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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2013-1030-6C

In the Matter of the Application for Approval
of Renewal of State Gambling License
Regarding:

DEFAULT DECISION AND ORDER

Juan L. Carrillo: GEOW-002900,
Sole Proprietor
Ven-A-Mexico: GEGE-001168

Hearing Date: February 8, 2018
Time: 10:00 a.m.

Applicant.

1. This matter was scheduled for hearing before the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on February 8, 2018.

2. Juan L. Carrillo, as owner of Ven-A-Mexico, (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about April 2, 2013, the Commission received a Renewal Application for State Gambling License from Applicant (Application) which was provided on May 9, 2013 to the Bureau of Gambling Control (Bureau).

4. On or about September 16, 2013, the Bureau issued its Renewal Background Investigation Report (Bureau Report) in which in which it concluded that Applicant was unqualified for licensure pursuant to Business and Professions Code section 19857 and disqualified for licensure pursuant to Business and Professions Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about October 30, 2013, the Commission considered Applicant's application and voted to refer the matter to an evidentiary hearing pursuant to Title 4, CCR section 12050, subdivision (b). Notification of this evidentiary hearing referral was provided to applicant on November 6, 2013 via certified mail. (Exhibit A)

1 6. On or about July 13, 2017, the Commission considered the rescission of
2 Applicant’s application referral, but ultimately took no action and instead kept the matter pending
3 as an evidentiary hearing. The Commission provided notice of this action in an August 8, 2017
4 notice via certified mail to Applicant’s address of record which included a blank Notice of
5 Defense form with instructions to return it to the Commission within 15 days of receipt or else the
6 Commission may issue a default decision. The Commission did not receive the Notice of Defense
7 in response. (Exhibit B)

8 7. On or about August 31, 2017, the Commission received an email from Amber
9 Dastrup from the Law Offices of John K. Maloney, the office of Attorney John K. Maloney who
10 is representing Applicant, which stated:

11 “We agree to unequivocally waive Mr. Carrillo’s right to an evidentiary hearing
12 and the corresponding rights identified in the notice Mr. Carrillo Received on
13 August 10, 2017.” (Exhibit C)

14 8. Applicant subsequently received notice of Commission consideration of
15 Applicant’s application through a Notice of Hearing Without Applicant Participation sent
16 certified mail on October 11, 2017 to Applicant’s address of record and to his Attorney John
17 Maloney, which included Exhibit C and stated that the hearing was set to occur on February 8,
18 2018 at 10:00 a.m.

DETERMINATION OF ISSUES

19 9. An owner of a gambling enterprise shall apply for and obtain a state gambling
20 license. (Bus. & Prof. Code § 19851, subd. (1).)

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

24 11. In addition, the burden of proving Applicant’s qualifications to receive any license
25 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

26 12. At an evidentiary hearing pursuant to Business and Professions Code sections
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1 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
2 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

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

7 * * *

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

10 * * *

11 (F) The waiver of an evidentiary hearing, or failure of
12 the applicant to submit a Notice of Defense, or failure of an applicant
to appear at an evidentiary hearing, may result in:

13 1. A default decision being issued by the
14 Commission based upon the Bureau report, any supplemental reports
by the Bureau and any other documents or testimony already
provided or which might be provided to the Commission

15 14. The Commission has the power to deny applications for the renewal of licenses.
16 (Bus. & Prof. Code § 19876, subd. (1).)

17 15. The Commission takes official notice of the Bureau Report, any supplemental
18 reports by the Bureau and any other documents or testimony already provided to it in this matter
19 as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR
20 section 12052, subdivision (c)(2)(F)(1).

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

22 17. The Commission may deny Applicant's application based upon the Bureau Report,
23 any supplemental reports by the Bureau and any other documents or testimony already provided
24 to it, pursuant to CCR section 12052, subdivision (c)(2)(F)(1), and Business and Professions
25 Code sections 19857 and 19859.

26 18. The Commission may further also deny Applicant's application based upon
27 Applicant's failure to prove to the Commission Applicant is qualified to receive a license or other
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1 approval as required by Business and Professions Code section 19856, subdivision (a) and Title 4,
2 CCR section 12060(i).

3 19. Therefore, as the Applicant failed to return a Notice of Defense form, explicitly
4 waived his right to an evidentiary hearing through his attorney, did not attend the default hearing,
5 and did not submit any information or evidence in favor of granting Applicant's Application,
6 Applicant did not meet Applicant's burden of demonstrating why a license should be issued
7 pursuant to Business and Professions Code section 19856(a) and Title 4, CCR section 12060(i).
8 The Commission further finds that pursuant to California Code of Regulations, Title 4, section
9 12052, subdivision (c)(2)(F)(1), Applicant's Application is subject to denial.

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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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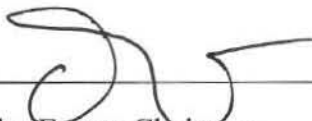
ORDER

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3 1. Juan Carrillo's Renewal Application for State Gambling License, GEOW-002900,
4 as owner of Ven-A-Mexico, GEGE-001168, is DENIED.


5 2. Juan Carrillo may not apply to the Commission or the Bureau for any type of
6 license, registration or work permit for one (1) year after the effective date of this Order.
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8 This Order is effective on February 8, 2018.

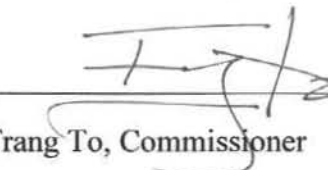
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10 Dated: 2/8/18

Signature: 
Jim Evans, Chairman

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13 Dated: 2/8/18

Signature: 
Paula Labrie, Commissioner

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16 Dated: 2/8/18

Signature: 
Trang To, Commissioner