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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2019-0613-6Civ

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

DECISION AND ORDER

MONICA ELAINE SERPA

Hearing Dates: December 18, 2019
Time: 1:30 p.m.

Applicant.

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, December 18, 2019 at 1:30 p.m.

Deputy Attorney General James Waian (Waian), 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 Monica Elaine Serpa (Applicant) was present on her own behalf with an interpreter.

During the administrative hearing, Presiding Officer Russell Johnson took official notice of the Conclusion of Prehearing Conference Letter, Applicant's signed Notice of Defense, and the Notice of Hearing and Prehearing Conference which enclosed Applicant's Application for Third-Party Proposition Player Services license, and the corresponding 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 section 19870 and 19871; copy of Cal. Code. Regulations, title 4, section 12060; and October 31, 2019 Declaration of Service by Overnight Courier, Bates Nos. 001-019;

- 1 2) July 1, 2019 Executed Notice of Defense form for Monica Elaine Serpa. Bates
2 Nos. 020-022
- 3 3) Notices from the California Gambling Control Commission:
 - 4 a) August 16, 2019 Notice of Hearing (without enclosures), Bates Nos. 023-
5 028;
 - 6 b) June 17, 2019 Referral of Third-Party Proposition Player Services License
7 to an Evidentiary Hearing for Monica Serpa (without enclosure), Bates
8 Nos. 029-030;
 - 9 c) May 31, 2019 Notice of Scheduled Commission Meeting (App. No. 98774)
10 (without enclosure), Bates No. 031.
- 11 4) May 20, 2019 California Gambling Control Commission Licensing Division
12 Memorandum (without attachment), Bates Nos. 032-037;
- 13 5) February 14, 2019 Third-Party Player Initial Background Investigation Report,
14 Level III, Bureau of Gambling Control (with attachments), Bates Nos. 038-056;
- 15 6) Correspondence regarding Monica Elaine Serpa, and between the Bureau of
16 Gambling Control and Monica Elaine Serpa, Bates Nos. 057-080, (A clear legible
17 copy of Bates No. 75 and 80 is also included as Bates Nos. 75a and 80a);
- 18 7) October 23, 2017 Application for Third-Party Proposition Player Services License
19 for Supervisor, Player or Other Employee, for Monica Elaine Serpa (including
20 Level I Supplemental Information form), Bates Nos. 081-092;
- 21 8) October 23, 2017 Appointment of Designated Agent for Owners and Proposition
22 Players, for Monica Elaine Serpa, Bates Nos. 093-094;
- 23 9) April 20, 2017 Letter from Lisa Wardall, Third-Party Provider Unit, Bureau of
24 Gambling Control, to Tuan Thai, Blackstone Gaming, LLC Regarding Summons
25 to Apply for License, Bates Nos. 095-098;
- 26 10) Registration history for Monica Elaine Serpa, Bates Nos. 099-100;
- 27 11) June 25, 2019 certification of registration history for Monica Elaine Serpa, Bates
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1 Nos. 101-102;

2 12) Copy of the (subsequently redacted) court records regarding Monica Elaine
3 Serpa's misdemeanor conviction for violation of Penal Code section 488, petty
4 theft, a misdemeanor involving dishonesty or moral turpitude, in the case of
5 People of the State of California v. Monica Elaine Serpa (Super. Ct. Santa Clara
6 County, 2006, Case No. FF614635), Bates Nos.103-106;

7 13) Copy of the (subsequently redacted) court records regarding Monica Elaine
8 Serpa's misdemeanor conviction for violation of Vehicle Code section 12500,
9 subdivision (a), driving without a license, a misdemeanor, in the case of People of
10 the State of California v. Monica Elaine Serpa (Super. Ct. Santa Clara County,
11 2015, Case No. F1453397), Bates Nos. 107-111;

12 14) Certified copy of the (subsequently redacted) Gilroy Police Department incident
13 report, number 06-224, regarding the incident that gave rise to Monica Elaine
14 Serpa's misdemeanor conviction for violation of Penal Code section 488, petty
15 theft, a misdemeanor involving dishonesty or moral turpitude, in the case of
16 People of the State of California v. Monica Elaine Serpa (Super. Ct. Santa Clara
17 County, 2006, Case No. FF614635), Bates Nos. 112-118;

18 The matter was submitted on December 18, 2019.

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20 **FINDINGS OF FACT**

21 1. On or about September 14, 2017, the Commission issued Applicant a Third-Party
22 Proposition Player Services registration, TPPL-020266, as an employee of Blackstone Gaming,
23 LLC. This registration has been renewed and currently expires on September 30, 2021.

24 2. On or about October 23, 2017, the Bureau received an Application for a Third-Party
25 Proposition Player Services license, with attachments (Application), from Applicant for
26 Blackstone Gaming, LLC.

27 3. On or about February 14, 2019, the Bureau submitted a Third-Party Proposition Player
28 Services Background Investigation Report (Bureau Report) to the Commission recommending the

1 Commission deny Applicant's Application.

2 4. On June 12, 2019, pursuant to CCR section 12054, subdivision (a)(2), the Commission
3 considered Applicant's Application and elected to refer consideration of Applicant's Application
4 to an evidentiary hearing to be held pursuant to CCR section 12060 with the Bureau to serve as
5 Complainant.

6 5. On or about July 1, 2019, Applicant submitted a signed Notice of Defense, dated June
7 19, 2019 which requested an evidentiary hearing.

8 6. On or about August 16, 2019, the Commission sent a Notice of Hearing and
9 Prehearing Conference, via certified mail, to Applicant and Complainant.

10 7. On or about October 30, 2019, the noticed Prehearing Conference was held before
11 Presiding Officer Russell Johnson. Deputy Attorney General Waian attended on behalf of the
12 Complainant. Applicant appeared on her own behalf.

13 8. On or about October 31, 2019, the Complainant filed a Statement of Reasons with the
14 Commission and served it on Applicant via certified mail. In its Statement of Reasons,
15 Complainant recommended that the Commission deny Applicant's Application.

16 9. On or about October 31, 2019, the Commission sent a Conclusion of Prehearing
17 Conference letter to Applicant and Complainant.

18 10. The Commission heard CGCC Case Nos. CGCC-2019-0613-6Cii on December 18,
19 2019. The Complainant was represented throughout the hearing by Deputy Attorney General
20 James Waian. Applicant appeared on her own behalf

21 11. Applicant has worked for Blackstone Gaming, LLC for over 2 years as a third party
22 player.

23 Criminal History

24 12. On or about January 10, 2006 Applicant was caught stealing cologne leaving a Kohl's
25 Department Store. Applicant was convicted on or about October 12, 2006 for violating Penal
26 Code section 484, petty theft. Applicant did not disclose her conviction on her Application.

27 13. On or about November 3, 2014, Applicant was caught driving on a suspended license
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1 in violation of Vehicle Code section 14601.1(a) and without valid registration. Applicant
2 ultimately plead nolo contendere to violating Vehicle Code section 12500, driving without a
3 license. Applicant did not disclose this conviction on her application.

4 14. As part of its investigation, the Bureau became aware of Applicant's convictions and
5 subsequently sent Applicant a letter on April 20, 2018 seeking further information. In this letter
6 the Bureau sought the circumstances that led to her conviction for both the convictions and why
7 she marked "no" on the Application.

8 15. On or about April 26, 2018, Applicant provided two statements regarding the
9 convictions. For the Penal Code section 484 conviction to the Bureau she stated she didn't know
10 why she marked "no." She indicated she went into the store to purchase things for her son and
11 daughter. She indicated she had her baby with her. She stated she had no idea that her "hubands
12 [sic] Brothers [sic] girlfriend that was 17 at the time was going to taken [sic] a cologne-bottle."
13 She stated she only found out about it because the "store stops us." She stated she didn't take
14 "nothing" but inferred that because the other person was a minor, Applicant got in trouble. She
15 stated she didn't think this was on her record anymore because she had a medical job.

16 16. For the Vehicle Code section 12500 conviction, Applicant stated she received too
17 many tickets in a short time for talking on the phone. She intimated her license had been taken
18 away because she had not paid her tickets, and the Judge gave her back her license when she
19 agreed to pay them. Applicant stated she didn't think this would come up because she paid
20 everything.

21 17. On or about May 18, 2018, the Bureau sent applicant an additional letter regarding
22 her statements about the Penal Code section 484 conviction. In that letter, the Bureau inquired as
23 to the inconsistencies between Applicant's April 26, 2018 statements and the police report
24 concerning her arrest. Applicant responded on May 27, 2018 essentially stating that she didn't
25 remember writing that and that she had her crying baby the whole time. Applicant did not provide
26 any explanation regarding the discrepancy between her April 26, 2018 statement which said she
27 was not a participant and it was the minor, and the police report which indicated she was a
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1 knowing participant.

2 18. On or about September 4, 2018 the Bureau sent Applicant yet another letter requesting
3 Applicant provide additional clarification about her driving without a license conviction as her
4 prior response did not explain the circumstances which led to the conviction. On or about
5 September 20, 2018, Applicant spoke with a Bureau representative over the phone. In that
6 discussion she indicated she believed she had already answered the question, but the Bureau
7 representative explained Applicant had not. Applicant indicated she would provide an additional
8 statement the next day. Four days later on September 24, 2018, she provided a statement which
9 said she had received a couple of tickets for talking on the phone in a short period of time and
10 after the third time the police officer said her license was suspended.

11 19. The next day, on September 25, 2018 the Bureau sent Applicant an email asking for
12 additional follow up as Applicant had explained how her license was suspended, but not why she
13 was driving on a suspended license when she was stopped. On January 24, 2019, almost four
14 months later, Applicant stated she didn't really have a reason for driving without a license. She
15 intimated she drove at one point in time to take her kids to school, but it was unclear if that was a
16 reason for why she was driving when she was stopped for driving on a suspended license or
17 merely something that also had occurred in the past.

18 Police Report for the Petty Theft Conviction

19 20. As part of Applicant's arrest for petty theft at Kohl's on January 10, 2006, the Gilroy
20 Police prepared a report. In that report, the police documented speaking with Applicant and the
21 minor who accompanied her. Applicant admitted that they selected cologne and concealed it in
22 the baby carrier. They then walked out of the store without paying for the items.

23 21. In a subsequent supplemental police report, dated January 25, 2006, the same police
24 officer stated that Applicant admitted to coming to Kohl's to take the cologne without paying.

25 Applicant's Testimony

26 22. Applicant testified on her own behalf and through cross examination. Applicant
27 attempted to explain her involvement in the theft at Kohl's. She stated that she didn't put the
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1 cologne bottles in the baby carrier. When confronted with the statements attributed to her in the
2 police report where she admitted to taking the cologne bottles, she simply stated she had “no
3 idea” why they were different. When she was asked to describe what happened, she said the other
4 person put the cologne in the carrier.

5 23. Applicant stated she did not put the convictions on her application and answer the
6 questions properly for several reasons. For the petty theft, she initially asserted she thought it was
7 old and no longer on her record but also stated that “if [she] put yes, I mean, most likely [she]
8 wasn’t going to get hired.” Applicant’s explanation for her nondisclosure reflects a knowing
9 disregard for compliance with the application process. She understood the question, knew of the
10 derogatory nature of the conviction, and desired to hide information from and provide untrue
11 information to the Bureau and the Commission for personal gain.

12 24. As for her conviction for driving without a license, she stated she didn’t know that it
13 was a misdemeanor. She said she knew she went to court for it, but it didn’t dawn on her that it
14 was a crime “like the Kohl’s thing.” However, this explanation is not compelling for a couple of
15 reasons. First and foremost, she was stopped by a police officer, arrested based on her having a
16 warrant, and taken into custody which necessitated her being bailed out by her mother. Second,
17 she signed another plea agreement which reflected the conviction’s status as a misdemeanor, and
18 again served informal probation just like her earlier theft conviction that she knew was a
19 misdemeanor.

20 25. Applicant’s testimony about her convictions and subsequent explanations raise a
21 number of concerns. These inconsistent and motivated statements combined with the more
22 credible facts provided in the police reports reflect poorly on Applicant’s character, honesty, and
23 integrity. Applicant lied on the application when marking “no” to her having been convicted.

24 26. The matter was submitted for Commission consideration on December 18, 2019.

25 **LEGAL CONCLUSIONS**

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

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

6 29. A “finding of suitability” means a finding that a person meets the qualification criteria
7 described in subdivisions (a) and (b) of Section 19857, and that the person would not be
8 disqualified from holding a state gambling license on any of the grounds specified in Section
9 19859. (Bus. & Prof. Code § 19805, subd. (j).)

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

14 31. An “unqualified person” means a person who is found to be unqualified pursuant to
15 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
16 be disqualified pursuant to the criteria set forth in Section 19859. (Bus. & Prof. Code § 19823,
17 subd. (b).)

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

21 33. The Commission has the power to take actions deemed to be reasonable to ensure that
22 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
23 gambling activities. (Bus. & Prof. Code § 19824, subd. (d).)

24 34. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
25 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
26 demonstrate why a license or other approval should be issued. (Cal. Code Regs., tit. 4, § 12060,
27 subd. (i); Bus. & Prof. Code § 19856, subd. (a).)

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

4 36. In reviewing an application for any license, the commission shall consider whether
5 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the
6 license will undermine public trust that the gambling operations with respect to which the license
7 would be issued are free from criminal and dishonest elements and would be conducted honestly.
8 (Bus. & Prof. Code § 19856, subd. (c).)

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

12 38. No gambling license shall be issued unless, based on all of the information and
13 documents submitted, the commission is satisfied that the applicant is a person whose prior
14 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
15 public interest of this state, or to the effective regulation and control of controlled gambling, or
16 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
17 the conduct of controlled gambling or in the carrying on of the business and financial
18 arrangements incidental thereto. (Bus. & Prof. Code § 19857, subd. (b).)

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

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

27 41. Applicant has failed to meet her burden of proving that she is a person of good
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1 character, honesty, and integrity. Applicant knowingly submitted information to the Bureau
2 pertaining to her criminal record that was untrue with the intent to deceive the Bureau and
3 Commission. It is absolutely imperative that applicants are accurate, truthful, and transparent in
4 the application process, lest the security and safety of California cardrooms suffer. The fact that
5 Applicant was willing to lie in her application, statements to the Bureau, the evidentiary hearing,
6 or each of them, establishes that she lacks the character, honesty, and integrity under 19857(a) to
7 receive a third-party proposition player services license. As a result, Applicant is ineligible to
8 receive a third party proposition player license pursuant to CCR section 12218.11(e).

9 42. Applicant lied in the application process and provided untrue and misleading
10 information that was material to qualification about her convictions and the circumstances around
11 those convictions. Therefore, Applicant is also disqualified from receiving a third party
12 proposition player license pursuant to Business and Professions Code section 19859(b). As a
13 result, Applicant is ineligible to receive a third party proposition player license pursuant to CCR
14 section 12218.11(f).

15 43. In addition, as Applicant's applications are subject to denial, Applicant would no
16 longer be eligible for a registration under Title 4, CCR section 12204, subdivision (d) and
17 Applicant's current registrations are subject to cancellation pursuant to Title 4, CCR section
18 12205, subdivision (a).

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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.

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ORDER

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3 1. MONICA ELAINE SERPA'S Application for Approval of Third-Party
4 Proposition Player Services License in the matter CGCC-2019-0613-6Civ is DENIED.

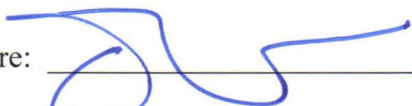
5 2. MONICA ELAINE SERPA'S Third-Party Player Registration, No. TPPL-020266,
6 is cancelled.

7 3. No costs are to be awarded.


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

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10 This Order is effective on March 30, 2020.


11
12 Dated: 2/27/2020

Signature: 
13 Jim Evans, Chairman

14
15 Dated: 2/27/2020

Signature: 
16 Paula LaBrie, Commissioner

17
18 Dated: 2/27/2020

Signature: 
19 Gareth Lacy, Commissioner