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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2019-1219-12C

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

OMAR ZEPEDA-NARANJO

Applicant.

DECISION AND ORDER

Hearing Date: July 1, 2020
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 July 1, 2020.

2. The Bureau of Gambling Control (Bureau) was represented by Deputy Attorney General Colin Wood with the Indian and Gaming Law Section, Department of Justice, Attorney General's Office.

3. Omar Zepeda-Naranjo (Applicant) was present on his own behalf.

4. During the administrative hearing, Presiding Officer Kate Patterson took official notice of the following:

- a) Notice of Hearing with enclosures including Applicant's Application and the Bureau Report, dated March 26, 2020, served by certified mail, return receipt requested;
- b) Notice of Defense, signed January 2020 [sic]; and
- c) Conclusion of Prehearing Conference letter, dated May 19, 2020.

5. During the administrative hearing, Presiding Officer Kate Patterson accepted into evidence the following exhibits offered by the Bureau:

- 1. Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; and

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May 7, 2020; and Notice of Defense, dated January 2020, Bates Nos. 001-025;

- 2. Procedural documents, notices and letters:
 - a. December 20, 2019, Referral of Third-Party Proposition Player Services License Application to an Evidentiary Hearing for Omar Zepeda-Naranjo (without enclosure), Bates Nos. 026-027;
 - b. March 26, 2020, Notice of Hearing, with attachments and proof of service for Omar Zepeda-Naranjo, Bates Nos. 028-046;
 - c. May 19, 2020, Conclusion of Prehearing Conference, Bates Nos. 047-053; and
 - d. May 21, 2020, Scheduling Hearing through Zoom video web conferencing, Bates Nos. 054-055.
- 3. Application for Third-Party Proposition Player Services License dated March 12, 2019, and Level I Supplemental Information dated March 12, 2019, received by the Bureau of Gambling Control April 25, 2019, for Omar Zepeda, Bates Nos. 056-066;
- 4. Bureau of Gambling Control Third-Party Player Initial Background investigation Report, Level III, for Omar Zepeda –Naranjo/Global Player Services, Inc., with attachments, dated November 2019, Bates Nos. 067-074;
- 5. CGCC Licensing Division Memorandum for Commission Meeting December 19, 2019, without attachments. CGCC Notice of Scheduled Commission Meeting for December 19, 2019, to Omar Zepeda-Naranjo dated December 6, 2019, no enclosures, Bates Nos. 075-078;
- 6. Registration history for Omar Zepeda-Naranjo and BGC Certification dated January 17, 2020, Bates Nos. 079-080;
- 7. Correspondence between the Bureau of Gambling Control and Omar

- 1 Zepeda-Naranjo, Bates Nos. 081-086;
- 2 8. Appointment of Designated Agent for Omar Zepeda; Bates No. 087;
- 3 9. Employment Verification for Omar Zepeda-Naranjo at Knighted Ventures,
- 4 LLC., Bates No. 088;
- 5 10. May 11, 2020, Letter to Omar Zepeda-Naranjo providing Bureau of
- 6 Gambling Control disclosure documents and witnesses, Bates Nos. 089-
- 7 090.

8 6. Presiding Officer Kate Patterson also accepted into evidence Exhibit A offered by

9 the Applicant which was a letter from Global Player Services, Inc. Manager Lisa Daluz.

10 7. The matter was submitted on July 1, 2020.

11 **FINDINGS OF FACT**

12 8. On or about March 25, 2019, the Commission issued Applicant a Third-Party

13 Proposition Player Services Registration, registration number TPPL-023063 as an employee of

14 Global Player Services, Inc. which is set to expire on July 31, 2020.

15 9. On or about April 25, 2019, the Bureau received an Application for Third Party

16 Proposition Player Services License for Supervisor, Player or Other Employee from Applicant

17 along with a Supplemental Information Application, (collectively Application). Applicant signed

18 this Application under penalty of perjury on or around March 12, 2019 and stated therein that he

19 previously worked for Knighted Ventures, LLC but left because of “vacation.”

20 10. During the background investigation, the Bureau received an employment

21 verification form from Knighted Ventures, LLC which stated Applicant had been terminated

22 because of “Misconduct – failed to submit to drug testing after suspicion of being under the

23 influence of alcohol.” On or about August 7, 2019, the Bureau sent Applicant a letter which asked

24 him to provide a detailed statement as to his separation from Knighted Ventures.

25 11. On or about August 8, 2019, Applicant provided a statement which stated “They

26 had their suspicion of being [sic] under influence while at work, they sent me to a drug screen but

27 I was a day late and they didn’t accept it. Everything was negative.”

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1 12. On or about August 13, 2019, the Bureau sent Applicant a follow up request
2 seeking an explanation why, if he had been terminated for suspicion of being under the influence,
3 Applicant did not disclose the termination and the late drug screening. On or about August 8,
4 2019, Applicant provided a statement which explained, “After I got terminated I went on
5 Vacation for a while and when I came back I wasn’t thinking about that, my mind was still on
6 vacation.”

7 13. On or about October 31, 2019, the Bureau provided its Third-Party Player
8 Background Investigation Report to the Commission where it concluded that Applicant was not
9 qualified for licensure and disqualified for licensure as it believed Applicant failed to disclose his
10 termination from Knighted Ventures as well as provided false and misleading information about
11 why left that employment.

12 14. On or about November 13, 2019, Applicant provided another statement which
13 stated:

14 In regards to my reason for leaving Knighted Ventures, I mistakenly wrote vacation. I
15 was asked to take a drug screen, I went a day late. The test came back negative but I
16 was still let go. Then I went on vacation to see my grandmother. I apologize for not
explaining the situation in greater detail in the initial application.

17 15. On December 19, 2019, the Commission considered Applicant’s application and
18 elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision
19 (a), subsection (2). Commission staff mailed an evidentiary hearing referral letter via certified
20 mail to Applicant’s address of record which included a blank Notice of Defense form with
21 instructions to return it to the Commission within 15 days of receipt or else the Commission may
22 issue a default decision.

23 16. Commission staff received a Notice of Defense form from Applicant, requesting
24 an evidentiary hearing, signed January 2020 [sic].

25 17. Commission staff mailed a Notice of Hearing sent certified mail on March 26,
26 2020 to Applicant’s address of record which stated the hearing was set to occur on Wednesday,
27 July 1, 2020 at 10:00 a.m.

28 18. On or about May 7, 2020, the Bureau prepared and served upon Applicant a

1 Statement of Reasons wherein it recommended that Applicant's application be denied. The
2 Commission received this Statement of Reason on or about May 8, 2020.

3 19. On May 19, 2020, Presiding Officer Kate Patterson conducted a pre-hearing
4 conference with Deputy Attorney General Colin Wood and Applicant along with his Designated
5 Agent Lisa Daluz appearing via telephone. A letter confirming this conference was mailed out to
6 the parties that same day.

7 20. On July 1, 2020, the hearing was conducted with Deputy Attorney General Colin
8 Wood and Applicant both appearing via a Zoom video conference. The record thereafter closed
9 and the matter was submitted.

10 Applicant's Testimony

11 21. Applicant testified at the hearing on his own behalf and subject to cross
12 examination. Applicant attempted to explain why he wrote "vacation" on his Application as the
13 reason he left employment at Knighted Ventures. Applicant initially testified that vacation was
14 the reason why he left his employment with Knighted Ventures. Applicant however explained
15 further that the night he was suspected of being under the influence of alcohol was New Year's
16 Eve and he was trying to be less shy as part of the New Year. He believes a co-worker didn't
17 respond well to this new attitude and reported him as drunk. Knighted Ventures sent him to take a
18 drug test the next day, but Applicant took it two days later after the pleading of his family who
19 wanted him to stay with them. He indicated he had no alcohol in his system.

20 22. On or around January 4, 2019, before Applicant went on vacation, he was called
21 into Knighted Ventures' offices where they terminated Applicant's employment. When Applicant
22 returned from vacation he was hired by Global Player Services, Inc. Applicant filled out his
23 Application on March 12, 2019 where he marked "vacation." Applicant testified that he forgot he
24 was terminated when he filled out his Application as his grandmother was sick with cancer at that
25 time and that visiting his grandmother was one of the reasons for him going on vacation.

26 23. This Application however was completed just over two months after he was
27 terminated from Knighted Ventures. Applicant testified that he had never been fired before and he
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1 knew it was bad. Additionally, in his response to the Bureau in explaining why he wrote vacation,
2 he said that “his mind was still on vacation.” However he made no mention of his grandmother’s
3 sickness or her recent passing.

4 24. Applicant’s explanations about forgetting he left Knighted Ventures due to
5 termination rather than for a “vacation” is not believable. While the Commission offers
6 condolences for the loss of Applicant’s grandparent, that loss does not explain how Applicant
7 could forget such a significant and novel event as being terminated just over two months prior
8 and instead write vacation. Moreover, Applicant’s familial tragedy does not excuse lying to the
9 Bureau and Commission regarding the reason for leaving prior employment simply to minimize
10 derogatory information.

11 **LEGAL CONCLUSIONS**

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

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

18 27. At an evidentiary hearing pursuant to Business and Professions Code sections
19 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
20 demonstrate why a license or other approval should be issued. (Cal. Code Regs., tit. 4, § 12060,
21 subd. (i); Bus. & Prof. Code § 19856, subd. (a).)

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

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

3 30. An “unqualified person” means a person who is found to be unqualified pursuant
4 to the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
5 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
6 Professions Code section 19859. (Bus. & Prof. Code § 19823, subd. (b).)

7 31. The Commission has the power to deny any application for a license, permit, or
8 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code § 19824,
9 subd. (b).)

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

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

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

25 35. 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, subd. (e).)

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1 36. Applicant lied in the application process and provided untrue and misleading
2 information that was material to qualification about his prior employment at Knighted Ventures
3 and the reasons he left that employment. Therefore, Applicant is disqualified from receiving a
4 license pursuant to Business and Professions Code section 19859(b). As a result, Applicant is
5 ineligible to receive a third party proposition player license pursuant to CCR section
6 122218.11(f).

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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, subsection (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, subsection (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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3 1. OMAR ZEPEDA-NARANJO's application for Third-Party Proposition Player
4 License is DENIED.

5 2. No costs are to be awarded.

6 3. Each side to pay its own attorneys' fees.
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8 This Order is effective on September 3, 2020.
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11 Dated: 8-4-2020

Signature: 

Jim Evans, Chairman

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13 Dated: 8/4/2020

Signature: 

Paula LaBrie, Commissioner

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15 Dated: 8/4/2020

Signature: 

Gareth Lacy, Commissioner

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17 Dated: 8/4/2020

Signature: 

Trang To, Commissioner