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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. GCADS-TPPL-012552

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

DEFAULT DECISION AND ORDER

Richard Patrick Ponte
Applicant.

Hearing Date: January 21, 2016
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, January 21, 2016.

2. Richard Patrick Ponte (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about January 31, 2014, the Bureau of Gambling Control (Bureau) received an Application for Approval of Third-Party Proposition Player Services License from Applicant.

4. On or about November 4, 2014, the Bureau issued its Third-Party Player Background Investigation Report in which in which it concluded that Applicant was unqualified for licensure pursuant to Business and Profession Code section 19857 and disqualified for licensure pursuant to Business and Profession Code section 19859. The Bureau recommended that the Commission deny Applicant's application

5. On or about January 22, 2015, the Commission's Executive Director referred Applicant's application to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in several ways. First, Commission staff mailed an evidentiary hearing referral letter via certified

1 mail to Applicant's address of record on January 22, 2015 which included a blank Notice of
2 Defense form with instructions to return it to the Commission within 15 days of receipt or else the
3 Commission may issue a default decision. A copy of the letter was mailed to Applicant's
4 designated agent, Michael Teng. Commission staff received a signed Notice of Defense form
5 from Applicant requesting an evidentiary hearing. (Exhibit A)

6 7. Second, Applicant received notice of the hearing through a hearing notice sent
7 certified mail on May 20, 2015 to Applicant's address of record which included Exhibit A and
8 stated that the hearing was set to occur on Tuesday, November 17, 2015 at 2:00 p.m. A copy of
9 the letter was mailed to Applicant's designated agent, Michael Teng. Commission staff received
10 the notice of hearing package back unclaimed.

11 8. Third, the Commission received information from Applicant that he wished to
12 abandon his application. The Commission considered abandoning the application at the August
13 13, 2015 meeting but elected instead to proceed forward with the evidentiary hearing. On or
14 about August 21, 2015, Applicant sent a request to Administrative Hearings Coordinator Pamela
15 Mathauser indicating he wished to withdraw his request for an evidentiary hearing. This was
16 confirmed in a return email indicating the evidentiary hearing would be taking off calendar and
17 replaced with an evidentiary hearing without applicant participation. (Exhibit B)

18 9. Fourth, Applicant further received notice of the hearing without applicant
19 participation through a hearing notice sent certified mail on September 24, 2015 to Applicant's
20 address of record which included Exhibit B and stated that the hearing was set to occur on
21 Thursday, January 21, 2015 at 10:00 a.m. Commission staff received the notice of hearing
22 package back signed for by Richard Ponte.

23 DETERMINATION OF ISSUES

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

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

2 12. At an evidentiary hearing pursuant to Business and Professions Code sections
3 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
4 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

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

9 * * *

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

12 * * *

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

15 1. A default decision being issued by the
16 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

17 14. 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 15. The Commission has jurisdiction to adjudicate this case by default.

22 16. 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 17. 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 Profession Code section 19856, subdivision (a) and Title 4,
2 CCR section 12060(i).

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

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1 NOTICE OF APPLICANT'S APPEAL RIGHTS

2 Applicant has the following appeal rights available under state law:

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

4 (a) After the Commission issues a decision following a GCA hearing conducted
5 pursuant to Section 12060, an applicant denied a license, permit, registration, or
6 finding of suitability, or whose license, permit, registration, or finding of
7 suitability has had conditions, restrictions, or limitations imposed upon it, may
8 request reconsideration by the Commission within 30 calendar days of service of
9 the decision, or before the effective date specified in the decision, whichever is
10 later.

11 (b) A request for reconsideration shall be made in writing to the Commission,
12 copied to the Bureau, and shall state the reasons for the request, which must be
13 based upon either:

- 14 (1) Newly discovered evidence or legal authorities that could not
15 reasonably have been presented before the Commission's issuance of the
16 decision or at the hearing on the matter; or,
17 (2) Other good cause which the Commission may decide, in its sole
18 discretion, merits reconsideration.

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

20 A decision of the commission denying a license or approval, or imposing any
21 condition or restriction on the grant of a license or approval may be reviewed by
22 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5
23 of the Code of Civil Procedure shall not apply to any judicial proceeding
24 described in the foregoing sentence, and the court may grant the petition only if
25 the court finds that the action of the commission was arbitrary and capricious, or
26 that the action exceeded the commission's jurisdiction.

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

28 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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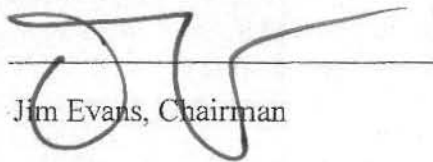
ORDER

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2 1. Richard Patrick Ponte's Application for Approval of Initial Third-Party
3 Proposition Player Services License is DENIED.

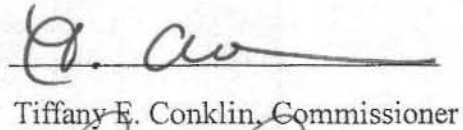
4 2. Richard Patrick Ponte may not apply to the Commission or the Bureau for any
5 type of license, registration or work permit for one (1) year after the effective date of this Order.

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7 This Order is effective on February 20, 2016

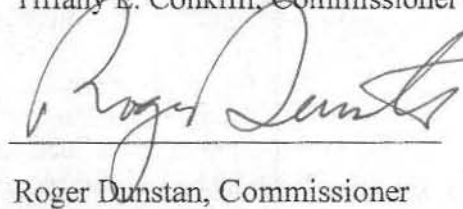
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9 Dated: 1/21/16

Signature: 
Jim Evans, Chairman

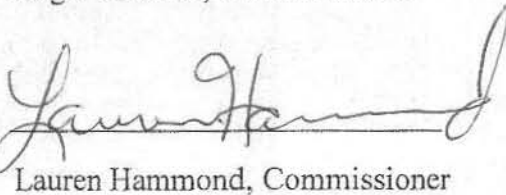
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12 Dated: 1/21/2016

Signature: 
Tiffany E. Conklin, Commissioner

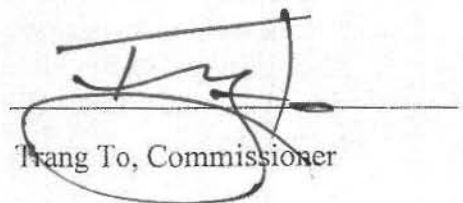
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15 Dated: 1/21/16

Signature: 
Roger Dunstan, Commissioner

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18 Dated: 1/21/16

Signature: 
Lauren Hammond, Commissioner

19
20
21 Dated: 1/21/16

Signature: 
Trang To, Commissioner



State of California
 California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
 www.cgcc.ca.gov

NOTICE OF DEFENSE
 CGCC - ND - 002 (New 01/14)

In the Matter of:

Richard Ponte

CGCC No.

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issue by the Commission. The Notice of Defense is due:

- Within 15 calendar days of receipt, if provided by Commission staff or the Bureau; or,
- Within 15 calendar days of the date of service, if provided with the Notice of Hearing.

(Please select one of the following:)	
1	<p>A <input type="checkbox"/> I acknowledge and accept that the conditions, limitations and restrictions attached to the notice will be placed on my license, registration, finding of suitability or other approval, and waive my right to an evidentiary hearing. (See Box 2)</p> <p>B <input type="checkbox"/> I waive my right to an evidentiary hearing. (See Box 2)</p> <p>C <input checked="" type="checkbox"/> I request an evidentiary hearing where the Commission will consider the merits of my application and any recommendation of the Bureau.</p>
2	<p>The waiver of my right to an evidentiary hearing includes a waiver of the following associated rights:</p> <ul style="list-style-type: none"> The right to be heard at the hearing The right to a copy of the hearing's governing procedure The right to discovery The right to present oral evidence The right to present and examine witnesses The right to introduce relevant exhibits <u> </u> (Initial Here) The right to cross-examine opposing witnesses The right to impeach witnesses The right to offer rebuttal evidence The right to challenge evidence used against me The right to request reconsideration following the decision's issuance The right to petition for review of the decision under Section 1085 of the Code of Civil Procedure <p>The waiver of an evidentiary hearing may result in a default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which may be provided to the Commission, or that the hearing may continue to occur on the originally noticed date without applicant participation.</p>

2015 MAR -1 PM 12:10
 CALIFORNIA GAMBLING
 CONTROL COMMISSION

3	<p><input type="checkbox"/> I understand English or have had an interpreter read and explain this form to me in _____</p>
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NOTICE OF DEFENSE

(Please select one of the following:)	
<input type="checkbox"/>	I am represented by counsel, whose name, address and telephone number appear below:
A	Name:
	Mailing Address:
	City, State and Zip Code:
	Telephone Number:
<input checked="" type="checkbox"/>	I am not represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be provided to the Commission and the Bureau so that counsel will be on the record to receive legal notices, pleadings, and other papers.

Signature: *Richard P. Ketchum*


Date: 2-18-15

Relationship to Gambling Enterprise: _____ (N/A if Individual signing on own behalf)

Mathauser, Pamela

From: richard ponte <bludragonrich3081@yahoo.com>
Sent: Friday, August 21, 2015 1:27 PM
To: Mathauser, Pamela
Subject: RE: Evidentiary Hearing for Richard Ponte

I wish to withdraw my request for a hearing.

Richard Ponte


Sent from Yahoo Mail for iPhone

On Aug 21, 2015, 10:50:17 AM, Mathauser, Pamela wrote:

At the August 13, 2015 meeting the Commission denied your request to abandon your application for a Third-Party Proposition Player License. As a result of the Commission action and because you requested a hearing when you returned your completed Notice of Defense form, the evidentiary hearing on your application will continue as scheduled on November 17, 2015. Since you failed to sign for the original Notice of Hearing that was mailed to you, I have attached a copy to this email for your reference.

If you no longer wish to participate in the evidentiary process you may withdraw your request for a hearing by responding to this email and specifically stating that you wish to withdraw your request for a hearing. I need to inform you that a waiver of an evidentiary hearing will result in a decision of denial being issued by the Commission either by default or on the merits of the case.

I am unable to offer legal assistance, but feel free to call or email me if you have any procedural questions.

Sincerely

Pam Mathauser

Senior Legal Analyst

California Gambling Control Commission

pmathauser@cggcc.ca.gov

(916) 263-8111