

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Initial  
Work Permit for:  
  
Charlito Lukban  
  
Applicant.

CGCC Case No. CGCC-2021-0325-10A

**DEFAULT DECISION AND ORDER**

Hearing Date: Thursday, July 22, 2021  
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, on Thursday, July 22, 2021 at 10:00 a.m.

2. Charlito Lukban (Applicant) failed to appear and was not represented at the hearing.

**FINDINGS OF FACT**

3. On or about June 5, 2019, the Bureau of Gambling Control (Bureau) received an Application for Initial Regular Work Permit from Applicant.

4. On or around December 12, 2020, the Bureau issued its Work Permit Initial Background Investigation Report in which it concluded that Applicant was not qualified for licensure pursuant to Business and Professions Code section 19857, subdivisions (a) and (b). The Bureau recommended that the Commission deny Applicant's application.

5. On or about March 25, 2021, the Commission considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in two ways. First, Commission staff mailed an evidentiary hearing referral letter to Applicant's address of record via regular mail and certified mail on March 26, 2021 which included a blank

1 Notice of Defense form with instructions to return it to the Commission within 21 days of service  
2 or else the Commission may issue a default decision. Commission staff received no response.  
3 (Exhibit A)

4 7. Second, Applicant further received notice of the hearing through a hearing notice  
5 sent certified mail on June 15, 2021 to Applicant's address of record which included Exhibit A  
6 and stated that the hearing was set to occur on Thursday, July 22, 2021 at 10:00 a.m.

7 **DETERMINATION OF ISSUES**

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

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

13 10. At an evidentiary hearing pursuant to Business and Professions Code sections  
14 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to  
15 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

16 11. An application will be denied if the Commission finds that the applicant has not  
17 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.  
18 4, § 12040(a)(1).)

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

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

22 \* \* \*

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

25 \* \* \*

26 (F) The waiver of an evidentiary hearing, or failure of  
27 the applicant to submit a Notice of Defense, or failure by  
28 the applicant to appear at the evidentiary hearing, may  
result in a default decision or a hearing without applicant

participation in accordance with Section 12057.

13. 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;

14. 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).

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

16. 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 Title 4, CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and Professions Code sections 19857 and 19859.

17. The Commission may further also deny Applicant's application based upon Applicant's failure to prove to the Commission Applicant 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(i).

18. Therefore, as the Applicant did not return a Notice of Defense form, did not attend the default hearing, and did not submit any information or evidence in favor of granting Applicant's Application, Applicant did not meet Applicant's burden of demonstrating why a license should be issued pursuant to Business and Professions Code section 19856(a) and Title 4, CCR section 12060(i). By failing to meet Applicant's burden of proving Applicant's qualifications for licensure, Applicant has failed to satisfy the Commission that Applicant is a person that is in all other respects qualified to be licensed pursuant to Business and Professions

1 Code section 19857(c). As a result, the Commission finds that pursuant to Title 4, CCR sections  
2 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and 12057, Applicant's Application is  
3 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. 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.

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

A decision of the Commission denying an application or imposing conditions on a license will 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 will be affected by failure to seek reconsideration.

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**ORDER**

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3 1. CHARLITO LUKBAN'S Application for Initial Regular Work Permit is  
4 DENIED.

5 2. CHARLITO LUKBAN may not apply to the Commission or the Bureau for any  
6 type of 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 Monday, August 16, 2021.

9  
10 Dated: 7/22/21

Signature: P. LaBrie

Paula LaBrie, Chair

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13 Dated: 7/22/21

Signature: Cathleen Galgiani

Cathleen Galgiani, Commissioner

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16 Dated: 07/22/2021

Signature: Eric Heins

Eric Heins, Commissioner

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19 Dated: 7-22-21

Signature: William Liu

William Liu, Commissioner

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22 Dated: 7/22/21

Signature: Edward Yee

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. Charlito Lukban case has been assigned to me for processing.

On March 26, 2021, I mailed a Gambling Control Act hearing referral letter to Charlito Lukban 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 Charlito Lukban that consideration of his 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-CH1-03) 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 April 26, 2021 and I have not received the Notice of Defense form or any communication from Charlito Lukban 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 April 26, 2021 in Sacramento, California.



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Stephanie Clark