3. Yes
4. Yes
5. Yes

I do understand my badge will remain active until the commissions default and order. I shall be cooperative in anyway possible. To ensure the remainder of this hearing will come to a conclusion smoothly.

Thank you for all assistance.

On May 22, 2018, at 11:33 AM, Ronald Diedrich [redacted]> wrote:

Good morning Mr. Sum,

Thank you for your below email. Your email is a bit problematic because it contains some technical complications. In this case, you and the Bureau cannot "settle this matter outside of court" and "the parties can[not] come to an agreement on [your] status." It is the Commission that untimely determines the status of your application However, that does not mean we cannot move forward on this case to reach the resolution it appears you are seeking..

In order to do that and so as to avoid any confusion about what you want to do, please answer the following questions with a "yes" or "no", if possible. If it is not possible to answer "yes" or "no", then please provide a brief statement.

1. Are you voluntarily waiving your right to the evidentiary hearing that is presently scheduled for June 6, 2018?

2. Do you understand that as a result of waiving your right to a hearing the Commission will deny your application for a third-party proposition player services license?

3. Do you understand that as a result of waiving your right to a hearing the Commission will issue a default decision and order denying your application based upon your failure to meet your burden of proof and the documents the Bureau provides to the Commission?

4. Do you understand that you have the right to be represented in this matter by a representative of your choice at your expense?

5. Would you like me to forward your below email, this email, and your response to this email to the Commission on your behalf?

In response to your question about your badge, it is my understanding that it should remain active until the effective date of the Commission's default decision and order. While I cannot say for certain when precisely that will be, I can say that first the Commission will consider your default, which will be no sooner than June 6th and likely sometime after that. After they do that, the Commission will then issue a written default decision and order. In that document, the Commission will specify an effective date. On that date or on another date specified by the Commission, your badge will be cancelled. I am guessing that the entire process could take anywhere from a few weeks to a couple of months. I am sorry I cannot be more specific. If you contact Pam Mathauser, p[redacted]., and/or Commission Presiding Office Kate Patterson, k[redacted] they might be able to give you are more precise answer.

If you have any questions or if there is anything you do not understand, please do not hesitate to contact me by email. Because of the nearness of the hearing, your prompt reply to this email would be appreciated.

Ron Diedrich, Deputy Attorney General
Attorney General's Office
Indian and Gaming Law Section
916-210-7834
[redacted]

Attorneys for the Complainant

From: Jackie Sum [mailto:[redacted]]
Sent: Tuesday, May 22, 2018 10:36 AM
To: Ronald Diedrich <[redacted]>
Cc: fredaustin[redacted]
Subject: Evidentiary Hearing

Dear Mr Ronald Diedrich,
This is Jackie Sum current employee of Arise LLC court date pending June 6 2018. I am writing you today to inform you that I wish to waive my rights to an evidentiary hearing.

I would like to settle this matter outside of the court. If necessary cancel the court process altogether. I do wish to know how long my current badge stays active before I am relinquished of it.

I am truly sorry if this may be an inconvenience to you or any other party. I would hope this will help our processing move on quicker. Knowing both parties can come to an agreement of my status.

Thank you
Sincerely, Jackie Sum

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