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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

TONY Y. MOUA

Applicant.

CGCC Case No. CGCC-2021-0121-9Ai

DECISION AND ORDER

Hearing Date: August 31, 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 31, 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 Tony Moua (Moua) appeared on his own behalf without representation.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the following documents: the Commission’s Notice of Hearing with two attachments (1) Moua’s Application for Third-Party Proposition Player Services License and (2) the Bureau’s Third Party Supervisor Initial Background Investigation Report, Level III; the Commission’s Conclusion of Prehearing Conference letter; the Bureau’s Statement of Reasons; the Commission’s Continued Notice of Hearing; and Moua’s signed Notice of Defense.

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

- (1) Statement of Reasons, Statement to Respondent; copies of Business and Professions Code sections 19870 and 19871, California Code of Regulations, title 4, section 12060, Bates Nos. BGC 001-018;

- 1 (2) January 8, 2020 (Redacted) Application for Third-Party Proposition Player
2 Services License for Supervisor, Players or Other Employee and Level II
3 Supplemental Information, Bates Nos. BGC 019-052;
- 4 (3) November 30, 2020 Third-Party Supervisor Initial Background
5 Investigation Report, Level III, Bates Nos. BGC 053-062;
- 6 (4) Certified License History for Tony Y. Moua, Bates Nos. BGC 063-065;
- 7 (5) January 8, 2021 Notice of Scheduled Commission Meeting, Bates Nos.
8 BGC 066-068;
- 9 (6) January 21, 2021 California Gambling Control Commission Licensing
10 Division Memorandum, Bates Nos. BGC 069-072;
- 11 (7) January 27, 2021 Referral of Initial Third-Party Player Services License to
12 an Evidentiary Hearing for Tony Moua, Bates No. BGC 073-075;
- 13 (8) February 1, 2021 Notice of Defense In the Matter of: Tony Y. Moua, Bates
14 Nos. BGC 076-078;
- 15 (9) (Redacted) Employment Verification for L.E. Gaming, Inc., Bates Nos.
16 BGC 079-093;
- 17 (10) Correspondence-Requests for additional information and responses, Bates
18 Nos. BGC 094-104;

19 During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the
20 following exhibit offered by Moua:

21 (A) January 21, 2021 Statement by Soua John Her.

22 The record was closed and the matter was submitted on August 31, 2021.

23 FINDINGS OF FACT

24 **Procedural History**

25 1. On or about December 18, 2015, the Commission issued Third-Party Proposition
26 Player Services Registration, number TPPL-016389 to Moua to allow for his employment as a
27 third-party proposition player for L.E. Gaming, LLC (L.E. Gaming). On or about June 29, 2017,
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1 the Commission issued Moua a Third-Party Proposition Player Services Registration, number
2 TPSU-001436 to enable him to begin working as a supervisor for L.E. Gaming. This registration
3 became inactive on October 5, 2019.

4 2. On or about November 7, 2019, the Commission issued Third-Party Proposition
5 Player Services Registration, number TPPP-001767 to Moua to allow for his employment as a
6 third-party proposition player for Halcyon Gaming, LLC (Halcyon). This registration expired on
7 May 31, 2021.

8 3. On or about January 8, 2020, the Bureau received an Application for Third-Party
9 Proposition Player Services License for Supervisor, Player or Other Employee, and a Level II
10 Supplemental Information form (collectively, Application) from Moua.

11 4. On or about November 30, 2020, the Commission received a Level III Third-Party
12 Player Initial Background Investigation Report on Moua from the Bureau. In this report, the
13 Bureau recommends that the Commission deny Moua's Application.

14 5. At its January 21, 2021 meeting, the Commission referred consideration of Moua's
15 Application to a Gambling Control Act (GCA) evidentiary hearing to be held pursuant to CCR
16 section 12054, subdivision (a)(2).

17 6. On or about February 3, 2021, the Commission received a Notice of Defense form
18 signed by Moua requesting an evidentiary hearing on the consideration of his Application.

19 7. On or about March 30, 2021, the Commission sent a Notice of Hearing to Moua and
20 DAG Fischer, providing that an evidentiary hearing would be held before the Commission on
21 August 11, 2021. Thereafter, on June 22, 2021, the Commission sent a Notice of Continued
22 Hearing to Moua and DAG Fischer providing that the evidentiary hearing was continued and
23 would be held on August 31, 2021.

24 8. On July 19, 2021, the Bureau served its Statement of Reasons and related documents
25 on the Commission and Moua. In the Statement of Reasons, the Bureau requests that the
26 Commission deny Moua's Application on the basis that he has derogatory gaming employment
27 history.

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1 9. The Commission heard this matter via Zoom video conference on August 31, 2021.
2 The Bureau was represented throughout the hearing by DAG Fischer. Moua appeared on his own
3 behalf without representation.

4 **Derogatory Gaming Employment History**

5 10. Prior to working for Halcyon, Moua was employed by L.E. Gaming ,a licensed third-
6 party proposition player services provider. Moua worked for L.E. Gaming as a third-party
7 proposition player from December 2015 until May 2017, and as a third-party proposition player
8 services supervisor from June 2017 until October 2019.

9 11. Moua also worked for Thunder Valley Casino & Resort (Thunder Valley Casino) from
10 May 2016 to August 2016.

11 12. The Bureau’s Statement of Reasons alleges that Moua’s Application is subject to
12 denial because he failed to disclose derogatory gaming employment history on his Application by
13 failing to disclose that he was terminated by Thunder Valley Casino for attendance reasons and
14 by L.E. Gaming for falsifying his time. The Bureau also alleges that Moua provided information
15 to the Bureau that was in conflict with his employment records.

16 13. On Moua’s Application, he disclosed that he worked for L.E. Gaming from January
17 2016 to October 2019. Moua also disclosed that he worked for Thunder Valley Casino from
18 March to August 2016. Moua identified his reason for leaving both places as “let go.”

19 14. On August 14, 2020, the Bureau sent an email to Moua stating that information
20 available to the Bureau shows that he was terminated from L.E. Gaming and Thunder Valley
21 Casino rather than “let go” and asked him to explain the discrepancy and circumstances that led
22 to his involuntary separations.

23 15. On August 21, 2020, Moua responded that his separation from employment with L.E.
24 Gaming was due to an attendance issue involving fixing a timecard. Moua also states that he was
25 terminated from Thunder Valley Casino for being late to work due to lack of rest and inconsistent
26 schedules.

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1 **Assessment of Suitability for Licensure**

2 16. As a result of the Bureau’s background investigation, there are three issues of concern
3 regarding Moua’s suitability for licensure. The first concern arises from the fact that Moua wrote
4 that he was “let go” from L.E. Gaming and Thunder Valley Casino when he was actually
5 terminated. The additional concerns involve Moua’s derogatory gaming employment history at
6 Thunder Valley Casino and L.E. Gaming.

7 *First Concern: Failure to Disclose Termination from Thunder Valley Casino and L.E. Gaming*

8 17. Moua’s use of the phrase, “let go” on the Application to describe his reasons for
9 leaving employment with L.E. Gaming and Thunder Valley Casino clearly indicated that his
10 separation was not voluntary. When asked for additional clarification regarding a perceived
11 inconsistency by the Bureau regarding the use of the term “let go,” Moua timely provided a
12 response that truthfully explained the circumstances surrounding his separation from
13 employment.

14 18. During the evidentiary hearing, Moua testified that he considered “let go” to be
15 synonymous with termination. The Commission is satisfied with this explanation and finds it
16 credible and reasonable. Based on the foregoing, the Commission has no concerns regarding
17 Moua’s suitability stemming from the choice of words he used to disclose his derogatory
18 employment history.

19 *Second Concern: Termination for Tardiness at Thunder Valley Casino*

20 19. Moua disclosed on the Application that he was “let go” by Thunder Valley Casino and
21 provided additional information regarding the circumstances when requested by the Bureau.

22 20. Moua testified at the evidentiary hearing that he was terminated by Thunder Valley
23 Casino for tardiness. Moua testified that he worked for Thunder Valley Casino and L.E. Gaming
24 at the same time. It was difficult for him to work at both places and he would sometimes have to
25 sleep in the parking lot of one job after leaving the other with very little time between shifts.

26 21. Being late to work due to difficulty balancing the responsibilities of two jobs does not
27 call Moua’s character, honesty, or integrity into question and is not a basis for denial of his
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1 Application.

2 *Third Concern: Inaccurate Time Reporting at L.E. Gaming*

3 22. The third and most serious concern relating to Moua’s suitability for licensure is that
4 Moua was terminated for inaccurate reporting on his timecards while employed by L.E. Gaming.

5 23. Moua testified at the evidentiary hearing that while he was employed by L.E. Gaming,
6 there were two methods he used to record the time that he began a shift. The first method
7 involved using his employee badge in conjunction with a biometric time clock. The second
8 method, which was only available to supervisors, involved using an iPad to manually enter a start
9 time. Moua testified that company policy required use of the first method utilizing the biometric
10 time clock.

11 24. Moua testified that he had a “bad habit” of using the iPad to manually enter his arrival
12 time to match it with the time his shift was scheduled to start rather than using the biometric time
13 clock. Moua testified that on occasion he also used the iPad to make edits to his arrival time as
14 recorded by the biometric time clock.

15 25. Moua testified that LE Gaming Supervisor, Kalina Lawrence, told him that it was
16 acceptable to use the iPad to manually enter his time if he was late to work. Moua also testified
17 that other supervisors took advantage of the ability to use the iPad to manually enter their start
18 time.

19 26. Additionally, a letter of support for Moua written by a former colleague, Soua John
20 Her, corroborates Moua’s testimony that timecard edits were common practice amongs the
21 supervisors at L.E. Gaming. However, Mr. Her noted that he did not edit his own timecards
22 despite knowing that his colleagues did. According to Mr. Her’s letter, after Moua’s termination,
23 L.E. Gaming addressed and clarified that it was not acceptable for supervisors to make
24 adjustments to their own timecards.

25 27. According to employment verification records submitted by the Bureau, in September
26 2019, Ms. Lawrence notified her superiors of irregularities between Moua’s timecard entries in
27 that his recorded start time was not consistent with the time that he arrived to work. The
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1 notification by Ms. Lawrence led to an investigation that involved reviewing surveillance footage
2 to see the actual times that Moua arrived to work compared to the time that he manually entered
3 using the iPad. The investigation found that for 14 shifts Moua worked between August 3, 2019
4 and October 4, 2019, the start time recorded on his time card was not consistent with the time that
5 he arrived to work. The discrepancies resulted in L.E. Gaming concluding that Moua was paid for
6 5 hours and 19 minutes that he did not actually work and Moua testified that his final paycheck
7 was docked to account for this time.

8 28. Moua testified that he does not dispute the findings of L.E. Gaming's investigation
9 and admits that he violated company policy. Moua testified that he feels his termination was
10 unfair because other supervisors engaged in the same behavior, he had been told by Ms.
11 Lawrence that this behavior was acceptable, and he had never been warned prior to his
12 termination that the conduct was unacceptable.

13 29. Moua testified that he did his best for L.E. Gaming and worked there for three years.
14 Moua testified that his frequent tardiness was in part attributable to him having a new baby. Moua
15 testified that an LE Gaming manager dissuaded him from taking family leave. Moua admits that
16 he "messed up" and was motivated by the desire to maintain his supervisor position to support his
17 family. The letter of support by Mr. Her also states that Moua was a hardworking, focused, and
18 dedicated employee.

19 30. Moua's testimony at the hearing appeared to be honest and credible. However, Moua
20 admits that he falsified his start time on numerous occasions in violation of L.E. Gaming policy.
21 The Commission does not believe that Moua falsified his time of arrival in order to gain
22 financially. Rather, he was trying to hide the fact that he was tardy to protect his job.
23 Importantly, when it comes to falsifying records in the controlled gambling industry, no
24 motivation is acceptable.

25 31. The Commission finds Mr. Her's letter and Moua's testimony to be credible regarding
26 the fact that other supervisors also falsified their timecards. However, the fact that others engaged
27 in similar bad conduct does not excuse Moua's conduct. As a supervisor, Moua should have been
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1 familiar with the employer's policies and had an understanding that falsifying records for
2 personal gain was not an acceptable practice.

3 32. Absent the additional passage of time and a showing of rehabilitation, the Commission
4 is not convinced that Moua's past willingness to falsify information for personal gain does not
5 pose a threat to the effective regulation of controlled gambling or enhance the dangers of
6 unsuitable activities in the conduct of controlled gambling.

7 33. Moua has not met his burden of establishing that he is a person whose prior activities
8 and habits do not pose a threat to the effective regulation and control of controlled gambling, or
9 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
10 the conduct of controlled gambling.

11 34. All documentary and testimonial evidence submitted by the parties that is not
12 specifically addressed in this Decision and Order was considered but not used by the Commission
13 in making its determination on Moua's Application.

14 LEGAL CONCLUSIONS

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

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

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

26 38. The Commission has the power to deny any application for a license, permit, or
27 approval for any cause deemed reasonable by the Commission. Business and Professions Code
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1 section 19824(b).

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

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

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

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

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

18 44. No gambling license shall be issued unless, based on all of the information and
19 documents submitted, the commission is satisfied that the applicant is a person whose prior
20 activities, reputation, habits, and associations do not pose a threat to the public interest of this
21 state, or to the effective regulation and control of controlled gambling, or create or enhance the
22 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
23 controlled gambling or in the carrying on of the business and financial arrangements incidental
24 thereto. Business and Professions Code section 19857(b)

25 45. An application for a license will be denied if the Commission finds that the applicant
26 has not satisfied the requirements of Business and Professions Code section 19857. CCR section
27 12040(a)(1).

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1 46. Moua has not met his burden of demonstrating that he is a person whose prior
2 activities, reputation, habits, and associations do not pose a threat to the public interest of this
3 state, or to the effective regulation and control of controlled gambling, or create or enhance the
4 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
5 controlled gambling or in the carrying on of the business and financial arrangements incidental
6 thereto. Therefore, Moua is not qualified to receive a Third-Party Proposition Player License
7 pursuant to Business and Professions Code section 19857(b) and his Application is subject to
8 denial pursuant to CCR section 12040(a)(1).

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Moua 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. TONY MOUA'S Application for Approval of Third-Party Proposition Player
3 Service License for Supervisor, Player or Other Employee is DENIED.

4 2. No costs are awarded.

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

6 This Order is effective on November 8, 2021.


7
8 Dated: 10/7/21

Signature: 
9 Paula LaBrie, Chair

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11 Dated: 10/7/21

Signature: 
12 Cathleen Galgiani, Commissioner

13
14 Dated: 10-7-21

Signature: 
15 Eric Heins, Commissioner

16
17 Dated: 10-7-21

Signature: 
18 William Liu, Commissioner

19
20 Dated: 10/7/21

Signature: 
21 Edward Yee, Commissioner