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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

JOSUE BRIAN BARRIENTOS
Registration No. TPPL-019209

Respondent.

CGCC Case No. CGCC-2017-0907-10A
BGC Case No. BGC-HQ2017-0021SL

DECISION AND ORDER

Hearing Date: April 27, 2018
Time: 1:30 p.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 April 27, 2018.

Jim Waian, Deputy Attorney General, State of California, represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (Complainant).

Josue Brian Barrientos (Applicant) was present at the hearing on his own behalf without representation.

During the administrative hearing, Presiding Officer Russell Johnson took official notice of the following:

- 1) Notice of Hearing dated December 19, 2017 with attachments;
 - a. Applicant's Application for Third-Party Proposition Player Services License for Supervisor, Player or Other Employee Application received March 22, 2017; and
 - b. Bureau Report dated June 13, 2017.
- 2) Statement of Reasons filed on March 9, 2018 and served by the Complainant;
- 3) Notice of Defense signed by Applicant on June 23, 2017; and
- 4) Conclusion of Prehearing Conference letters dated March 7, 2017.

During the administrative hearing, Presiding Officer Russell Johnson accepted into

1 evidence the following exhibits offered by the Complainant as identified in their table of contents:

- 2 1) Statement of Reasons; Statement to Respondent; copies of Business and
3 Professions Code sections 19870 and 19871; copy of California Code of
4 Regulations, title 4, section 12060; and March 8, 2018, Declaration of Service by
5 FedEx Overnight, Bates Nos. 001 – 011;
- 6 2) October 27, 2017, Executed Notice of Defense form for Josue Brian Barrientos,
7 signed October 23, 2017, Bates Nos. 012 – 014;
- 8 3) Notices from the California Gambling Control Commission:
 - 9 a. December 19, 2017, Notice of Hearing (without attachments), Bates Nos. 015 –
10 019,
 - 11 b. September 22, 2017, Referral of Application for Third-Party Proposition Player
12 Services License to an Evidentiary Hearing, Bates Nos. 020 – 024, and
 - 13 c. August 25, 2017, Notice of Scheduled Commission Meeting, Bates Nos. 025 –
14 028.
- 15 4) June 13, 2017, Third-Party Player Background Investigation Report, Level II,
16 Bureau of Gambling Control, including June 12, 2017 additional statement from
17 Josue Brian Barrientos to the Bureau of Gambling Control regarding his
18 misdemeanor conviction, Bates Nos. 029 – 035;
- 19 5) June 7, 2017, Letter from Kathi Hegelein, Manager, Third-Party Provider Unit,
20 Bureau of Gambling Control to Susanna Sheehan, Designated Agent, Knighted
21 Ventures, LLC, with a copy to Josue Brian Barrientos, Bates Nos. 036 – 038;
- 22 6) May 11, 2017, Letter from Brian Gilleland, Manager, Third-Party Provider Unit,
23 Bureau of Gambling Control to Susanna Sheehan, Designated Agent, Knighted
24 Ventures, LLC, with a copy to Josue Brian Barrientos, Bates Nos. 039 – 041;
- 25 7) March 22, 2017, Application for Third-Party Proposition Player Services License
26 for Supervisor, Player or Other Employee for Josue Brian Barrientos, signed
27 February 10, 2017 (including Level I Supplemental Information form), Bates Nos.
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1 042 – 060;

2 8) February 27, 2017, California Gambling Control Commission Letter Approving
3 Third-Party Proposition Player Services Registration for Josue Brian Barrientos
4 (TPPL-019209), Bates Nos. 061 – 062;

5 9) February 1, 2013, Letter from Yolanda Morrow, Manager, Third-Party Provider
6 Unit, Bureau of Gambling Control to Roy Choi, Designated Agent, Knighted
7 Ventures, LLC, with a copy to the Commission, Bates Nos. 063 – 066;

8 10) Certified copy of the (subsequently redacted) court records regarding Josue Brian
9 Barrientos' misdemeanor conviction for violation of Penal Code section 415,
10 subdivision (2), disturbing the peace, a misdemeanor, in the case of *People v.*
11 *Josue Brian Barrientos* (Super. Ct. Los Angeles County, 2013, No. 2EA09361),
12 with request letter from the Bureau of Gambling Control, Bates Nos. 067 – 078;

13 11) Certified facsimile copy of the (subsequently redacted) Los Angeles County
14 Sheriff's Department's records and reports, File No. 912-14871- 0250-146,
15 regarding the incident that gave rise to Josue Brian Barrientos' misdemeanor
16 conviction for violation of Penal Code section 415, subdivision (2), disturbing the
17 peace, a misdemeanor, in the case of *People v. Josue Brian Barrientos* (Super. Ct.
18 Los Angeles County, 2013, No. 2EA09361), with request letter from the Bureau of
19 Gambling Control, Bates Nos. 079 – 108.

20 11A – 11B) Statement to Respondent

21 11C – 11D) Copies of Gambling Control Act Sections

22 11E) Copy of Commission Regulation Section 12060

23 11F – 11G) Certificate of Service

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

26 A. Certificate of Completion, La Mirada Volunteer Center, 24 Hours, Bates 000001

27 B. Aztlan Family Clinic, Inc, Domestic Violence Batterer's Program Completion
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1 Document, Bates 000002

2 C. Court Document, Bates 000003

3 FINDINGS OF FACT

4 1. Applicant was convicted of violation Penal Code section 415(2), disturbance by
5 loud/unreasonable noise, a misdemeanor on February 11, 2013. Applicant was sentenced to 40
6 hours of community service, and had to attend a 52 week Domestic Violence Treatment Program.
7 Applicant provided documentation showing completion of the community service and the
8 treatment program at the hearing.

9 2. On or about February 27, 2017, the Commission issued Applicant a third-party
10 proposition player services registration, number TPPL-019209.

11 3. On or about March 22, 2017, the Bureau received a Third-Party Proposition Player
12 Services License for Supervisor, Player or Other Employee Application from Applicant, as well
13 as a Level 1 Supplemental Information form (collectively herein "Application") to convert his
14 registration as a third-party proposition player to a license.

15 4. The Application was signed by Applicant under penalty of perjury on February 10,
16 2017. On Applicant's application, Applicant disclosed his Penal Code 415(c) conviction.

17 5. On May 11, 2017, the Bureau sent Applicant a letter stating:

18 Barrientos stated on his supplemental information form that he was convicted on
19 February 11, 2013 of violating Penal Code section 415, subdivision (2), disturbs [sic]
by loud/unreasonable noise, a misdemeanor.

20 a. Provide a detailed signed and dated statement from MR. Barrientos explaining the
21 circumstances that led to this conviction.

22 b. Provide court documentation of the conviction, including sentencing, proof of
23 payment of any fine(s) imposed, and proof of completion of any program(s)
imposed.

24 6. On June 7, 2017, the Bureau sent Applicant another letter stating:

25 Mr. Barrientos indicated in a statement submitted to the Bureau on May 18, 2017 that
26 he was arrested for an incident that took place on November 27, 2012. Please have
Mr. Barrientos provide a detailed statement explaining the incident leading to the
27 arrest. [Emphasis added]

28 7. For reasons that are unclear, the exhibits provided by Applicant and Complainant do

1 not include any May 18, 2017 statement from Applicant.

2 8. On or about June 12, 2017, Applicant provided the Bureau with a type written
3 statement which stated:

4 On the date of the incident, on Nov. 27th 2012 I was at home when, [REDACTED]
5 shows up unexpected to my home. At the time she arrived I happened to have a
6 female friend over who was leaving my house at the same exact time. When,
7 [REDACTED] saw her leaving she immediately turned around and got back into her
8 vehicle. I followed behind her so we can talk instead of having her just drive away
9 angry. She was angry because she saw my female friend leaving my home but I kept
10 telling, [REDACTED] that the relationship her and I had, had ended 4 months ago
11 and that she had no reason to be angry. At that time I was also going through the
12 process of becoming an L.A. Sheriff's Deputy and she knew this, so she continued
13 saying to me, "I am going to ruin your chances of getting into the Sheriff's
14 Department." The interaction outside of her vehicle lasted about 10 minutes and then
15 she drove away.

16 9. On or about July 24, 2017, the Bureau issued a Third-Party Player Background
17 Investigation Report, recommending Applicant's Application be approved.

18 10. On September 7, 2017, pursuant to CCR section 12054(a)(2), the Commission referred
19 consideration of Applicant's Application to an evidentiary hearing to be held under the provisions
20 of CCR section 12060(b).

21 11. On or about October 27, 2017, Applicant signed and sent a Notice of Defense to the
22 Commission requesting an evidentiary hearing.

23 12. On or about March 7, 2018, the Bureau, as Complainant, altered its recommendation
24 and filed a Statement of Reasons with the Commission recommending the denial of Applicant's
25 Application and the cancellation of his registration as a third-party proposition player.

26 13. The Commission heard Case No. CGCC-2017-0907-10A on April 27, 2018. The
27 Complainant was represented throughout the pendency of the hearing by Deputy Attorney
28 General Jim Waian. Applicant was present on his own behalf without representation.

14. Complainant offered a police report into evidence from the Los Angeles County
Sheriff's department regarding the November 27, 2012 incident. In that report, the officer
indicated that Applicant told him as follows:

Joshue told me that on 11-27-12, at 2:00 pm, his ex-girlfriend [Victim] arrived at his
home unannounced. [Victim] became angry because Joshue was in front of his house
speaking with his friend [Friend], FH/23. Joshue had come down with a flu bug and

1 [Friend] had brought him soup. As soon as [Friend] left, [Victim] began to argue
2 regarding why [Friend] was at Joshue's house. [Victim] then stormed into Joshue's
3 house and went straight to Joshue's bedroom. Both [Victim] and Joshue continued to
4 argue over [Friend] being at Joshue's house. The argument escalated and [Victim]
5 picked up a wall mirror and began swinging it at Joshue. Just as [Victim] was about
6 to strike Joshue with the mirror, Joshue swung into the mirror with his forearms,
7 smashing the mirror and bending the frame. The blow pushed the mirror back at
8 [Victim], striking her on the right side of her face and knocking her down to the floor.
9 The argument ended, but [Victim] refused to leave. Joshue saw that [Victim] left eye
10 was bruised and got [Victim] an ice bag. [Victim] then told Joshue she was going to
11 use this against Joshue. [Victim] attitude then changed. She became playful with
12 Joshue trying to make conversation with him. This went on for hours until
13 approximately 10:00 pm, when he told [Victim] he was leaving to go out to a party
14 with [REDACTED]. Both then left the residence. With [Victim] driving home and
15 Joshue leaving with [REDACTED].¹

16 15. Applicant also provided a written statement to the deputy which was included with the
17 police report. This statement read as follows:

18 On November 27th 2012 [Victim] came over to my house at 2:00 p.m. At the same
19 time, she pulled up into my house I had a lady friend drop me off some soup from
20 subway. [Victim] saw that my lady friend dropped off the soup for me and demanded
21 to know what was going on with her. When I told her that she was just dropping off
22 soup for me as a favor, she got furious and forced herself into my house. Once we
23 were arguing in my room she started getting more upset because I wouldn't give her
24 the information she wanted to know. She then picked up a mirror from my room and
25 tried hitting me with it. In an act of self defense I blocked the hit from the mirror as it
26 broke when it hit my arm and from the deflection, my wrist hit her in the face, leaving
27 a bruise by her left eye.²

28 Her knowing that I'm trying to get into the sheriff's department then went on to say,
"I'm going to use this against you and screw over your chances on becoming a
sheriff." She is trying to play the victim and blackmail me.

16. These statements to the Los Angeles County Sheriff's Department are very different
than the written statement provided to the Bureau.

17. Applicant testified in regards to the circumstances leading up to the conviction for
Penal Code 415 for the event that occurred on November 27, 2012. Applicant testified about the
events consistent with his statements to the Los Angeles County Sheriff's department, in contrast
to his statement to the Bureau.

18. Applicant was cross-examined about the discrepancy between his signed statement to
the Bureau and his statements to the Los Angeles County Sheriff's department. Applicant stated

¹ [Victim] and [Friend] are added in place of redactions for clarity based on context. [Redaction] remains
where it is unclear who is referenced in the statement.

² [Victim] is added in place of redactions for clarity based on context.

1 that he understood that he was being “vague” in the statement to the Bureau but that he did not
2 intend to lie. He explained that he was responding to the Bureau’s request in front of a co-worker,
3 a human resources employee of Knighted Ventures, and was uncomfortable about disclosing the
4 circumstances of the event. Applicant stated that he knew the Bureau would have the police
5 reports from the event and had no reason to lie.

6 19. Applicant’s explanation of being vague in the statement in an effort to avoid
7 discomfort is not compelling in two ways. First, Applicant’s statement to the Bureau is not
8 “vague” at all but in fact substantially different than his statements to the Los Angeles County
9 Sheriff’s Department. This statement differed in material details such as the duration of the
10 incident, the presence of the victim in Applicant’s home, and omitting the altercation involving a
11 mirror and subsequent injury to the victim. This statement was not “vague” but rather an untrue
12 retelling of the events on November 27, 2012. Second, Applicant was required to make full and
13 complete disclosure to the Bureau, irrespective of any potential embarrassment regarding the
14 material facts related to his conviction. Discomfort does not alleviate the requirements of the
15 application process or provide a justification for untrue statements.

16 20. Applicant also offered testimony from Helena Ramirez, a companion of Applicant and
17 mother of his child. She stated that Applicant has never been angry with her and never engaged in
18 violence. He was always on the calm side and they have never had to scream at each other.
19 Ramirez indicated she was the friend who brought Applicant soup during the November 27, 2012
20 incident. She was not present for the conduct that led to Applicant’s conviction, but does recall
21 receiving text messages from the victim who said she was sorry. Ramirez also indicated the
22 victim would “get crazy” in the text messages. Ramirez testimony reflects well on Applicant.

23 21. Based on the substance of Applicant’s testimony and the provided documentary
24 evidence, the Commission finds that Applicant’s June 12, 2017 statement about the events
25 leading November 27, 2012 misdemeanor conviction to the Bureau in response to their multiple
26 requests for a detailed statement was untrue or misleading as to material facts.

27 22. The matter was submitted for Commission consideration on April 27, 2018.
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1 LEGAL CONCLUSIONS

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

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

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

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

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

20 6. An "unqualified person" means a person who is found to be unqualified pursuant to
21 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"
22 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
23 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

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

8 10. A registrant requesting a license shall be ineligible for licensing if the requestor has
9 failed to meet the requirements of Business and Professions Code sections 19856 or 19857. Title
10 4, CCR section 12218.11(e).

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

14 12. Any regular registration issued in accordance with Chapter 2.1 of Division 18 of Title
15 4 of the California Code of Regulations shall be subject to cancellation if the Commission
16 determines after a noticed hearing that the registrant is ineligible for registration, has failed in the
17 application for registration to reveal any fact material to the holder's qualification for registration,
18 or has supplied information in the registration application that is untrue or misleading as to a
19 material fact pertaining to the criteria for issuance of registration. Title 4, CCR section 12205(a).

20 13. An applicant is ineligible for registration if the applicant would be ineligible for a
21 state gambling license under any of the criteria set forth in Business and Professions Code section
22 19859, subdivisions (b), (e), or (f). Title 4, CCR section 12204(e).

23 14. Applicant provided untrue or misleading information to the Bureau about material
24 facts pertinent to his application in his June 12, 2017 statement to the Bureau. Therefore,
25 Applicant is disqualified for licensure pursuant to Business and Professions Code section
26 19859(b) and ineligible for licensing as a third-party provider of proposition player services
27 pursuant to Title 4, CCR section 12218.11(f).

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15. Given that Applicant is ineligible for registration pursuant to Title 4, CCR section 12204(f), his regular registration is subject to cancellation pursuant to Title 4, CCR section 12205(a).

16. Anything not specifically addressed above, was considered, but not included as part of this decision.

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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, 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.

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. Joshue Brian Barrientos' Application for a Third-Party Proposition Player Services
3 License for Supervisor, Player or Other Employee is DENIED.

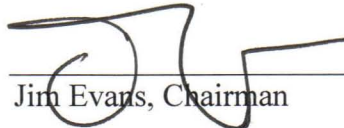
4 2. Joshue Brian Barrientos's regular registration as a third-party proposition player,
5 Registration Numbers TPPL-019209 is CANCELLED.

6 3. No costs are to be awarded.

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

8 This Order is effective on 6/8/18.

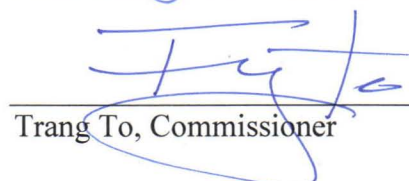
9 Dated: 5-9-18

10 Signature:  _____
Jim Evans, Chairman

11 Dated: 5-9-18

12 Signature:  _____
Paula LaBrie, Commissioner

13
14 Dated: 5-9-18

15 Signature:  _____
Trang To, Commissioner