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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Third-Party  
Proposition Player Services License  
Regarding:  
  
CINDY TRAN  
  
Applicant.

CGCC Case No. CGCC-2021-0311-14D

**DECISION AND ORDER**

Hearing Date: August 27, 2021  
Time: 10:00 a.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, in Sacramento, California, and held via Zoom video conference, on August 27, 2021.

Noel Fischer, Deputy Attorney General, State of California (DAG Fischer), represented complainant Nathan DaValle, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Applicant Cindy Tran (Tran) appeared on her own behalf without representation.

Vietnamese interpreter Tin Quan, Interpreter Certificate Number 301320, was present and interpreted for Tran.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the following documents: the Commission’s Notice of Hearing with two attachments (a) Tran’s application for proposition player services license; and (b) the Bureau’s initial Background Investigation Report; the Commission’s Conclusion of Prehearing Conference letter; the Bureau’s Statement of Reasons, and Tran’s signed Notice of Defense.

During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

(2) <sup>1</sup>January 8, 2020 (Redacted) Application for Third-Party Proposition Player Services

<sup>1</sup> The Bureau’s Exhibits 1, 4-8, and 11-13 were not admitted into evidence and are not a part of the administrative record.

1 License for Supervisor, Players or Other Employees and Level I Supplemental Information, Bates  
2 Nos. BGC 019-032;

3 (3) November 30, 2020 Third-Party Player Initial Background Investigation Report, Level  
4 III, Bates Nos. BGC 033-046;

5 (9) Certified Court Documents with Department of Alcoholic Beverage Control Citation,  
6 Conviction Date, 12/10/2001, Case Number CC131952, Bates Nos. BGC 071-076;

7 (10) Employment Information for Cindy T. Tran from Bay 101, Bates Nos. BGC 077-084.

8 During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the  
9 following exhibits offered by Tran:

10 (A) July 27, 2021, Statement by Jack Katashima and Tran.

11 The record remained open until September 3, 2021 for the parties to submit written  
12 closing arguments. The record closed and the matter was submitted on September 3, 2021.

### 13 FINDINGS OF FACT

#### 14 **Procedural History**

15 1. On or about January 28, 2020, the Commission issued Third-Party Proposition Player  
16 Services Registration, number TPPL-024841 to Tran to allow for her employment as a third-party  
17 proposition player for PT Gaming, LLC (PT Gaming). Tran's registration expires on February 28,  
18 2022.

19 2. On or about February 26, 2020, the Bureau received an Application for Third-Party  
20 Proposition Player Services License for Supervisor, Player or Other Employee, and a Level I  
21 Supplemental Information form (collectively, Application) from Tran.

22 3. On or about November 30, 2020, the Commission received a Level III Third-Party  
23 Player Initial Background Investigation Report on Tran from the Bureau. In this report, the  
24 Bureau recommends that the Commission deny Tran's Application.

25 4. At its March 11, 2021 meeting, the Commission referred consideration of Tran's  
26 Application to a Gambling Control Act (GCA) evidentiary hearing to be held pursuant to CCR  
27 section 12054, subdivision (a)(2).  
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1           5. On or about March 30, 2021, the Commission received a Notice of Defense form  
2 signed by Tran requesting an evidentiary hearing on the consideration of her Application. On the  
3 form, Tran requested the assistance of a Vietnamese interpreter.

4           6. On or about April 21, 2021, the Commission sent a Notice of Hearing to Tran and  
5 DAG Fischer, providing that an evidentiary hearing would be held before the Commission on  
6 August 27, 2021.

7           7. On July 19, 2021, The Bureau served its Statement of Reasons and related documents  
8 on the Commission and Tran. In the Statement of Reasons, the Bureau requests that the  
9 Commission deny Tran’s Application on the basis that she was convicted of misdemeanor  
10 loitering to solicit the purchase of alcohol and provided false and misleading information to the  
11 Bureau regarding her separation from employment from Bay 101.

12           8. The Commission heard this matter via Zoom video conference on August 27, 2021.  
13 The Bureau was represented throughout the hearing by DAG Fischer. Tran appeared on her own  
14 behalf without representation and with the assistance of an interpreter.

15           **Work History in Controlled Gambling**

16           9. Tran was employed with by Bay 101 as a “prop player” from approximately March 6,  
17 2008 until her termination on February 18, 2016. On the Application, Tran wrote that her reason  
18 for leaving employment with Bay 101 was “position eliminated.” However, when the Bureau  
19 contacted Bay 101 to verify her employment history, it was found that Tran was terminated.

20           10. On September 17, 2020, the Bureau asked Tran to provide a written statement by  
21 September 27 regarding the discrepancy and the circumstances that led to her separation from  
22 employment at Bay 101.

23           11. Tran provided the Bureau with a written statement on September 22, 2020. She stated  
24 that Bay 101 was in the process of moving to a new location and told all prop players that their  
25 positions would be eliminated after the move. Tran explained that she had a disagreement with a  
26 dealer, floorman, and lead floorman over a ruling in a game of Pai Gow tiles. Tran admitted that  
27 she was angry and loudly voiced her displeasure of what she believed to be an incorrect ruling.  
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1 After the disagreement, Tran worked until the end of her shift with no issues. The next day Tran  
2 worked for two hours and was called to the office and “let go.” Since Tran knew her position was  
3 going to be eliminated, she accepted Bay 101’s decision and moved on.

4 12. In January 2020, Tran began working as a third-party proposition player for PT,  
5 Gaming.

6 13. Tran provided a letter of reference from her husband, Jack Katashima, dated July 27,  
7 2021, which states that Tran has worked for Knighted Ventures for almost seven months and has  
8 been a model employee.

9 14. Other than the termination from Bay 101, there was no evidence presented that Tran  
10 has had any derogatory employment-related issues while working in controlled gambling.

#### 11 **Tran’s Criminal History**

12 15. On or about December 10, 2001, Tran was convicted by the Santa Clara County  
13 Superior Court of violating California Penal Code section 303, subdivision (a), loitering to solicit  
14 the purchase of alcohol, a misdemeanor. Tran was sentenced to two years of probation, and  
15 ordered to pay a fine. Tran was not required to disclose the conviction on her Application because  
16 it occurred prior to the specified 10-year period.

17 16. On September 17, 2020, the Bureau requested that Tran provide a signed statement by  
18 September 27, 2020, describing in detail the events leading up to the incident that resulted in the  
19 conviction.

20 17. On September 22, 2020, Tran provided a written statement to the Bureau explaining  
21 that she was working as a server at a Vietnamese restaurant at the time of incident. Tran served a  
22 tray of beers and food to a table of four patrons. The patrons asked Tran to join them and Tran sat  
23 down. Tran visited for five minutes and then went back to work. Soon after the police showed up  
24 and Tran and two of the patrons she had sat with were cited for violation of Penal Code section  
25 303. Tran went to court and paid a fine. Tran explained that she did not fully understand what she  
26 was being charged with because she recently moved from Vietnam and knew very little English.

27 18. On November 23, 2020, the Bureau asked Tran for additional information explaining  
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1 why she was arrested for loitering to solicit the purchase of alcohol if she was a waitress serving  
2 alcohol in the restaurant. Tran responded the same day stating that she was not arrested, just cited,  
3 and that she provided all the information she could remember about the incident.

4 19. Other than the December 10, 2001 conviction, no evidence was presented that Tran  
5 has any additional convictions on her criminal history.

6 **Assessment of Suitability for Licensure**

7 20. Tran has worked for at least three employers in controlled gambling since 2008 and  
8 has never been accused of wrongdoing at work other than the incident at Bay 101. According to  
9 Tran's September 22, 2020 written statement to the Bureau, she has never lied or cheated an  
10 employer or patron and the incident at Bay 101 stemmed from her desire to protect the bank and  
11 be fair to everyone. Tran also testified that she loves her job and hopes to continue working. The  
12 aforementioned evidence reflects positively on Tran's character.

13 21. As a result of the Bureau's background investigation, there are two issues of concern  
14 regarding Tran's suitability for licensure. The first concern arises from the fact that Tran failed to  
15 disclose on her Application that she was terminated from Bay 101 and instead stated her position  
16 was eliminated. The second concern is that Tran was convicted of misdemeanor loitering to  
17 solicit the purchase of alcohol.

18 *First Concern: Failure to Disclose Derogatory Employment History*

19 22. The failure of an applicant to provide accurate, complete, and truthful information on  
20 an application for licensure, in response to Bureau inquiries, and while testifying at an evidentiary  
21 hearing, can have a negative impact on the applicant's suitability for licensure.

22 23. Yolanda Morrow, Assistant Director of the Bureau's Licensing Section, testified that  
23 the application is what is submitted to request a license and the supplemental form contains the  
24 information the Bureau needs to conduct its background investigation. The supplemental form is  
25 a vital document and where the Bureau's investigation begins. The form specifically requires that  
26 all responses are made under penalty of perjury. One of these questions relates to an Applicant's  
27 employment history which is important to the Bureau's investigation because they want to review  
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1 all terminations, especially gambling related ones, to ensure the applicant does not pose a threat to  
2 the effective regulation of controlled gambling.

3 24. Ms. Morrow testified that Tran listed her reason for leaving employment with Bay 101  
4 as “position eliminated” and this was concerning because when Bureau staff contacted Bay 101 to  
5 verify Tran’s employment, staff was told that Tran was terminated.

6 25. Tran testified at the hearing regarding the incident that led to her separation from  
7 employment with Bay 101. Tran testified that before the incident occurred, she was told that her  
8 position as a prop player would be eliminated when Bay 101 moved locations. Tran did not know  
9 exactly when the move would occur.

10 26. Tran explained that while working as a prop player, she was at a table to play Pai Gow  
11 tiles and the dealer made a mistake and started the action wrong. Tran asked for a misdeal to be  
12 declared and asked the floorman to intervene and review the surveillance footage. The floorman  
13 disagreed with Tran and refused to review the deal on the surveillance footage. Tran testified that  
14 the floorman slammed his fists on the table during their disagreement. Tran also requested that a  
15 lead floorman review the surveillance footage, but he declined to do so and supported the  
16 decision of the floorman. Tran admits that she was angry and loudly voiced her displeasure. Tran  
17 testified that she did not want to continue the game and planned to quit.

18 27. Tran testified that \$2,000 was at stake and she was frustrated because the dealer did  
19 not follow the rules of the game. Tran testified that as a prop player, if she saw errors or cheating  
20 and failed to report it she could be blamed.

21 28. Tran testified that the day after her verbal disagreement with the floorman she worked  
22 for a couple of hours and then was called into the office. Tran’s badge was taken from her and she  
23 was asked to sign a document. The document was written in English and was not translated for  
24 her. Tran testified that she felt bullied into signing the document even though she did not  
25 understand it. Tran testified that she understood that she would not be returning to work and  
26 accepted Bay 101’s decision. However, she didn’t view her separation as a “termination” because  
27 she felt she was accepting the decision and moving on voluntarily. Now Tran understands that  
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1 Bay 101 considers her separation from employment to be a “termination,” but at the time she  
2 prepared her Application, she did not.

3 29. The employment verification form signed by the Human Resource Manager of Bay  
4 101 states that Tran was terminated on February 18, 2016 for “inappropriate conduct at table in  
5 front of customers.” A Termination Report was also admitted that identifies Tran’s last day  
6 worked as February 13, 2016. There is not a signature line on the Termination Report for the  
7 employee and no evidence was admitted showing that the Termination Report was ever provided  
8 to Tran.

9 30. Additionally, a Counseling Memo was admitted into the record showing that Tran was  
10 suspended on February 13, 2016. The Counseling Memo was signed by Tran on February 14,  
11 2016 and states that “she will be suspended until further review of upper management.”

12 31. Tran testified that her husband helped her fill out her Application due to her limited  
13 English and she told him what to write. Tran thought that “position eliminated” was accurate  
14 based on her belief that she voluntarily quit and she had previously been notified that her position  
15 was going to be eliminated when Bay 101 moved locations.

16 32. The Commission found Tran’s testimony that she did not understand that she was  
17 terminated to be credible. Tran testified that she had limited understanding of the English  
18 language. Further, the document Tran signed on February 14, 2016 was not translated for her.  
19 However, even if Tran’s husband or someone else had translated the document for her, it would  
20 not have notified her that she was terminated. The document only provided that Tran was  
21 suspended pending further review of upper management.

22 33. No evidence was submitted to indicate that Bay 101 ever followed up with Tran to  
23 convey that a review by upper management was completed and that a decision was made to  
24 terminate her. The last known communication from Bay 101 to Tran indicated that she was  
25 suspended. Further, Tran indicated that she intended to voluntarily leave her employment due to  
26 her frustration over the situation, which coupled with knowledge that her position was going to be  
27 eliminated when Bay 101 changed locations makes it understandable that she was confused and  
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1 uncertain of how Bay 101 would characterize her separation from employment.

2 34. Tran did not intend to mislead the Bureau when she put “position eliminated,” on the  
3 Application. Tran disclosed what she believed was accurate employment history information  
4 when she filled out the Application. Upon inquiry by the Bureau, Tran promptly provided a  
5 written statement describing the incident leading to her separation from employment. Tran’s  
6 written statement to the Bureau was also consistent with her testimony at the hearing. Therefore,  
7 Tran is not disqualified from licensure for failing to reveal material information, or for supplying  
8 misleading information, regarding her separation from Bay 101 on the Application.

9 *Second Concern: Misdemeanor Conviction*

10 35. A criminal conviction, and the facts and circumstances surrounding the incident  
11 leading to the conviction, can have a negative impact on an applicant’s suitability for licensure.  
12 First, the conviction, and facts and circumstances of the incident leading to the conviction, may  
13 lead to a determination that the applicant lacks good character, honesty, and integrity. Second, the  
14 conviction, and facts and circumstances of the incident leading to the conviction, may lead to a  
15 determination that the applicant poses a risk to the public interest of the state or to the effective  
16 regulation and control of controlled gambling.

17 36. Ms. Morrow testified that even though Tran was not required to disclose the  
18 conviction, it was still relevant to determining her suitability for licensure. The Bureau asked  
19 Tran for additional clarification about the incident leading to the conviction because they did not  
20 understand the circumstances based on the information provided. After Tran provided additional  
21 information regarding the conviction, it was still unclear exactly why Tran was cited and  
22 convicted of solicitation to purchase alcohol given that she was working as a server at the  
23 restaurant at the time.

24 37. Tran testified that she was not soliciting others to buy alcohol and that she didn’t drink  
25 alcohol. Tran testified that she brought beers to the table for the patrons and when the police  
26 arrived they saw Tran at the table and gave her a citation. Tran’s boss and coworkers advised her  
27 to pay the fine, but no one explained to Tran why she received the citation.

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1 38. Tran testified that her English was very limited at the time of this incident. Tran  
2 testified that there was a man who spoke Vietnamese at her hearing who might have been an  
3 attorney or an interpreter, but she is not sure. The man told her to sign the papers and pay the fine  
4 and she would be fine.

5 39. According to the court records offered by the Bureau and admitted into evidence, Tran  
6 was convicted upon a plea of nolo contendere. The records do not indicate that Tran was  
7 represented by an attorney at the hearing, but do indicate that an interpreter was present.

8 40. The incident that led to Tran's conviction was an isolated incident that occurred long  
9 ago. Tran testified that she understood very little of the legal proceedings and to this day does not  
10 understand why she was cited. Tran's testimony was credible.

11 41. Based on the foregoing factual findings, Tran's criminal conviction is insufficient to  
12 demonstrate a lack of good character, honesty, or integrity, or that she poses a risk to the public  
13 interest of this state or to the effective regulation and control of controlled gambling.

14 42. All documentary and testimonial evidence submitted by the parties that is not  
15 specifically addressed in this Decision and Order was considered but not used by the Commission  
16 in making its determination on Tran's Application.

#### 17 LEGAL CONCLUSIONS

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

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

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

2 46. The Commission has the power to deny any application for a license, permit, or  
3 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
4 section 19824(b).

5 47. The burden of proving his or her qualifications to receive any license from the  
6 Commission is on the applicant. Business and Professions Code section 19856(a).

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

10 49. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
11 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or  
12 her qualifications to receive any license under the GCA. CCR section 12060(i).

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

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

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

24 53. An application for a license will be denied if the Commission finds that the applicant  
25 has not satisfied the requirements of Business and Professions Code section 19857. CCR section  
26 12040(a)(1).

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

5 55. An application for a license will be denied if the Commission finds that any of the  
6 provisions of Business and Professions Code section 19859 apply to the applicant. CCR section  
7 12040(a)(2).

8 56. Tran met her burden of demonstrating that she is a person of good character, honesty  
9 and integrity pursuant to Business and Professions Code section 19857(a). Therefore, Tran is  
10 qualified to receive a Third-Party Proposition Player Services License pursuant to Business and  
11 Professions Code section 19857(a) and not subject to denial pursuant to CCR section 12040(a)(1).

12 57. Tran has also met her burden of demonstrating that she is a person whose prior  
13 activities, reputation, habits, and associations do not pose a threat to the public interest of this  
14 state, or to the effective regulation and control of controlled gambling, or create or enhance the  
15 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of  
16 controlled gambling or in the carrying on of the business and financial arrangements incidental  
17 thereto. Therefore, Tran is qualified to receive a Third-Party Proposition Player Services License  
18 pursuant to Business and Professions Code section 19857(b) and is not subject to denial pursuant  
19 to CCR section 12040(a)(1).

20 58. Finally, Tran has met her burden of demonstrating that she is not disqualified from  
21 receiving a Third-Party Proposition Player Services License pursuant to Business and Professions  
22 Code section 19859 and is not subject to denial pursuant to CCR section 12040(a)(2).

23 59. Based on the foregoing, Tran is qualified to receive a Third-Party Proposition Player  
24 Services License.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Tran has the following appeal rights available under state law:

CCR section 12064, subsections (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. A request for reconsideration must be:

- (1) Made in writing to the Commission, copied to the Complainant. The Bureau may provide a written response to the Commission within 10 calendar days of receipt of the request; and
- (2) Received by the Commission and Complainant within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is earlier.

(b) A request for reconsideration must 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.

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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2 1. Cindy Tran's Application for Third-Party Proposition Player Services License is  
3 APPROVED.

4 2. No costs are awarded.

5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on October 7, 2021.

7  
8 Dated: 10/7/21

Signature: Paula LaBrie  
Paula LaBrie, Chair

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11 Dated: 10/7/21

Signature: Cathleen Galgiani  
Cathleen Galgiani, Commissioner

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14 Dated: 10-7-21

Signature: Eric Heins  
Eric Heins, Commissioner

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17 Dated: 10-7-21

Signature: William Liu  
William Liu, Commissioner

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20 Dated: 10/7/21

Signature: Edward Yee  
Edward Yee, Commissioner