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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Third-Party
Proposition Player Services License and
Cancellation of Registration for:

MONITA CHAN
Registration No. TPPL-013776
Registration No. TPPL-018807

Respondent.

CGCC Case No. CGCC-2017-0209-9
BGC Case No. BGC-HQ2017-00008SL

DECISION AND ORDER

Hearing Date: January 23, 2018
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(b), in Sacramento, California, on January 23, 2018.

Jim Waian, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (Complainant).

Monita Chan (Applicant) was present at the hearing on her own behalf without representation.

During the administrative hearing, Presiding Officer Russell Johnson took official notice of the following:

- (a) Notice of Continued Hearing with attachments;
 - a. Applicant's TPP Player Services License Application
 - b. Applicant's TPP Player Services Registration Application
 - c. Bureau Report
- (b) Notice of Hearing without attachments;
- (c) Statement of Reasons filed and served by the Complainant;
- (d) Notice of Defense signed by Applicant; and
- (e) Two Conclusion of Prehearing Conference letters dated December 4, 2017 and September 12, 2017.

1 During the administrative hearing, Presiding Officer Russell Johnson accepted into
2 evidence the following exhibits offered by the Complainant as identified in their table of contents:

3 (1) Statement of Reasons; Statement to Respondent; copies of Business and Professions
4 Code sections 19870 and 19871; copy of California Code of Regulations, title 4, section 12060;
5 and August 30, 2017, Declaration of Service by Overnight Courier, Bates Nos. 001 – 019.

6 (2) March 29, 2017, Executed Notice of Defense form for Monita Chan, signed March 27,
7 2017, Bates Nos. 020 – 021.

8 (3) Notices from the Commission:

9 a. May 15, 2017, Notice of Hearing and Prehearing Conference, with
10 Attachments, Bates Nos. 022 – 042.

11 b. February 17, 2017, Referral of Application for Third-Party Proposition Player
12 Services License to an Evidentiary Hearing, Bates Nos. 043 – 044.

13 c. January 27, 2017, Notice of Scheduled Commission Meeting, Bates No. 045

14 (4) December 15, 2016, Commission Letter Approving Third-Party Proposition Player
15 Services Registration for Monita Chan (TPPL-018807), Bates No. 046.

16 (5) December 9, 2016, Request for an Additional/Transfer/Reinstatement Third Party
17 Proposition Player Services Registration/License, signed November 11, 2016, Bates Nos. 047 –
18 048.

19 (6) October 23, 2016, Handwritten additional statement from Monita Chan to the Bureau
20 regarding her termination from Home Instead Senior Care, Bates No. 049.

21 (7) July 11, 2016, Additional statement from Monita Chan to the Bureau regarding her
22 termination from Home Instead Senior Care, Bates No. 050

23 (8) February 1, 2016, Employment Verification form from Home Instead Senior Care for
24 Monita Chan, Bates No. 051.

25 (9) January 7, 2016, Handwritten additional statement from Monita Chan to the Bureau
26 regarding her termination from Home Instead Senior Care, Bates Nos. 052 – 056.

27 (10) July 31, 2014, Application for Third-Party Proposition Player Services License for
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1 Monita Chan, signed June 9, 2014 (including supplemental information), Bates Nos. 057 – 073.

2 (11) July 15, 2014, Commission Letter Approving Third-Party Proposition Player
3 Services Registration for Monita Chan (TPPL-013776), Bates No. 074.

4 (12) June 11, 2014, Application for Third-Party Proposition Player Services Registration
5 for Monita Chan, signed June 9, 2014, Bates Nos. 075 – 079.

6 (13) January 30, 2013, Electronic mail message from Deborah Gilmore, Caregiver
7 Resources Manager, Home Instead Senior Care to Monita Chan, Bates No. 080.

8 (14) January 25, 2013, Letter from Deborah Gilmore, Caregiver Resources Manager,
9 Home Instead Senior Care to Monita Chan, Bates No. 081

10 (15) January 10, 2013 - January 25, 2013, Home Instead Senior Care caregiver log for
11 Monita Chan, Bates No. 082

12 (16) Undated, Hand written additional statement from Monita Chan to the Bureau
13 regarding her termination from Home Instead Senior Care, Bates No. 083.

14 (17) January 4, 2016, Letter from Holly Kinney, Manager, Third-Party Provider Unit,
15 Bureau to David Tierney, Designated Agent, PT Gaming, LLC, with a copy to Monita Chan,
16 Bates No. 084 – 087.

17 (18) February 3, 2016, Letter from Holly Kinney, Manager, Third-Party Provider Unit in
18 the Bureau to David Tierney, Designated Agent, PT Gaming, LLC, with a copy to Monita Chan,
19 Bates No. 088 – 089.

20 (19) October 21, 2016, Electronic mail message from David Tierney, Designated Agent,
21 PT Gaming, LLC to Monita Chan, with a copy to Adriana Budmark, Bureau, Bates No. 090 –
22 091.

23 During the administrative hearing, Presiding Officer Russell Johnson accepted into
24 evidence the following exhibit offered by Applicant:

25 (A) Letter of Reference from Steven Gates, Dated December 17, 2017.

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FINDINGS OF FACT

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2 1. On July 31, 2014, the Bureau received an application from Applicant for Third-Party
3 Proposition Player Services License, as well as a Level 1 Supplemental Information form
4 (collectively herein “Application”) to convert her registration as a third-party proposition player
5 to a license.

6 2. The Application was signed by Applicant under penalty of perjury on June 9, 2014.

7 3. On her Application, Applicant stated that she was employed by Home Instead Senior
8 Care from October to December 2013 and that she was “fired” but provided no additional details
9 or context.

10 4. On or about July 15, 2014, the Commission issued third-party proposition player
11 services registration to Applicant numbered TPPL-013776 with an expiration date of July 15,
12 2016.

13 5. On December 15, 2016, the Commission issued a third-party proposition player
14 services registration to Applicant numbered TPPL-018807 with an expiration date of July 30,
15 2018.

16 6. On January 4, 2016, the Bureau sent Applicant a letter which stated in pertinent part
17 “Ms. Chan indicated that she was “fired” From Home Instead Senior Care in December 2013.
18 Provide a statement explaining the circumstances that led to her termination.” [Emphasis added.]

19 7. On January 7, 2016, Applicant provided a statement to the Bureau stating that “when I
20 was fired from Home Instead Senior Care I was givin [sic] no reason why they terminated my
21 employment.” Applicant provided no additional circumstances or context to her termination.

22 8. On February 1, 2016, the Bureau verified Applicant’s employment with Home Instead
23 Senior Care, also known as Beach Cities Eldercare, Inc. (hereinafter “BCE”). This verification
24 stated that Applicant was involved in acts of “cheating or dishonesty” as Applicant had
25 “persuaded Alzheimer client to make purchases with the intent to keep for personal gain.” BCE
26 also indicated the items were on the Alzheimer client’s credit card and were not found in his
27 possession, but rather were in Applicant’s possession who returned them to BCE upon request.
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1 9. On February 3, 2016, the Bureau sent the Applicant a second letter about the
2 discrepancy between the BCE document and her January 7, 2016 statement regarding her
3 termination. The Bureau letter stated Applicant’s prior statement “indicated that she was given no
4 reason as to why her employment was terminated; however, the Bureau was able to verify Ms.
5 Chan’s employment with BCE. BCE indicated that Ms. Chan was terminated for persuading an
6 Alzheimer’s client to make purchases with the intent to keep the items for personal gain.”

7 10. In response, Applicant provided an undated handwritten statement where she provided
8 some minimal context to her termination for the first time. The statement stated she was “aware
9 of the patient and the accusation I persuaded said patient to make purchases with the intent of
10 keeping the item.” Applicant’s statement indicated she took the client shopping and he insisted
11 she take a gift of a TV, but that she paid him back for the TV and told him she could not accept
12 gifts. Applicant also stated that after BCE suspended her, she took the TV to BCE’s offices
13 despite allegedly already paying the patient for it. She indicated she was terminated shortly after
14 she was suspended. She also stated she did not intend to lie about her termination. Applicant’s
15 statement, despite detailing the incident involving the TV, returning the TV to the BCE offices,
16 and being suspended, still reiterated she was not given a reason for being suspended and then
17 terminated.

18 11. On October 20, 2016, the Bureau sent Applicant an email asking for further
19 information regarding the TV purchase and any documentation indicating she paid the client for
20 it. On October 23, 2016, Applicant provided a statement to the Bureau indicating she paid the
21 client in cash as she did not have a bank account and she would cash her checks, and that she
22 never got the cash back from the client. Applicant never provided any additional documentation.

23 12. On or about November 4, 2016, the Bureau issued a Third-Party Player Background
24 Investigation Report, Level III, recommending denial of Applicant’s Application on the basis that
25 she was unqualified for licensure under Business and Professions Code section 19857 (a) and (b)
26 in that she was not a person of good character, honesty, or integrity due to her actions at BCE
27 relating to acquiring the TV and her resulting termination. The Bureau also recommended denial
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1 under section 19859(b) in that Applicant failed to disclose honestly the circumstances involving
2 her termination from BCE.

3 13. On February 9, 2017, pursuant to CCR section 12054(a)(2), the Commission referred
4 consideration of Applicant's Application to an evidentiary hearing to be held under the provisions
5 of CCR section 12060(b).

6 14. On or about August 31, 2017, the Bureau as Complainant filed a Statement of Reasons
7 with the Commission recommending the denial of Applicant's Application and the cancellation of
8 her registration as a third-party proposition player.

9 15. On or about March 27, 2017, Applicant signed and sent a Notice of Defense to the
10 Commission requesting an evidentiary hearing.

11 16. The Commission heard Case No. CGCC-2017-0209-9 on January 23, 2018. The
12 Complainant was represented throughout the pendency of the hearing by Deputy Attorney
13 General Jim Waian. Applicant was present on her own behalf without representation.

14 17. Applicant testified under oath to receiving the letter sent from the Bureau on January
15 4, 2016. In regards to why her response did not answer the Bureau's question, including
16 explaining the circumstances with the patient and TV, she stated she must not have understood
17 the question when giving her response. She reiterated she was not given a reason for her
18 termination despite returning the TV to BCE and being suspended.

19 18. Applicant admitted to receiving the second letter form the Bureau on or around
20 February 3, 2016 where Applicant provided the undated handwritten statement which finally
21 provided the above story of the TV. Applicant testified that she disagreed with the Bureau's
22 statements in the letter about the client having Alzheimer's and she also reiterated she was not
23 given a reason for her termination despite returning the TV to BCE and being suspended.

24 19. Applicant also testified about the caregiver log prepared by BCE. Applicant initially
25 said she agreed with the log before changing her testimony to say she disagreed with certain
26 aspects of it. She disagreed with the BCE statement that the client was an Alzheimer's patient as
27 she believed he had a good memory and that he would not have had a credit card otherwise. The
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1 log indicates that Applicant initially told BCE that she did not receive any gifts from the client,
2 though Applicant believes she told BCE sooner that she did.

3 20. The log stated that after being told that the client's family complained, Applicant
4 changed her story give to BCE and stated she wanted the client to purchase a TV for her and that
5 the applicant would pay him back. Applicant's testimony at the hearing, her statements to the
6 Bureau, her initial story to BCE, and then her subsequent story when confronted are all
7 inconsistent and reflect an intent to minimize her actions and obscure the truth regarding her
8 employment and resulting termination from BCE.

9 21. In regards to the TV, Applicant stated she did not have any documentation to reflect
10 repaying the client for the TV as she had no bank account. Applicant testified that she thought she
11 was going to get her money back for the TV, presumably from BCE or the client, but that she felt
12 better for returning it as she was trying to keep her job. She testified that BCE was not certain that
13 they could do anything about the money. She offered no testimony indicating any efforts to regain
14 her money following her suspension and termination from BCE. Her lack of testimony and
15 documentary evidence undercuts her credibility in regards to paying for the TV.

16 22. The Bureau offered a letter from BCE which indicated Applicant was terminated, but
17 Applicant testified that she never received the letter from BCE and that she never went back to
18 BCE to get it. She testified that she just "let it go." This is not credible. If she was legitimately
19 uncertain as to why she was suspended, she would have followed up about her job. Additionally,
20 if she was under the impression she was only suspended, never received the termination letter,
21 and not reimbursed the money for the TV, she would have had even more reason to follow up
22 with BCE. The entirety of Applicant's testimony in regards to the circumstances undercuts her
23 credibility and honesty.

24 23. Regardless, despite stating BCE never gave her a reason for her termination, Applicant
25 testified that she always knew why she was terminated.

26 24. Based on the substance of Chan's testimony and the provided documentary evidence,
27 the Commission finds that Applicant's efforts to respond to the Bureau's inquires including her
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1 statements about why she was fired and her statements that she was not given a reason for
2 termination from BCE is unpersuasive and was more likely based on a purposeful intent to
3 deceive the Bureau and the Commission than an inadvertent mistake or lack of knowledge.

4 25. The matter was submitted for Commission consideration on January 23, 2018.

5 LEGAL CONCLUSIONS

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

9 2. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
10 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
11 prove her qualifications to receive any license under the Gambling Control Act. Title 4, CCR
12 section 12060(i); Business and Professions Code section 19856(a).

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

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

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

24 6. An "unqualified person" means a person who is found to be unqualified pursuant to
25 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"
26 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
27 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

7 9. The commission shall deny a license to any applicant who is disqualified for failure of
8 the applicant to provide information, documentation, and assurances required by this chapter or
9 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
10 supplying of information that is untrue or misleading as to a material fact pertaining to the
11 qualification criteria. Business and Professions Code section 19859(b).

12 10. A registrant requesting a license shall be ineligible for licensing if the requestor has
13 failed to meet the requirements of Business and Professions Code sections 19856 or 19857. Title
14 4, CCR section 12218.11(e).

15 11. A registrant requesting a license shall be ineligible for licensing if the requestor would
16 be ineligible for a state gambling license under any of the criteria set forth in Business and
17 Professions Code section 19859, subdivisions (b), (e), or (f). Title 4, CCR section 12218.11(f).

18 12. Any regular registration issued in accordance with Chapter 2.1 of Division 18 of Title
19 4 of the California Code of Regulations shall be subject to cancellation if the Commission
20 determines after a noticed hearing that the registrant is ineligible for registration, has failed in the
21 application for registration to reveal any fact material to the holder's qualification for registration,
22 or has supplied information in the registration application that is untrue or misleading as to a
23 material fact pertaining to the criteria for issuance of registration. Title 4, CCR section 12205(a).

24 13. An applicant is ineligible for registration if the applicant would be ineligible for a
25 state gambling license under any of the criteria set forth in Business and Professions Code section
26 19859, subdivisions (b), (e), or (f). Title 4, CCR section 12204(e).

27 14. Applicant has not met her burden of proving that she is a person of good character,
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1 honesty, and integrity in that she was not forthright and honest with the Bureau and the
2 Commission in regards to her termination from BCE and the surrounding circumstances.
3 Therefore, Applicant is unqualified for licensure pursuant to Business and Professions Code
4 section 19857(a) and ineligible for licensing as a third-party provider of proposition player
5 services pursuant to Title 4, CCR section 12218.11(e).

6 15. Given that Applicant is ineligible for registration pursuant to Title 4, CCR section
7 12204(e), her regular registrations are subject to cancellation pursuant to Title 4, CCR section
8 12205(a).

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Betancur has the following appeal rights available under state law:

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

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. The request 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 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 upon 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, 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.

ORDER

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2 1. Monita Chan's Application for a Third-Party Proposition Player Services
3 License for Supervisor, Player or Other Employee is DENIED.


4 2. Monita Chan's regular registrations as a third-party proposition player,
5 Registration Numbers TPPL-013776 and TPPL-018807, are CANCELLED.

6 3. No costs are to be awarded.

7 4. Each side to pay its own attorneys' fees.

8 This Order is effective on 4/1/18.

9 Dated: 3/8/18

10 Signature: 
Jim Evans, Chairman

11 Dated: 3/8/2018

12 Signature: 
Paula LaBrie, Commissioner

13 Dated: 3/8/18

14 Signature: 
Trang To, Commissioner