

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

BGC Case No. BGC-HQ2018-00012SL
CGCC Case No. CGCC-2018-0208-5A

HILARY ANN BRUMMETT

DECISION AND ORDER

Hearing Date: August 30, 2018
Time: 10:00 a.m.

Respondent.

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 August 30, 2018.

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

Respondent Hilary Brummett (Brummett) appeared on her own behalf.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Brummett and DAG Diedrich, via certified mail, on March 30, 2018. Presiding Officer Jason Pope also took official notice of Brummett’s signed Notice of Defense, the Bureau’s Statement of Particulars, and the Commission’s Conclusion of Prehearing Conference letter.

During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (1) Statement of Particulars; Statement to Respondent; copies of Bus. & Prof. Code, §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; April 3, 2018, Declaration of Service by Certified Mail Service; and Notice of Defense, dated February 19, 2018, Bates Nos. 001-023;
- (2) California Gambling Control Commission (Commission) Memorandum,

1 Notices and Letters:

- 2 a. February 12, 2018, Referral of Application for Initial Third-Party
3 Provider of Proposition Player Services License Application to an
4 Evidentiary Hearing for Hillary [sic] Brummett, sans enclosure, Bates
5 Nos. 024-025;
- 6 b. March 30, 2018, Notice of Hearing, with attachments and proof of
7 service, Bates Nos. 026-037;
- 8 c. July 24, 2018, Conclusion of Prehearing Conference, Bates Nos. 038-
9 042;
- 10 d. January 5, 2018, Licensing Division Memorandum, sans attachments,
11 Bates Nos. 043-045;
- 12 e. April 12, 2017, Approval of the Renewal of Third Party Proposition
13 Player Services Registration Badge TPPL-012366, Bates No. 046;
- 14 f. August 8, 2013, Transfer of Third-Party Proposition Player Services
15 Badge # TPPL-012366, Bates No. 047;
- 16 g. January 11, 2010, Transfer Third-Party Proposition Player Services
17 Badge #TPPL-007140, Bates No. 048; and
- 18 h. December 9, 2008, Third-Party Proposition Player Services Badge
19 #TPPL-006182, Bates No. 049;
- 20 (3) Redacted copies of Hilary Brummett's Application for Third Party
21 Proposition Player Services License for Supervisor, Player or Other
22 Employee and Level I Supplemental Information (collectively,
23 Application), Bates Nos. 050-068;
- 24 (4) A redacted copy of the Bureau's January 2018, Third-Party Player
25 Background Investigation Report regarding Hilary Ann Brummett, Bates
26 Nos. 069-074; and
- 27 (5) Redacted copy of the court records for the 2011 case of *People v. Hilary*
28

1 8. On or about July 24, 2018, the noticed Prehearing Conference was held before
2 Presiding Officer Jason Pope, Attorney III of the Commission. DAG Diedrich attended on behalf
3 of the Bureau. Brummett did not attend the prehearing conference.

4 9. Also on or about July 24, 2018, the Commission sent a Conclusion of Prehearing
5 Conference letter to Brummett and DAG Diedrich.

6 10. The Commission heard CGCC Case No. CGCC-2018-0208-5A on August 30, 2018.
7 The Bureau was represented throughout the hearing by DAG Diedrich. Respondent Brummett
8 appeared on her own behalf.

9 11. On or about February 6, 2011, Brummett was convicted of violating California
10 Vehicle Code section 23103, reckless driving, a misdemeanor, in the case of *People of the State*
11 *of California v. Hilary Ann Brummett* (Super. Ct. San Joaquin County, 2011, Case No.
12 MM121082A). Brummett was sentenced to three years of probation and ordered to pay a fine and
13 restitution.

14 12. On or about July 30, 2014, the San Joaquin Superior Court set aside and dismissed
15 Brummett's 2011 reckless driving conviction pursuant to Penal Code section 1203.4.

16 13. Brummett failed to disclose her 2011 reckless driving conviction on her March 9,
17 2011 and January 11, 2013 renewal applications. However, the Commission approved these
18 renewal applications.

19 14. The questions asked on an application for licensure by the Commission have two
20 primary purposes. The first purpose is to solicit information that is material to the qualification
21 criteria of an applicant. Criminal history is material to the qualification criteria of an applicant
22 because it may impact the determination of an applicant's general character, integrity, and ability
23 to participate in, engage in, or be associated with, controlled gambling. Criminal history may also
24 impact whether the applicant poses a threat to the public interest of this state or the effective
25 regulation and control of controlled gambling, or creates or enhances the danger of unsuitable,
26 unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the
27 carrying on of the business and financial arrangements incidental thereto. The second purpose is
28

1 to assess the applicant's honesty, integrity, and candor by the truthfulness and thoroughness of the
2 applicant's responses.

3 15. Brummett submitted a written statement and testified during the evidentiary hearing
4 regarding her failure to disclose the 2011 reckless driving conviction on her 2011 and 2013
5 renewal applications. Brummett wrote and testified that she was given a Misdemeanor
6 Advisement by the court, but that the Advisement did not contain a checkmark for misdemeanor.
7 In reviewing the Advisement, Brummett concluded that the court chose not to attach a
8 misdemeanor to the charge of reckless driving. Brummett admitted that her interpretation was
9 naïve and incorrect.

10 16. Brummett's written statement and testimony during the evidentiary hearing appeared
11 credible and adequately explained both the circumstances surrounding the conviction and her
12 failure to disclose the conviction on her 2011 and 2013 renewal applications. Brummett's
13 explanation was sufficient to excuse her failure to disclose, particularly in light of the fact that she
14 disclosed the conviction on her subsequent applications.

15 17. Brummett disclosed her 2011 reckless driving conviction on her Application, which
16 demonstrates honesty and candor.

17 18. There was no evidence presented that Brummett has had any disciplinary or work-
18 related issues during her approximately 10 years of working as a third-party proposition player.

19 19. Based on the foregoing, Brummett has met her burden of proving that she is a person
20 of good character, honesty, and integrity.

21 20. Brummett has also met her burden of demonstrating that she is a person whose prior
22 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
23 public interest of this state, or to the effective regulation and control of controlled gambling, or
24 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
25 the conduct of controlled gambling or in the carrying on of the business and financial
26 arrangements incidental thereto.

27 21. There was no evidence presented that Brummett is disqualified from licensure for any
28

1 of the reasons provided in Business and Professions Code section 19859, or ineligible for
2 licensing for any of the reasons provided in CCR section 12218.11.

3 22. All documentary and testimonial evidence submitted by the parties that is not
4 specifically addressed in this Decision and Order was considered but not used by the Commission
5 in making its determination on Brummett's Application.

6 23. The matter was submitted for Commission consideration on August 30, 2018.

7 LEGAL CONCLUSIONS

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

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

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

19 27. An "unqualified person" means a person who is found to be unqualified pursuant to
20 the criteria set forth in Section 19857, and "disqualified person" means a person who is found to
21 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
22 section 19823(b).

23 28. The Commission has the power to deny any application for a license, permit, or
24 approval for any cause deemed reasonable by the Commission. Business and Professions Code
25 section 19824(b).

26 29. The Commission has the power to take actions deemed to be reasonable to ensure that
27 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
28

1 gambling activities. Business and Professions Code section 19824(d).

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

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

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

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

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

20 35. No gambling license shall be issued unless, based on all of the information and
21 documents submitted, the commission is satisfied that the applicant is a person that is in all other
22 respects qualified to be licensed as provided in this chapter. Business and Professions Code
23 section 19857(c).

24 36. Brummett has met her burden of demonstrating that she is a person of good character,
25 honesty, and integrity. Therefore, Brummett is qualified to receive a third-party proposition
26 player services license pursuant to Business and Professions Code section 19857(a).

27 37. Brummett has met her burden of proving that she is a person whose prior activities,
28

1 criminal record, if any, reputation, habits, and associations do not pose a threat to the public
2 interest of this state, or to the effective regulation and control of controlled gambling, or create or
3 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the
4 conduct of controlled gambling or in the carrying on of the business and financial arrangements
5 incidental thereto. Therefore, Brummett is qualified to receive a third-party proposition player
6 services license pursuant to Business and Professions Code section 19857(b).

7 38. Brummett has met her burden of proving that she is a person that is in all other
8 respects qualified to be licensed as provided in the Gambling Control Act. Therefore, Brummett
9 is qualified to receive a third-party proposition player services license pursuant to Business and
10 Professions Code section 19857(c).

11 39. Brummett has met her burden of proving that she is not disqualified from licensure
12 pursuant to Business and Professions Code section 19859, and is not ineligible for licensing
13 pursuant to CCR section 12218.11.

14 ORDER

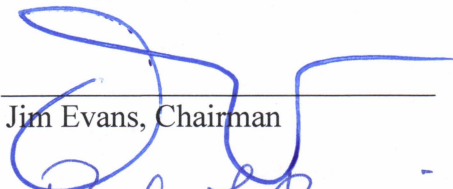
15 1. Respondent Hilary Ann Brummett's Application for Third-Party Proposition Player
16 Services License for Player is APPROVED.

17 2. No costs are to be awarded.

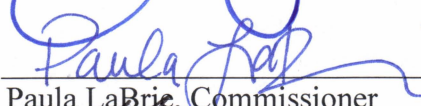
18 3. Each side to pay its own attorneys' fees.

19 This Order is effective on October 4, 2018.

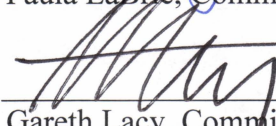
20
21 Dated: 10/4/18

Signature: 
Jim Evans, Chairman

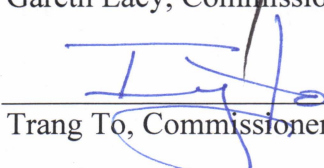
22
23 Dated: 10/4/18

Signature: 
Paula LaBrie, Commissioner

24
25 Dated: 10/4/18

Signature: 
Gareth Lacy, Commissioner

26
27 Dated: 10/4/18

Signature: 
Trang To, Commissioner