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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

Avelina Maria Banuelos

Applicant.

CGCC Case No. CGCC-2021-1104-12A

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, March 10, 2022
Time: 10:00 a.m.

1. This matter was scheduled for hearing before the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, and held via Zoom video conference, on Thursday, March 10, 2022 at 10:00 a.m.

2. Avelina Banuelos (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about February 5, 2021, the Bureau of Gambling Control (Bureau) received an Application for Approval of Third-Party Proposition Player Services License for Supervisor, Player or other Employee (Application) from Applicant.

4. On February 12, 2021, the Commission issued Applicant a Temporary Third-Party Proposition Player Services License, number TPWK-000174, which is valid through January 31, 2023.

5. On or around August 17, 2021, the Commission received the Bureau’s Third-Party Player Initial Background Investigation Report in which it concluded that Applicant is unqualified for licensure pursuant to Business and Professions Code section 19857, subdivision (a), and disqualified from licensure pursuant to Business and Professions Code section 19859, subdivisions (a) and (b). The Bureau recommended that the Commission deny the Application.

6. On or about November 4, 2021, the Commission considered Applicant’s

1 Application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section
2 12054, subdivision (a).

3 7. Applicant received notice of Commission consideration of her Application in two
4 ways. First, Commission staff mailed an evidentiary hearing referral letter to Applicant's address
5 of record via regular mail and certified mail on November 5, 2021 which included a blank Notice
6 of Defense form with instructions to return it to the Commission within 21 days of service or else
7 the Commission may issue a default decision. Commission staff received no response. (Exhibit
8 A)

9 8. Second, Applicant further received notice of the hearing through a hearing notice
10 sent by certified mail on January 21, 2022 to Applicant's address of record which included
11 Exhibit A and stated that the hearing was set to occur on Thursday, March 10, 2022 at 10:00 a.m.

12 **DETERMINATION OF ISSUES**

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

16 10. In addition, the burden of proving Applicant's qualifications to receive any license
17 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

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

21 12. An application will be denied if the Commission finds that the applicant has not
22 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.
23 4, § 12040, subd. (a)(1).)

24 13. Title 4, CCR section 12052, subdivision (c), provides in pertinent part:

25 (c) An applicant for any license, permit, finding of suitability, renewal, or
26 other approval shall be given notice of the meeting at which the
27 application is scheduled to be heard. Notice shall be given pursuant to
28 Section 12006.

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(2) If the application is to be scheduled at an evidentiary hearing, pursuant to subsections (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:

* * *

(F) The waiver of an evidentiary hearing, failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at an evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

14. Title 4, CCR section 12057, subdivision (a), provides in pertinent part:

(a) When an applicant fails to submit a completed Notice of Defense, CGCC-CH1-03 (New 5/20) according to the timelines on the form, affirmatively waives his, her, or its right to an evidentiary hearing, or he, she, or it fails to appear at an evidentiary hearing, the Commission will, based on the interests of justice and judicial economy:

(1) Issue a default decision after the consideration of the Bureau report, any supplemental reports by the Bureau, and any other documents or testimony provided or which may be provided to the Commission before the decision is issued;

15. The Commission takes official notice of the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it in this matter as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR section 12052, subdivision (c)(2)(F).

16. The Commission has jurisdiction to adjudicate this case by default.

17. The Commission may deny Applicant’s Application based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it, pursuant to CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and Professions Code sections 19857 and 19859.

18. The Commission may further also deny Applicant’s Application based upon Applicant’s failure to prove to the Commission that he is qualified to receive a license or other approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4, CCR section 12060, subdivision (i).

1 19. Upon issuance or denial of a license by the Commission, a temporary license will
2 become void and cannot be used thereafter pursuant to CCR sections 12130, subdivision (d) and
3 12122, subdivision (d).

4 20. Therefore, as the Applicant did not return a Notice of Defense form, did not attend
5 the default hearing, and did not submit any information or evidence in favor of granting the
6 Application, Applicant did not meet her burden of demonstrating why a license should be issued
7 pursuant to Business and Professions Code section 19856, subdivision (a) and Title 4, CCR
8 section 12060, subdivision (i). By failing to meet Applicant’s burden of proving her
9 qualifications for licensure, Applicant has failed to satisfy the Commission that she is a person
10 that is in all other respects qualified to be licensed pursuant to Business and Professions Code
11 section 19857, subdivision (c). As a result, the Commission finds that pursuant to California Code
12 of Regulations, Title 4, sections 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and
13 12057, Applicant’s Application is subject to denial.

14 21. In addition, as the Application is subject to denial, Applicant’s Temporary Third-
15 Party Proposition Player Services License is void pursuant to CCR section 12122, subdivision (d)
16 and cannot be used hereafter.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

Title 4, CCR section 12064, subdivision (a) and (b) provide, in part:

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration shall be made in writing to the Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either:

- (1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission’s issuance of the decision or at the hearing on the matter; or,
- (2) Other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

Business and Professions Code section 19870, subdivision (e) provides:

A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

Title 4, CCR section 12066, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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ORDER

1. AVELINA BANUELOS' Application for Approval of Third-Party Proposition Player Service License for Supervisor, Player or Other Employee is DENIED.

2. AVELINA BANUELOS' Temporary Third-Party Proposition Player Services License number TPWK-000174 is void and cannot be used hereafter.

3. AVELINA BANUELOS may not apply to the Commission or the Bureau for any type of license or work permit for one (1) year after the effective date of this Order.

This Order is effective on Monday, April 11, 2022.

Dated: 3/10/2022
Signature: 
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Paula LaBrie, Chair

Dated: 3/10/2022
Signature: 
3D1DB086F9274AA...
Cathleen Galgiani, Commissioner

Dated: 3/10/2022
Signature: 
2B4CE9520F8845C...
Eric Heins, Commissioner

Dated: 3/10/2022
Signature: 
7722F4571120449...
William Liu, Commissioner

Dated: 3/10/2022
Signature: 
14B4AD3B90F8462...
Edward Yee, Commissioner

DECLARATION OF STEPHANIE CLARK

I, Stephanie Clark, declare as follows:

I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Avelina Banuelos' case has been assigned to me for processing.

On November 5, 2021, I mailed a Gambling Control Act hearing referral letter to Avelina Banuelos at [REDACTED] by regular mail and certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Avelina Banuelos that consideration of their application was being referred to a Gambling Control Act hearing pursuant to CCR, Title 4, Division 18, Chapter 1, section 12060(b). This letter included a Notice of Defense form (CGCC-ND-002) with instructions to return the Notice of Defense to the Commission within 21 days of receipt in order to preserve their right to an administrative hearing.

Today is December 6, 2021, and I have not received the Notice of Defense form or any communication from Avelina Banuelos regarding a request for a Gambling Control Act hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct.

Executed on December 6, 2021 in Sacramento, California.



Stephanie Clark