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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

ALAN WEI DA TAN

Applicant.

CGCC Case No. CGCC-2021-0708-9B

BGC Case No. BGC-HQ2021-00029SL

DECISION AND ORDER

Hearing Date: May 25, 2022

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 May 25, 2022.

Colin A. Wood, Deputy Attorney General, State of California (DAG Wood), represented complainant Yolanda Morrow, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Jarhett Blonien (Attorney Blonien) represented Alan Wei Da Tan (Tan). Tan was present throughout the hearing.

Agnes Yau, Certified Cantonese Interpreter, provided interpreting services for Tan throughout the hearing.

During the evidentiary hearing, Presiding Officer Kate Patterson (Presiding Officer) took official notice of the following documents: the Commission’s Notice and Agenda of Commission Hearing; the Commission’s Conclusion of Prehearing Conference letter; the Commission’s Notice of Hearing which included attachments: (a) Tan’s Application for Third-Party Proposition Player Services License for Supervisor, Player or Other Employee; and (b) the Bureau’s Third-Party Worker Initial Background Investigation Report, Level II; the Bureau’s Statement of Particulars; and Tan’s signed Notice of Defense.

1 Pursuant to a stipulation between the parties, the Presiding Officer accepted into evidence
2 Exhibits 1 through 15 offered by the Bureau, which contain bates numbering “Complainant –
3 001” to “Complainant – 303” with a Table of Contents that separately identifies each document.

4 Also pursuant to a stipulation between the parties, the Presiding Officer accepted into
5 evidence Exhibits A through P offered by Tan, which contain bates numbering “Tan000001” to
6 “Tan000576,” with a Table of Contents that separately identifies each document.

7 The record closed and the matter was submitted for decision on May 25, 2022. On June 3,
8 2022, as authorized, Attorney Blonien submitted a closing brief on Tan’s behalf for the
9 Commission’s consideration.

10 FINDINGS OF FACT

11 **PROCEDURAL HISTORY**

12 1. In September 2011, the Commission issued to Tan a registration number, TPPL-
13 009613, for his employment as a third-party proposition player for Fortune Players Group, Inc.
14 (Fortune). After he assumed supervisory duties for Fortune, on July 10, 2015, the Commission
15 issued to Tan a third-party supervisor registration number, TPSU-001232.

16 2. On December 18, 2015, the Bureau received from Tan an initial Application for Third-
17 Party Proposition Player Services License for Supervisor, Player or Other Employee and a Level
18 II Supplemental Information form (collectively, Application) to work as a supervisor for Fortune.
19 On September 30, 2021, the Commission converted Tan’s registration to a temporary license
20 (TPSU-001232) with an expiration date of September 30, 2023.

21 3. On or about December 31, 2020, the Bureau sent its Third-Party Supervisor Initial
22 Background Investigation Report Level II for Tan (Report) to the Commission, recommending
23 approval of the Application on the condition that Tan be required to pay his, then outstanding,
24 background investigation deposit to the Bureau.

25 4. On July 8, 2021, the Commission referred the Application to an evidentiary hearing to
26 be held pursuant to the Gambling Control Act (Act) and CCR, section 12060.

27 5. Tan timely submitted a Notice of Defense, dated July 16, 2021.
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1 6. On February 4, 2022, the Commission sent a Notice of Hearing to Attorney Blonien
2 and DAG Wood, providing that an evidentiary hearing would be held before the Commission on
3 March 25, 2022.

4 7. On April 1, 2022, the Commission received the Bureau’s Statement of Particulars
5 outlining factors in aggravation and mitigation in connection with the Application.

6 **TAN’S EMPLOYMENT HISTORY IN CONTROLLED GAMBLING**

7 8. Tan worked as a third-party proposition player for Fortune from September 2011 to
8 July 2015.

9 9. Tan worked as a third-party proposition supervisor for Fortune from July 2015 to
10 present.

11 **TAN’S FINANCES AND GAMBLING-RELATED ACTIVITIES**

12 10. While investigating the Application, the Bureau reviewed Tan’s bank statements from
13 December 2017 through December 2019. The Bureau discovered that Tan’s deposits and
14 withdrawals from his bank account in 2019 were significantly more than his gross income as
15 reported on his tax return for that year. According to the Bureau, in 2019, Tan withdrew
16 \$348,272.79 from his bank accounts and deposited \$416,332.50. Without admitting the accuracy
17 of the Bureau’s figures, Tan agrees his bank accounts show six-figure deposits and withdrawals in
18 2019. He explained that the significant amounts are from his gambling-related activities (wins
19 and losses).

20 11. Between the years 2017 and 2019, Tan used cash advances from credit cards to
21 gamble. According to the Bureau’s Report, Tan’s cash-advances totaled \$53,080.75. The Bureau
22 was not able to directly match any cash advances to bank deposits. The Bureau found that cash
23 advances appear to be withdrawn at gambling establishments, and it does not appear that any of
24 the cash advances were deposited directly into bank accounts.

25 12. During the Bureau’s initial financial review, it was discovered that for the year 2019,
26 Tan made 12 deposits, from January 2019 through July 2019, totaling \$115,700 from an unknown
27 source. Additionally, as noted in the Bureau’s Report, Tan made 84 withdrawals from his bank
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1 accounts, totaling \$128,647, at or near two California gambling establishments.

2 13. On April 23, 2021, after review of all of Tan's bank statements for the year ending
3 December 31, 2019, the Bureau notified the Commission that:

4 "The withdrawals at cardrooms and/or identified by Mr. Tan as
5 used for gambling totaled \$296,571.10. The deposits identified by
6 Mr. Tan as casino winnings totaled \$152,100. Please note, Mr. Tan
7 identified an additional \$117,300.00 as 'Credit Card Advance and
8 Casino Cash Out; however, he did not provide a breakdown.'"

9 (Complainant – 119.)

10 14. According to the Bureau's Report in 2018, Tan's income totaled \$67,534.85. In 2019,
11 Tan's household's total wages were \$71,701.45.

12 15. Between the years 2017 and 2019, Tan gambled at Artichoke Joe's Casino (Artichoke)
13 in San Bruno, California, and at the Oaks Card Club in Emeryville, California (collectively,
14 Casinos). Tan does not have a player card at the Casinos, therefore "win/loss statements" were not
15 provided. However, the Bureau reviewed a Multiple Transaction Log (MTL) required to be
16 maintained by the Casinos pursuant to the federal Bank Secrecy Act (31 U.S.C. § 5311 et seq.).
17 The MTL maintains a partial record of customer's activities in the cardroom. Between January 1,
18 2018 and December 24, 2019, the MTL from Artichoke for Tan shows "cash in" amount of
19 \$313,780.00 and "cash out" amount \$568,452.00. The Bureau reviewed the MTLs from the
20 Casinos and found the following for years 2017-2019:

- 21 • 2017: Oaks Card Club MTLs reported net winnings of \$19,939. The Bureau did not
22 receive 2017-MTLs from Artichoke.
- 23 • 2018: Artichoke's MTL reported net winnings of \$14,457. There were no transactions
24 reported on the Oaks Card Club MTLs for 2018.
- 25 • 2019: Artichoke's MTL reported net winnings of \$240,215. Oaks Card Club reported net
26 winnings of \$39,514.

27 (Complainant – 120.)

28 16. On March 26, 2021, the Commission's staff made the following request to the
Bureau, and included Attorney Blonien on the communication:

"The Bureau's documentation received from Artichoke Joe's
Casino indicates a total profit from Artichoke Joe's Casino, during

1 2019, of approximately \$240,000; however, as provided in the
2 statement above, Tan believes the net gambling winnings to be
3 only \$21,000 in 2019. Therefore, Commission staff requested
4 documentation substantiating the discrepancy.”

5 (Complainant - 120.)

6 17. In response, on April 14, 2021, Tan provided the following statement to the Bureau:

7 “I have never seen the documentation in question from Artichoke
8 Joes [*sic*], but it appears to be inaccurate. The information from
9 Artichoke Joe’s does not give a complete and accurate depiction of
10 my gaming activity. As a player you can purchase chips from the
11 cage, through a chip runner or directly from a dealer at the table. It
12 appears that the Artichoke Joes [*sic*] tracking system does not
13 account for the chips purchased directly from the dealer at the
14 gaming table.”

15 (Complainant - 120.)

16 18. During the hearing, Tan testified that Artichoke’s MTL is inaccurate. He also testified
17 that has seen Arichoke’s MTL before, but never informed the Bureau that the report was
18 inaccurate.

19 19. Tan did not claim any gambling-related income or losses on his 2019 federal or state
20 income tax returns.

21 20. Although Tan actively gambled during the years 2017 through 2019, he did not keep a
22 record of his gambling-related winnings or losses. Tan testified that there is no way for him to
23 remember the amounts of his gambling-related wins or losses for any time period.

24 21. In 2019, Tan made a series of deposits into his Citibank checking account that were
25 in amounts just under the \$10,000 reporting threshold under the Bank Secrecy Act. A number of
26 these deposits were made in close temporal proximity, and some on consecutive days. Tan
27 explained that this was coincidental, because he simultaneously deposited funds from his
28 gambling activity, his paychecks from Fortune, and checks for providing in-home support
services to his parents. Given the numerous times such deposits were made in 2019, Tan’s
explanation is not credible and lacking any evidentiary support.

TAN’S STATEMENTS TO THE BUREAU OF HIS FINANCES AND GAMBLING-RELATED ACTIVITIES

22. On July 16, 2020, the Bureau requested the following from Attorney Blonien:

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“Financial History: Mr. Tan indicated that his large cash transactions at Artichoke Joe’s Cardroom [sic] during the period of 2016 through 2019 were due to his gambling activities. However, a review of Mr. Tan’s tax returns did not show any gambling related claims during the aforementioned years. Provide a signed and dated statement from Mr. Tan explaining why he failed to claim any gambling related income on his taxes.”

(Complainant – 172.)

23. On August 12, 2020, after dating the response by hand, and signing his name twice, Tan responded to the Bureau’s inquiry as follows:

“I did not file a claim for any gambling related income on my taxes [sic] return because my losses were more than my winnings. Since my gambling loses was [sic] more than my gambling winnings, my tax preparer told me that we don’t have to report it on my tax return.”

(Complainant – 99.)

24. During the hearing, Tan admitted he did not rely on his tax preparer’s advice as he claimed to the Bureau in his August 12, 2020, statement.

25. On August 20, 2020, the Bureau requested the following from Attorney Blonien:

“In Mr. Tan’s August 12, 2020 response to the Bureau, he indicated that he did not claim gambling winnings on his taxes because his gambling losses were more than his winning. Information available to the Bureau indicates that Mr. Tan’s cash out transactions at Artichoke Joe’s far exceeded his cash in transactions for the same time periods. Provide a signed and dated statement from Mr. Tan explaining how his gambling losses were more than his gambling winnings.”

(Complainant – 178.)

26. On September 10, 2020, after dating the response by hand, and signing his name twice, Tan responded to the Bureau’s inquiry as follows:

“After a review of my finances, for 2017 and 2018 my withdrawal for gambling were \$39,504.14 and deposit from gambling winnings were \$17,103. I had a net loss of \$22,401; so I did not report it. For 2019 I withdrew \$279,644 but had a net win of \$300,300. Since I had a winning of \$20,656, I offset my 2017 & 2018 net loss of \$22,401. Leaving me with a grand total loss of \$1,745. So, with these findings, I did not report any gambling winning.”

(Complainant – 101.)

1 27. Tan testified at the hearing that the information contained in his September 10, 2020
2 statement to the Bureau was incorrect due to “a mix-up” with his bank deposits. Tan testified that
3 he retained an auditor to review his finances to determine whether his tax returns need to be
4 amended to claim gambling winnings as income.

5 28. In his September 10, 2020, statement to the Bureau Tan reported exact amounts as
6 gambling-winnings and -losses. Tan’s demeanor when answering questions at the hearing relating
7 to his prior written statement to the Bureau lacked candor. His claim at the hearing of error due to
8 a deposit “mix-up,” and the reasons for it are not credible.

9 **TAN’S TAX PREPARER’S TESTIMONY**

10 29. Colin Ma (Ma) works for Richard Collins as a tax preparer. He is not a certified public
11 accountant. He is authorized by the State of California to prepare taxes for others. He has over a
12 decade of experience preparing taxes for various customers. Ma’s testimony was credible.

13 30. Ma’s name appears on Tan’s tax returns as either the preparer or the electronic return
14 originator for tax years 2017, 2018 and 2019. For tax years 2017 and 2018, Tan’s tax return filing
15 status was “single.” For tax year 2019 his tax return filing status was “married filing jointly.”

16 31. Tan never provided to Ma any documentation, ledger of wins and losses from his
17 gambling activities, nor did he provide any tax forms (e.g., W2-G) from any casino showing his
18 gambling-related activity between 2017 through 2019.

19 32. According to Ma, an individual’s gambling winnings are required to be reported to
20 federal and state tax authorities. Individuals can deduct gambling losses from their claim of
21 gambling winnings “up to a limit of what you’ve recorded that you’ve won.” According to Ma,
22 individuals should have their own method of tracking gambling winnings and losses, or the casino
23 may track it for them. Gambling losses cannot be carried forward from one year to the next.
24 Taking the standard deduction on federal taxes does not allow an individual tax filer to take
25 gambling-loss deductions. Tan took the standard deduction on his federal taxes for years 2018
26 and 2019. Tan itemized deductions for tax year 2017.

27 33. Ma does not recall telling Tan that he did not need to report his gambling winnings.
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1 His customary practice would have been to tell Tan to review a record of his gambling activity or
2 get a tax form (e.g., W2-G) from the casinos he frequented before deciding whether or not to
3 claim gambling-related winnings and losses on his federal tax return. According to Ma, tax
4 preparers take into consideration the balance of wins and losses from gambling before preparing a
5 tax return. If losses offset winnings then there would be no loss category to enter on the tax form.

6 34. Regarding Tan's August 12, 2020, response to the Bureau (Complainant - 099), Ma
7 testified that he does not recall telling Tan that gambling-related income and losses are not
8 required to be reported on a tax return if losses exceed winnings, but acknowledged that he might
9 have given that advice depending on what paperwork Tan submitted. However, Ma does not
10 recall seeing any specific paperwork related to Tan's gambling winnings or losses.

11 35. Regarding Tan's September 10, 2020, response to the Bureau, Ma testified that an
12 individual taxpayer cannot carry forward gambling losses from one year to the next. He testified
13 that if Tan had gambling winnings in 2019 as indicated in his response to the Bureau, then he
14 would have to claim his gambling winnings for tax year 2019 in the amount of \$20,656.
15 According to Ma, if Tan's bank account(s) show gambling winnings, then it must be reported to
16 tax authorities.

17 **TAX PREPARER'S DISCLAIMER**

18 36. Richard Collins' engagement letter with Tan for preparation of his taxes for tax years
19 2017, 2018 and 2019, in part, contains the following disclaimers:

20 "We will prepare your [] federal and state income tax returns from
21 information which you will furnish to us. We will not audit or
22 otherwise verify the data you submit, although it may be necessary
23 to ask you for clarification of some of the information. We will
24 furnish you with questionnaires and worksheets to guide you in
25 gathering the necessary information. Your use of such forms will
26 assist in keeping the fee to a minimum."

27 "It is your responsibility to provide all the information required for
28 the preparation of complete and accurate returns. You should retain
all the documents, cancelled checks and other data that form the
basis of income and deductions. These may be necessary to prove
the accuracy and completeness of the returns to a taxing authority.
You have the final responsibility for the income tax returns and,
therefore, you should review them carefully before you sign them."

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“Our work in connection with the preparation of your income tax returns does not include any procedures designed to discover defalcations and/or irregularities, should any exist. We will render such accounting and bookkeeping assistance as determined to be necessary for preparation of the income tax returns.”

(Tan000497, Tan000517, Complainant - 266.)

37. For Tan’s 2019 federal and state tax return, Richard Collins also advised Tan as follows:

“We have prepared the following returns from information provided by you without verification or audit

We suggest that you examine these returns carefully to fully acquaint yourself with all items contained therein to ensure that there are no omissions or misstatements.”

(Tan000519.)

IRS’ TOPIC NO. 419 – GAMBLING INCOME AND LOSSES

38. The Internal Revenue Service’s information “Topic No. 419 Gambling Income and Losses” states in part:

The following rules apply to casual gamblers who aren’t in the trade or business of gambling[.] Gambling winnings are fully taxable and you must report the income on your tax return[.] Gambling income includes but isn’t limited to winnings from lotteries, raffles, horse races, and casinos[.] It includes cash winnings and the fair market value of prizes, such as cars and trips[.]

Gambling Winnings

A payer is required to issue you a Form W 2G, Certain Gambling Winnings if you receive certain gambling winnings or have any gambling winnings subject to federal income tax withholding. You must report all gambling winnings as “Other Income” on Form 1040 or Form 1040 SR (use Schedule 1 (Form 1040)), including winnings that aren’t reported on a Form W 2G[.] When you have gambling winnings, you may be required to pay an estimated tax on that additional income[.] For information on withholding on gambling winnings, refer to Publication 505, Tax Withholding and Estimated Tax[.]

Gambling Losses

You may deduct gambling losses only if you itemize your deductions on Schedule A (Form 1040) and kept a record of your winnings and losses[.] The amount of losses you deduct can’t be more than the amount of gambling income you reported on your return[.] Claim your gambling losses up to the amount of winnings,

1 as “Other Itemized Deductions[.]”

2 Recordkeeping

3 To deduct your losses, you must keep an accurate diary or similar
4 record of your gambling winnings and losses and be able to
5 provide receipts, tickets, statements, or other records that show the
6 amount of both your winnings and losses. Refer to Publication 529,
7 Miscellaneous Deductions for more information.

8 Additional Information

9 For additional information, refer to Publication 525, Taxable and
10 Nontaxable Income or review How Do I Claim My Gambling
11 Winnings and/or Losses?

12 (Complainant 294 – Complainant 295.)

13 **TRICIA CASTELLANOS’ TESTIMONY**

14 39. Tricia Castellanos (Castellanos), owner of Fortune, testified that she is not an
15 accountant, but she has experience doing accounting-related work.

16 40. In connection with Tan’s responses to the Bureau of August 12, 2020, and September
17 10, 2020 (Attachments A and B of the Report), Castellanos testified that she typed Tan’s
18 responses to the Bureau after receiving Tan’s responses through an interpreter. She testified that
19 Tan is solely responsible for the answers that were provided to the Bureau. She typed the
20 handwritten responses that were presented to her. She does not know if Tan referred to any
21 documents before responding to the Bureau’s questions.

22 41. Castellanos also testified that in April of 2022, after she reviewed Tan’s bank
23 statements and records she contacted her accountants, Chugh, LLP (Chugh), to audit Tan’s
24 records. Chugh did not give her a time estimate of when they will complete their review of Tan’s
25 finances, because Tan is “still waiting for other documentation from the bank regarding his
26 deposits.”

27 42. Castellanos reviewed Tan’s credit card records and bank records from 2017
28 through 2019. She determined that he had approximately \$450,000 of activity. She testified that
based on her review of Tan’s finances, he is “not very thorough” about his finances. Apparently
referring to the purported outstanding “audit” by Chugh, she testified that she is not able to make

1 a judgment about Tan’s finances because “all of the evidence is not in yet.”

2 43. Castellanos testified that Tan has been a good employee, is honest, and shows integrity
3 in his work. When asked about her impression of the extent of Tan’s gambling-related activity,
4 she testified that “of course, I’m concerned,” and “he is on my radar to make sure he is not
5 cheating me.”

6 44. Castellanos provides anti-money laundering training to her staff, including
7 supervisors. The training is conducted annually by Lucky Chances Casino’s compliance division.
8 Castellanos believes Tan has taken the training four or five times. During the training, instructors
9 discuss structuring transactions under the federal Bank Secrecy Act.

10 LEGAL CONCLUSIONS

11 45. The hearing on this matter “need not be conducted according to technical rules
12 relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in
13 itself to support a finding, if it is the sort of evidence on which responsible persons are
14 accustomed to rely in the conduct of serious affairs, regardless of the existence of any common
15 law or statutory rule that might make improper the admission of that evidence over objection in a
16 civil action.” (Bus. & Prof. Code, § 19871, subd. (a)(4); Cal. Code Regs., tit. 4, § 12060, subd.
17 (g)(2).)

18 46. Findings of fact of the Commission are based upon a preponderance of the
19 evidence standard. The preponderance of the evidence standard “is such evidence as when
20 considered and compared with that opposed to it, has more convincing force, and produces a
21 belief in the mind of the fact-finder that what is sought to be proved is more likely true than not
22 true. (See e.g., Cal. Code Regs., tit. 4, § 12554, subd. (c).)

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

26 48. Public trust that permissible gambling will not endanger public health, safety, or
27 welfare requires that comprehensive measures be enacted to ensure that gambling is free from
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1 criminal and corruptive elements, that it is conducted honestly and competitively, and that it is
2 conducted in suitable locations. (Bus. & Prof. Code, § 19801, subd. (g).)

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

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

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

15 52. The Commission has the power to deny any application for a license, permit, or
16 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code, § 19824,
17 subd. (b).)

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

21 54. The burden of proving his or her qualifications to receive any license from the
22 Commission is on the applicant. (Bus. & Prof. Code, § 19856, subd. (a); Cal. Code Regs., tit. 4, §
23 12060, subd. (i).)

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

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

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

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

15 59. No gambling license shall be issued unless, based on all of the information and
16 documents submitted, the commission is satisfied that the applicant is a person that is in all other
17 respects qualified to be licensed as provided in this chapter. (Bus. & Prof. Code, § 19857, subd.
18 (c).)

19 60. An application will be denied if the Commission finds that the applicant has not
20 satisfied all of the requirements of Business and Professions Code section 19857. (Cal. Code
21 Regs., tit. 4, § 12040, subd. (a)(1).)

22 61. An application will be denied if the applicant fails to clearly establish eligibility
23 and qualification as provided in the Act. (Bus. & Prof. Code, § 19859, subd. (a).)

24 62. An application will be denied if the applicant fails “to provide information,
25 documentation, and assurances required by this chapter or requested by the chief, or failure of the
26 applicant to reveal any fact material to qualification, or the supplying of information that is untrue
27 or misleading as to a material fact pertaining to the qualification criteria.” (Bus. & Prof. Code, §
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1 19859, subd. (b).)

2 63. An application will be denied if the Commission finds that any of the provisions of
3 Business and Professions Code section 19859 apply to the applicant. (Cal. Code Regs., tit. 4, §
4 12040, subd. (a)(2).)

5 64. An applicant for licensing or for any approval or consent required by the Act,
6 “shall make full and true disclosure of all information to the department and the commission as
7 necessary to carry out the policies of this state relating to licensing, registration, and control of
8 gambling.” (Bus. & Prof. Code, § 19866.)

9 65. The Bureau relies, in large part, on the applicant’s disclosures while conducting a
10 background investigation. The failure to honestly and accurately disclose complete information in
11 response to the Bureau’s inquiries subverts the Bureau’s efforts to conduct a thorough and
12 complete investigation. (Bus. & Prof. Code, §§ 19826, subd. (a), 19866.)

13 66. Both the substance of an applicant’s disclosures, and the truthfulness and
14 thoroughness of an applicant’s disclosures, are considered by the Bureau in making a
15 recommendation as to the applicant’s suitability for licensure, and by the Commission in making
16 a determination whether to approve or deny a license application. (Bus. & Prof. Code, §§ 19824,
17 subd. (a) & (d), 19826, subd. (a), 19866.)

18 67. All of the information requested on the Application has been considered through
19 the legislative and regulatory processes and determined necessary in order for the Commission to
20 discharge its duties properly. An applicant is neither expected, nor permitted, to determine the
21 importance of the information requested, and instead is required to provide full and complete
22 information as requested.

23 ASSESSMENT OF TAN’S SUITABILITY FOR LICENSURE

24 *Causes Exist to Deny the Application Due to Tan’s August 12, 2020, Statement to the Bureau*

25 68. On August 12, 2020, after dating the response by hand, and signing his name
26 twice, Tan told the Bureau:

27 “I did not file a claim for any gambling related income on my taxes
28 [sic] return because my losses were more than my winnings. Since

1 my gambling loses was [*sic*] more than my gambling winnings, my
2 tax preparer told me that we don't have to report it on my tax
3 return.”

(Complainant – 99).

4 69. During the hearing, Tan admitted he did not keep a record, as required, of his
5 gambling losses in order to claim a deduction on his taxes, and did not rely on his tax-preparer's
6 advice as he claimed. Tan's tax-preparer testified that he did not personally advise Tan not to
7 report his gambling winnings on any of his tax returns. In fact, Tan's tax-preparer testified that
8 gambling winnings should be reported as gross income and gambling losses can be claimed as an
9 itemized deduction, but must be substantiated. Tan's tax-preparer testified that he has never seen
10 any records of Tan's gambling-related activity. Tan's tax-preparer's testimony was credible.

11 70. Further, during the evidentiary hearing itself, Tan appeared evasive, failed to respond
12 to direct questions about his gambling-related finances, and did not sufficiently explain why he
13 was justified in not reviewing his response to the Bureau for accuracy.

14 71. Given Tan's lack of recordkeeping of his gambling-related wins and losses, his tax-
15 preparer's testimony about his lack of advice on any gambling-related topic to Tan, and Tan's
16 admission that he did not accurately report his gambling winnings and losses to the Bureau on
17 September 10, 2020, as identified below, we find that the following written statement from Tan to
18 the Bureau of August 12, 2020, was false: “Since my gambling loses was [*sic*] more than my
19 gambling winnings, my tax preparer told me that we don't have to report it on my tax return.”

20 72. Tan's failure to provide accurate statements to the Bureau during its investigation
21 of the Application shakes our confidence in his ability to participate in controlled gambling.
22 Although the tax-preparer's testimony can be construed to suggest that someone else at his firm
23 may have advised Tan about not claiming gambling winnings on his taxes, the burden is on Tan
24 to prove by a preponderance of the evidence that his tax preparer gave him such advice. He did
25 not meet his burden. Not only does his testimony on the topic of his failure to address the tax
26 consequences of his gambling-related activities fail to convince, it demonstrates that he did not
27 take care to provide accurate statements to the Bureau.

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1 73. It is telling that Tan did not subpoena anyone from his tax firm to appear to testify on
2 his behalf, nor did he name any other individual from Richard Collins who purportedly advised
3 him on declaring his gambling-related activities when records of his activities were not kept.

4 74. The Bureau and the Commission rely on accurate financial information to
5 determine if an applicant meets the qualification criteria established by the Act. Although the
6 Bureau has initially recommended approval with conditions, after hearing testimony during the
7 hearing, the Bureau's representative expressed concern with the testimony presented. Be that as it
8 may, the Act does not require the Commission to accept the Bureau's findings if they are contrary
9 to what it observes or determines at the evidentiary hearing. Accordingly, the Commission finds
10 that Tan's August 12, 2020, statement to the Bureau was both: (1) material to determine his
11 qualifications under the Act; and (2) untrue and misleading. Tan's supplying of untrue and
12 inaccurate information to the Bureau regarding his failure to report his gambling-related winnings
13 and losses to tax authorities, based on his tax-preparer's advice, is attributable solely to him.

14 75. Based on the foregoing, Tan's Application is denied, for each of the following
15 reasons relating to his August 12, 2020 statement:

- 16 a. Issuance of the applied for license to Tan would be inimical to the public health,
17 safety, or welfare (Bus. & Prof. Code, § 19856, subd. (c));
- 18 b. Issuance of the applied for license to Tan would undermine public trust that the
19 gambling operations with respect to which the license is requested is free from
20 dishonest elements and would be conducted honestly (Bus. & Prof. Code, § 19856,
21 subd. (c));
- 22 c. Issuance of the applied for license to Tan would pose a threat to the public interest of
23 this state and to the effective regulation and control of controlled gambling (Bus. &
24 Prof. Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1));
- 25 d. Issuance of the applied for license to Tan would create or enhance the dangers of
26 unsuitable, unfair, or illegal practices in the conduct of controlled gambling or in the
27 carrying on of the business and financial arrangements incidental thereto (Bus. & Prof.
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1 Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1));

2 e. Tan has failed to clearly establish eligibility and qualification in accordance with the
3 Act (Bus. & Prof. Code, § 19859, subd. (a); Cal. Code Regs., tit. 4, § 12040, subd.
4 (a)(2)); and

5 f. Tan supplied information to the Bureau that is untrue or misleading about a fact
6 material to the qualification criteria under the Act (Bus. & Prof. Code, § 19859, subd.
7 (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(2)).

8 *Causes Exist to Deny the Application Due to Tan's September 10, 2020, Statement to the Bureau*

9 76. The Commission also finds reason to deny the Application based on Tan's statement
10 of September 10, 2020. In response to the Bureau's inquiry, on September 10, 2020, Tan wrote:

11
12 "After a review of my finances, for 2017 and 2018 my withdrawal
13 for gambling were \$39,504.14 and deposit from gambling
14 winnings were \$17,103. I had a net loss of \$22,401; so I did not
15 report it. For 2019 I withdrew \$279,644 but had a net win of
16 \$300,300. Since I had a winning of \$20,656, I offset my 2017 &
17 2018 net loss of \$22,401. Leaving me with a grand total loss of
18 \$1,745. So, with these findings, I did not report any gambling
19 winning."

20 (Complainant – 101.)

21 77. During the hearing, Tan's tax-preparer testified that he did not advise Tan to carry
22 forward or "offset" his gambling losses from gambling winnings in subsequent years. Tan did the
23 opposite of what Ma testified he would advise and carried forward his gambling losses as
24 provided in his statement to the Bureau. To soften the blow to his credibility, Tan testified that his
25 September 10, 2020, statement to the Bureau regarding his "offset" for tax purposes of his
26 gambling winnings in 2019 due to prior years' losses was based on inaccurate accounting, rather
27 than inaccurate advice from his tax preparer. Tan testified that he now believes he did not have
28 any gambling winnings during tax years 2017 through 2019.

78. Moreover, Tan testified, he now also believes an audit of his finances is necessary to
determine whether or not he is required to amend his tax return(s) to claim gambling winnings.
Rather than being an admission of prior inaccuracies, we view Tan's contradiction of his

1 September 10, 2020, statement to the Bureau, as being a reflection of his attempt to avoid a
2 derogatory finding necessitated by his tax-preparer's testimony that gambling losses cannot be
3 carried forward.

4 79. As with his August 12, 2020, statement to the Bureau, Tan's failure to provide
5 accurate statements to the Bureau during its investigation phase of the Application regarding his
6 gambling-winnings and -losses shakes our confidence in his ability to participate in controlled
7 gambling. His and his employer's testimony that his finances are currently being examined for
8 accuracy does not alleviate our concerns. In fact, as explained below, this knowledge further
9 supports our decision to deny the Application.

10 80. Tan should have known before he provided the September 10, 2020, statement to
11 the Bureau that its contents were inaccurate. The Commission does not find credible Tan's
12 excuses for failing to accurately report the monetary totals to the Bureau in his September 10,
13 2020, statement. In fact, we find that Tan's admission of not providing accurate statements to the
14 Bureau, demonstrates that he did not take the necessary and proper care required by the Act to
15 provide accurate statements to the Bureau.

16 81. The Bureau and the Commission rely on accurate financial information to determine if
17 an applicant meets the qualification criteria established by the Act. Accordingly, the Commission
18 finds that Tan's September 10, 2020, statement to the Bureau was both: (1) material to determine
19 his qualifications under the Act, and (2) untrue and misleading. Tan's supplying of inaccurate
20 information regarding his gambling activities to the Bureau is attributable solely to him.

21 82. Based on the foregoing, Tan's Application is denied, for each of the following
22 reasons relating to his September 10, 2020 statement to the Bureau:

- 23 a. Issuance of the applied for license to Tan would be inimical to the public health,
24 safety, or welfare (Bus. & Prof. Code, § 19856, subd. (c));
- 25 b. Issuance of the applied for license to Tan would undermine public trust that the
26 gambling operations with respect to which the license is requested is free from
27 dishonest elements and would be conducted honestly (Bus. & Prof. Code, § 19856,
28

1 subd. (c));

2 c. Issuance of the applied for license to Tan would poses a threat to the public interest of
3 this state and to the effective regulation and control of controlled gambling (Bus. &
4 Prof. Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1));

5 d. Issuance of the applied for license to Tan would create or enhance the dangers of
6 unsuitable, unfair, or illegal practices in the conduct of controlled gambling or in the
7 carrying on of the business and financial arrangements incidental thereto (Bus. & Prof.
8 Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1));

9 e. Tan has failed to clearly establish eligibility and qualification in accordance with the
10 Act (Bus. & Prof. Code, § 19859, subd. (a)); and

11 f. Tan supplied information to the Bureau that is untrue or misleading (Bus. & Prof.
12 Code, § 19859, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(2)).

13 *Causes Exist to Deny the Application Because Tan Failed to Keep Any Records of His Gambling-*
14 *Related Activities Over a Multi-Year Period*

15 83. Tan was a habitual gambler between 2017 and 2019. He admits he won or lost several
16 hundred-thousand dollars during that time. Over a multi-year period, Tan has shown a consistent
17 pattern of not accurately recording his extensive gambling-related activity (wins and losses).
18 Tan's lack of financial accounting of his gambling-related activities prevented him from properly
19 reporting potentially substantial federal and state tax liability.

20 84. Absent an accurate record of his gambling winnings and losses, which Tan admits
21 does not exist, Tan's understanding that he suffered a net loss from gambling in years 2017
22 through 2019 was based on pure surmise and not in keeping with acceptable accounting practices.
23 Tan's consistent lack of financial record keeping of his past gambling-related activities creates a
24 prospective danger to his employer, and to the public that is likely to interact with Tan in a
25 controlled gambling environment.

26 85. Based on the foregoing, Tan's Application is denied, for each of the following
27 reasons:

- 1 a. Issuance of the applied for license to Tan would be inimical to the public health,
2 safety, or welfare (Bus. & Prof. Code, § 19856, subd. (c));
- 3 b. Issuance of the applied for license to Tan would undermine public trust that the
4 gambling operations with respect to which the license is requested is free from
5 dishonest elements and would be conducted honestly (Bus. & Prof. Code, § 19856,
6 subd. (c));
- 7 c. Issuance of the applied for license to Tan would poses a threat to the public interest of
8 this state and to the effective regulation and control of controlled gambling (Bus. &
9 Prof. Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1));
- 10 d. Issuance of the applied for license to Tan would create or enhance the dangers of
11 unsuitable, unfair, or illegal practices in the conduct of controlled gambling or in the
12 carrying on of the business and financial arrangements incidental thereto (Bus. & Prof.
13 Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd. (a)(1)); and
- 14 e. Tan has failed to clearly establish eligibility and qualification in accordance with the
15 Act (Bus. & Prof. Code, § 19859, subd. (a); Cal. Code Regs., tit. 4, § 12040, subd.
16 (a)(2)).

17 *Causes Exist to Deny the Application Because Tan Failed to Provide an Accurate Picture of His*
18 *Gambling-Related Finances*

19 86. Tan believes evidence related to his gambling-related finances, between the years
20 2017 and 2019, presented to the Commission is inaccurate in many respects, and does not provide
21 a complete picture of his gambling-related finances, including loans obtained and paid, and his
22 gambling-winnings and -losses. Castellanos' testimony on this account is consistent with Tan's.
23 At this stage, to clarify his gambling-related finances for the Commission's benefit, Tan is in the
24 process of having his personal finances investigated by the accounting firm that his employer
25 uses.

26 87. Indeed, in his closing brief Tan's counsel wrote that: (1) "MR. TAN'S TAXES ARE
27 BEING REVIEWED AND WILL BE AMENDED IF NECESSARY" (Closing Brief, p. 8:10;
28

1 capitalization original); and (2) “THE BUREAU’S REVIEW OF MR. TAN’S FINANCIAL
2 STATEMENTS WAS INCOMPLETE.” (*Id.* p. 8:1-2, capitalization original.) In connection with
3 his gambling activities, Tan’s counsel further states: “when all of the records are analyzed by the
4 independent Certified Public Accountant it is *likely* to demonstrate that Mr. Tan indeed lost more
5 than he gained.” (*Id.* p. 1:21-23; italics added.) He goes on to state: “The Decision in this case
6 must be based upon the evidence presented or admitted at hearing and not upon outside
7 information or upon suspicion, imagination, speculation, supposition, surmise, conjecture, or
8 guesswork.” (*Id.* p. 6:18-20.) Indeed, absent a clear picture of his gambling-related finances, were
9 we to approve Tan’s Application, we would be doing so based on “imagination, speculation,
10 supposition, surmise, conjecture, or guesswork.” The Act does not countenance such a result.

11 88. Further, during the evidentiary hearing itself, Tan appeared evasive, failed to respond
12 to direct questions about his gambling-related finances and activities, and did not sufficiently
13 explain why he could not have completed any review of his finances before the hearing
14 commenced.

15 89. The Bureau’s representative also testified that Tan’s gambling-related finances are
16 not clearly understood. We have reviewed the hundreds of pages of documents submitted as
17 exhibits by the parties related to Tan’s finances, and these do not clarify for the Commission the
18 nature or extent of Tan’s gambling-related finances, including the source of his financing, and his
19 gambling-winnings and -losses.

20 90. Based on the foregoing, Tan’s Application is denied, for each of the following
21 reasons:

- 22 a. The Commission is unable to determine if Tan is qualified to receive the applied for
23 license as he has not met his burden to prove his qualifications to receive the applied
24 for license. (Bus. & Prof. Code, § 19856, subd. (a));
- 25 b. Tan was unable to meet his burden of proving to the Commission that issuance of the
26 applied for license would not be inimical to the public health, safety, or welfare (Bus.
27 & Prof. Code, § 19856, subd. (c));

- 1 c. Tan was unable to meet his burden of proving to the Commission that issuance of the
2 applied for license would not undermine public trust that the gambling operations with
3 respect to which the license is requested will be free from dishonest elements and
4 would be conducted honestly (Bus. & Prof. Code, § 19856, subd. (c));
- 5 d. Tan was unable to meet his burden of proving to the Commission that his prior
6 gambling-related activities and lack of financial reporting, will not pose a threat to the
7 public interest of this state and to the effective regulation and control of controlled
8 gambling (Bus. & Prof. Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040,
9 subd. (a)(1));
- 10 e. Tan was unable to meet his burden of proving to the Commission that his prior
11 gambling-related activities and lack of financial reporting, will not create or enhance
12 the dangers of unsuitable, unfair, or illegal practices in the conduct of controlled
13 gambling or in the carrying on of the business and financial arrangements incidental
14 thereto (Bus. & Prof. Code, § 19857, subd. (b); Cal. Code Regs., tit. 4, § 12040, subd.
15 (a)(1)); and
- 16 f. Tan has failed to clearly establish eligibility and qualification in accordance with the
17 Act (Bus. & Prof. Code, § 19859, subd. (a); Cal. Code Regs., tit. 4, § 12040, subd.
18 (a)(2)).

19 91. All documentary and testimonial evidence submitted by the parties that is not
20 specifically addressed in this Decision and Order was considered but not used by the Commission
21 in making its determination on Tan’s Application.

22 NOTICE OF APPLICANT’S APPEAL RIGHTS

23 Tan has the following appeal rights available under state law.

- 24 1. CCR section 12064, provides, in part:
 - 25
 - 26 (a) After the Commission issues a decision following a GCA hearing conducted
 - 27 pursuant to Section 12060, an applicant denied a license, permit, registration, or
 - 28 finding of suitability, or whose license, permit, registration, or finding of
 - suitability has had conditions, restrictions, or limitations imposed upon it, may

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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.

2. Business and Professions Code section 19870, subdivision (f), provides:

A decision of the commission after an evidentiary hearing, 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 held to consider that petition, 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.

3. CCR section 12066, subsection (c) provides:

A decision of the Commission denying an application or imposing conditions on a license after an evidentiary hearing will be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (f). 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

- 1. Alan Wei Da Tan’s Application for Third-Party Proposition Player Services License is DENIED.
- 2. Temporary License Number TPSU-001232, issued to Alan Wei Da Tan, is void and cannot be used hereafter.
- 3. No costs are awarded.
- 4. Each side to pay its own attorneys’ fees.

This Order is effective on August 8, 2022.

Dated: 7/7/2022 Signature:  38D0AB38C651466...

Paula LaBrie, Chair

Dated: 7/7/2022 Signature:  3D1DB086E9274AA

Cathleen Galgiani, Commissioner

Dated: 7/7/2022 Signature:  2B4CE0520F8845C...

Eric Heins, Commissioner

Dated: 7/7/2022 Signature:  14B4AD3B90F8462...

Edward Yee, Commissioner