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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

ODYLEO DIVINA

Applicant.

CGCC Case No. CGCC-2019-0711-9D
BGC Case No. BGC-HQ2019-00027SL

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, December 12, 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, December 12, 2019 at 10:00 a.m.

2. Odyleo Divina (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about July 25, 2017, the Commission issued Applicant a third-party proposition player services registration number TPPL-020001. This registration expires on July 31, 2021.

4. On or about August 18, 2017, the Bureau of Gambling Control (Bureau) received an Application for Third-Party Proposition Player Services License for Supervisor, Player or Other Employee (Application) from Applicant.

5. On or about January 30, 2019, the Bureau issued its Third-Party Player Background Investigation Report in which it concluded that Applicant was not qualified for licensure pursuant to Business and Professions Code section 19857 and ineligible for licensure pursuant to CCR section 12218.11(e). The Bureau recommended that the Commission deny Applicant's Application.

6. On or about July 11, 2019, the Commission considered Applicant's Application and voted to refer the matter to an evidentiary hearing pursuant to CCR section 12060(b).

1 7. On or about July 22, 2019, Applicant timely submitted a signed Notice of Defense
2 form requesting a hearing on the consideration of his Application.

3 8. Applicant received notice of Commission consideration of Applicant's Application
4 when Commission staff mailed an evidentiary hearing referral letter via certified mail to
5 Applicant's address of record on September 6, 2019 which included a blank Notice of Defense
6 form with instructions to return it to the Commission within 15 days of receipt or else the
7 Commission may issue a default decision. A copy of the letter was also mailed to Applicant's
8 Designated Agent.

9 9. On or about October 29, 2019, a telephonic prehearing conference on Applicant's
10 Application took place. Applicant appeared on his own behalf.

11 10. On or about November 13, 2019, Applicant sent an e-mail to the Commission
12 indicating that his employment with L.E. Gaming, Inc. has ended as of November 13, 2019.

13 11. On or about November 15, 2019, Applicant submitted a new signed Notice of
14 Defense form to the Commission waiving his right to an evidentiary hearing.

15 12. Applicant thereafter received notice of the hearing through a hearing notice sent
16 via certified mail on November 20, 2019 to Applicant's address of record which stated that the
17 hearing was set to occur on Thursday, December 12, 2019 at 10:00 a.m.

18 **DETERMINATION OF ISSUES**

19 13. The burden of proving Applicant's qualifications to receive any license from the
20 Commission is on the applicant. (Bus. & Prof. Code § 19856(a).)

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

24 15. At an evidentiary hearing pursuant to Business and Professions Code sections
25 19870 and 19871 and CCR section 12060, the burden of proof rests with the applicant to
26 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060(i).)

27 16. CCR section 12052(c), provides in pertinent part:
28

1 (c) An applicant for any license, permit, finding of suitability,
2 renewal, or other approval shall be given notice of the meeting at
3 which the application is scheduled to be heard. Notice shall be given
4 pursuant to Section 12006.

5 * * *

6 (2) If the application is to be scheduled at an evidentiary
7 hearing, pursuant to subsections (a) or (b) of Section 12060, the
8 notice of hearing shall inform the applicant of the following:

9 * * *

10 (F) The waiver of an evidentiary hearing, or failure of
11 the applicant to submit a Notice of Defense, or failure of an applicant
12 to appear at an evidentiary hearing, may result in:

13 1. A default decision being issued by the
14 Commission based upon the Bureau report, any supplemental reports
15 by the Bureau and any other documents or testimony already
16 provided or which might be provided to the Commission

17 17. An applicant for a third-party player registration is ineligible if they have had an
18 application denied under CCR Chapter 2.1 or the Gambling Control Act. (Cal. Code Regs., tit. 4,
19 § 12204(d).)

20 18. CCR section 12205(a) states in pertinent part:

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

25 19. A requester shall be ineligible for licensing as a third-party proposition player if
26 the requester has failed to meet the requirements of Business and Professions Code sections
27 19856 or 19857. (Cal. Code Regs., tit. 4, § 12218.11(e).)

28 20. 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(a) and CCR section
12052(c)(2)(F)(1).

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

22. 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

1 to it, pursuant to CCR sections 12052(c)(2)(F)(1) and 12218.11(e), and Business and Professions
2 Code section 19857.

3 23. The Commission may also deny Applicant's application based upon Applicant's
4 failure to prove to the Commission that Applicant is qualified to receive a license or other
5 approval as required by Business and Profession Code section 19856(a) and CCR section
6 12060(i).

7 24. Therefore, as the Applicant waived his right to a hearing on the Notice of Defense
8 form, did not attend the default hearing, and did not submit any information or evidence in favor
9 of granting Applicant's Application, Applicant did not meet his burden of demonstrating why a
10 license should be issued pursuant to Business and Professions Code section 19856(a) and Title 4,
11 CCR section 12060(i). The Commission further finds that pursuant to CCR section
12 12052(c)(2)(F)(1), Applicant's Application is subject to denial.

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


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2 1. ODYLEO DIVINA'S Application for Initial Third-Party Proposition Player
3 Services License is DENIED.

4 2. ODYLEO DIVINA'S Third-Party Proposition Player Services Registration
5 Number TPPL-020001 is CANCELLED.

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

8 This Order is effective on December 19, 2019.


9
10 Dated: 12/19/19

Signature: 
11 Jim Evans, Chairman


12
13 Dated: 12/19/19

Signature: 
14 Paula LaBrie, Commissioner

15
16 Dated: 12/19/19

Signature: 
17 Gareth Lacy, Commissioner

18
19 Dated: 12/19/19

Signature: 
20 Trang To, Commissioner