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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Initial
Regular Work Permit Regarding:

LINH NGO

Respondent.

BGC Case No. BGC-HQ2018-00022SL
CGCC Case No. GCADS-GEWP-002630

DECISION AND ORDER

Hearing Date: April 10, 2019
Time: 1:30 p.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, on April 10, 2019.

James Waian, Deputy Attorney General, State of California (DAG Waian), represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Respondent Linh Ngo (Ngo) did not attend the evidentiary hearing.

During the evidentiary hearing, Presiding Officer Kate Patterson took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Ngo and DAG Waian, via certified mail, on July 26, 2018.

Presiding Officer Kate Patterson also took official notice of the Commission's Notice of Continued Hearing, the Commission's Conclusion of Prehearing Conference letter, the Bureau's Statement of Reasons, and Ngo's Notice of Defense.

During the evidentiary hearing, Presiding Officer Kate Patterson 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 & 19871; copy of California Code of Regulations, title 4, section 12060; November 20, 2018 Certificate of Service by Federal Express Overnight Delivery, Bates Nos. 0001-0019A;

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- (2) April 30, 2018, Executed Notice of Defense for Linh Ngoc Ngo, Bates Nos. 0020-0022;
- (3) Notices from the California Gambling Control Commission, Bates Nos. 0023-0042:
 - a. July 26, 2018, Notice of Hearing and Prehearing Conference (without enclosures);
 - b. April 13, 2018, Referral of Initial Work Permit to an Evidentiary Hearing (GCADS-GEWP-002630) (with enclosure);
 - c. April 5, 2018, Notice of Cancellation of Temporary Work Permit (GEWP-002630) (with enclosure);
 - d. March 19, 2018, Extension of Temporary Work Permit (GEWP-002630) (without enclosure);
 - e. November 14, 2017, Extension of Temporary Work Permit (GEWP-002630) (without enclosure);
 - f. September 6, 2017, Notice of Compliance (with enclosure);
 - g. September 6, 2017, Family Support Obligations;
 - h. August 31, 2017, 150-Day Notice of Intent to Deny Work Permit (GEWP-002630) (without enclosure); and
 - i. August 3, 2017, Approval of Temporary Work Permit (GEWP-002630);
- (4) March 23, 2018, Work Permit Employee Background Investigation Report, Level III, Bureau of Gambling Control, for Linh Ngoc Ngo (with attachments), Bates Nos. 0043-0156;
- (5) August 1, 2017, Application for Initial Regular Work Permit/Temporary Work Permit, including Work Permit Questionnaire, both signed July 26, 2017, from Linh Ngoc Ngo, Bates Nos. 0157-0168;
- (6) Bureau of Gambling Control correspondence and telephone records with,

1 and regarding, Linh Ngoc Ngo, Bates Nos. 0169-0232;

2 (7) Employment verification correspondence regarding Linh Ngoc Ngo's
3 employment at the California Highway Patrol, Bates Nos. 0233-0241;

4 (8) Bureau of Gambling Control notes and correspondence regarding Linh
5 Ngoc Ngo's employment records at the California Highway Patrol, Bates
6 Nos. 0242-0258; and

7 (9) California Highway Patrol surveillance video of employee Linh Ngoc Ngo,
8 Bates Nos. 0259-0260.¹

9 The record was closed and the matter was submitted on April 10, 2019.

10 FINDINGS OF FACT

11 **Procedural History**

12 1. On or about August 1, 2017, the Bureau received an Application for Initial Regular
13 Work Permit/Temporary Work Permit and a Work Permit Questionnaire (collectively,
14 Application) from Ngo.

15 2. On or about August 3, 2017, the Commission issued Temporary Work Permit GEWP-
16 002630 to Ngo.

17 3. On or about March 23, 2018, the Bureau submitted a Work Permit Employee
18 Background Investigation Report on Ngo to the Commission. In this report, the Bureau
19 recommends that the Commission deny Ngo's Application.

20 4. On or about April 5, 2018, the Commission cancelled Ngo's Temporary Work Permit
21 GEWP-002630 pursuant to CCR section 12128(b)(2).

22 5. On or about April 13, 2018, the Commission's Executive Director referred the
23 consideration of Ngo's Application to a Gambling Control Act evidentiary hearing pursuant to
24 CCR section 12060(a).

25 6. On or about April 30, 2018, Ngo submitted a notice of defense requesting an
26 evidentiary hearing on the consideration of his Application.

27 ¹ The surveillance video is contained on a digital versatile disc (DVD). The bates number reference is to a
28 photo copy representation of the DVD.

1 7. On or about July 26, 2018, the Commission sent a Notice of Hearing and Prehearing
2 Conference, via certified mail, to Ngo and DAG Waian.

3 8. On or about November 20, 2018, the Bureau sent a Statement of Reasons to Ngo via
4 FedEx Express. The Commission also received the Statement of Reasons from the Bureau on or
5 about November 20, 2018. In the Statement of Reasons, the Bureau recommends that the
6 Commission deny Ngo's Application.

7 9. On or about November 26, 2018, the noticed Prehearing Conference was held before
8 Presiding Officer Kate Patterson, Attorney III of the Commission. DAG Waian attended on
9 behalf of the Bureau. Ngo did not attend the Prehearing Conference.

10 10. On or about November 28, 2018, the Commission sent a Conclusion of Prehearing
11 Conference letter to Ngo, Ngo's Designated Agent Elijah Zuniga, and DAG Waian.

12 11. On or about February 12, 2019, the Commission sent a Notice of Continued Hearing
13 to Ngo and DAG Waian via certified mail. The Notice of Continued Hearing provides that the
14 hearing on Ngo's Application was continued to April 10, 2019.

15 12. The Commission heard this matter on April 10, 2019. The Bureau was represented
16 throughout the hearing by DAG Waian. Ngo did not attend the evidentiary hearing.

17 13. Ngo did not submit any information or evidence in support of his Application.

18 **Assessment of Ngo's Suitability for Licensure**

19 *Failure to Meet Burden of Proving Qualifications for Licensure*

20 14. The burden of proving his or her qualifications to receive any license is on the
21 applicant. Ngo did not attend the evidentiary hearing or submit any information or evidence in
22 support of his Application. As a result of Ngo's lack of attendance and participation in the
23 evidentiary hearing, and his failure to submit any information or evidence in support of his
24 Application, Ngo has failed to meet his burden of proving his qualifications for licensure.

25 15. All documentary and testimonial evidence submitted by the parties that is not
26 specifically addressed in this Decision and Order was considered but not used by the Commission
27 in making its determination on Ngo's Application.

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1 16. The matter was submitted for Commission consideration on April 10, 2019.

2 LEGAL CONCLUSIONS

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

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

10 19. The Commission has the power to deny any application for a license, permit, or
11 approval for any cause deemed reasonable by the Commission. Business and Professions Code
12 section 19824(b).

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

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

18 22. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
19 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or
20 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

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

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

4 25. 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 that is in all other
6 respects qualified to be licensed as provided in this chapter. Business and Professions Code
7 section 19857(c).

8 26. Ngo did not attend the evidentiary hearing or submit any information or evidence in
9 favor of granting his Application. As a result, Ngo did not meet his burden of proving his
10 qualifications to receive an Initial Regular Work Permit pursuant to Business and Professions
11 Code section 19856(a) and CCR section 12060(i).

12 NOTICE OF APPLICANT'S APPEAL RIGHTS

13 Linh Ngo has the following appeal rights available under state law:

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

15 An applicant denied a license, permit, registration, or finding of suitability,
16 or whose license, permit, registration, or finding of suitability has had
17 conditions, restrictions, or limitations imposed upon it, may request
18 reconsideration by the Commission within 30 calendar days of service of the
19 decision, or before the effective date specified in the decision, whichever is
20 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.

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

22 A decision of the commission denying a license or approval, or imposing
23 any condition or restriction on the grant of a license or approval may be
24 reviewed by petition pursuant to Section 1085 of the Code of Civil
25 Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to
26 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.

27 CCR section 12066, subsection (c) provides:
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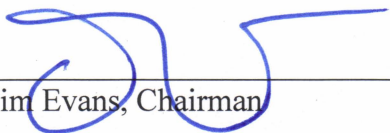
1 A decision of the Commission denying an application or imposing conditions on
2 license shall be subject to judicial review as provided in Business and Professions
3 Code section 19870, subdivision (e). Neither the right to petition for judicial
4 review nor the time for filing the petition shall be affected by failure to seek
5 reconsideration.

6 **ORDER**

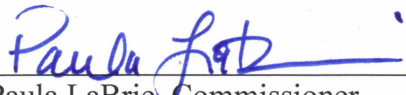
- 7 1. Linh Ngo's Application for Initial Regular Work Permit is DENIED.
8 2. No costs are to be awarded.
9 3. Each side to pay its own attorneys' fees.

10 This Order is effective on July 1, 2019.

11 Dated: 5/30/19

12 Signature: 
Jim Evans, Chairman

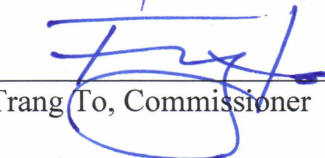
13 Dated: 5/30/19

14 Signature: 
Paula LaBrie, Commissioner

15 Dated: 5/30/19

16 Signature: 
Gareth Lacy, Commissioner

17 Dated: 5/30/19

18 Signature: 
Trang To, Commissioner