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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2018-0510-7Av

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

CHI KANG TEA

Applicant.

DECISION AND ORDER

Hearing Date: June 14, 2019
Time: 1:30 p.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 June 14, 2019.

2. The Bureau of Gambling Control (Bureau) was represented by Deputy Attorney General James Waian with the Indian and Gaming Law Section, Department of Justice, Attorney General's Office.

3. Chi Kang Tea (Applicant) was present on his own behalf.

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

- a) Notice of Hearing with enclosures including Applicant's Application and the Bureau Report, dated July 26, 2018, served by certified mail, return receipt requested;
- b) Notice of Defense, signed May 30, 2018
- c) Notice of Continued Hearing, dated February 13, 2019;
- d) Conclusion of Prehearing Conference letter, dated December 6, 2018; and

5. During the administrative hearing, Presiding Officer Russell Johnson accepted into evidence the following exhibits offered by the Bureau:

1. Statement of Reasons; Statement to Respondent; copies of Bus. & Prof.

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- Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; and
December 6, 2018 Certificate of Service by Overnight Mail Service., Bates
Nos. 001-020;
2. June 1, 2018, Executed Notice of Defense form for Chi Kang Tea., Bates
No. 021-023;
 3. Notices from the California Gambling Control Commission:
 - a. September 12, 2018, Approval of the Renewal of Third-Party
Proposition Player Services Registration, Bates No. 024;
 - b. July 26, 2018, Notice of Hearing (without enclosures), Bates
Nos.025-028;
 - c. May 11, 2018, Referral of Third-Party Proposition Player Services
License to an Evidentiary Hearing for Chi Tea (without enclosures).
Bates Nos. 029-030;
 - d. January 6, 2017, Approval of Third-Party Proposition Player
Services Registration., Bates Nos. 031;
 4. April 18, 2018, California Gambling Control Commission Licensing
Division Memorandum (without attachments), Bates Nos. 032-033;
 5. March 26, 2018, Third-Party Player Background Investigation Report,
Level III, Bureau of Gambling Control (with attachments), Bates No. 034-
041;
 6. Correspondence regarding and between the Bureau of Gambling Control
and Chi Kang Tea., Bates Nos. 042-078;
 7. May 22, 2017, Application for Third-Party Proposition Player Services
License for Supervisor, Player or Other Employee, for Chi Kang Tea
(including Level I Supplemental Information form)., Bates Nos. 079-089;
 8. May 5, 2017, Appointment of Designated Agent for Owners and
Proposition Players, for Chi Kang Tea, Bates No. 090;

1 9. April 20, 2017, Letter from Lisa Wardall, Third-Party Provider Unit,
2 Bureau of Gambling Control, to Tuan Thai, Blackstone Gaming, LLC
3 Regarding Summons to Apply for License, Bates Nos. 091-093.

4 6. The matter was submitted on June 14, 2019.

5 **FINDINGS OF FACT**

6 7. On or about January 6, 2017, Applicant was issued a Third-Party Proposition
7 Player Services Registration, registration number TPPL-018570 as an employee of Blackstone
8 which was continually renewed.

9 8. On or about May 22, 2017, the Bureau received an Application for Third Party
10 Proposition Player Services License for Supervisor, Player or Other Employee from Applicant
11 along with a Supplemental Information Application, (collectively Application). On this
12 Application, Applicant did not include prior employment with Pacific United Service, Inc. a
13 registered third-party provider of proposition player services or the basis for why he was no
14 longer employed there.

15 9. On or about July 10, 2017, the Bureau learned based upon an employment
16 verification form that Applicant had been employed with Pacific United Service, Inc. but the
17 company stated, “Employee provoked a fight while still in probationary status.” The Bureau later
18 confirmed on or around August 17, 2017 from a Pacific United Service, Inc. employee named
19 Chau On, that the company believed Applicant had been terminated for provoking a fight but that
20 they had no documents to support this assertion including ones signed by Applicant.

21 10. On or about July 14, 2017, the Bureau sent Applicant a letter asking for the
22 circumstances of his employment with Pacific United Service, Inc. which was from August 2015
23 to September 2015 based upon information available to the Bureau.

24 11. On or about July 20, 2017 Applicant responded that he was employed from August
25 2015 to September 2015 with Pacific United Services for one month but left due to lack of
26 transportation and low pay. He stated he did not list the employment because he was on training
27 and never actually got to work on the casino floor.
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1 12. On or about August 7, 2017, the Bureau sent Applicant through his designated
2 agent Michelle Fernandez a follow up request for information on his employment with Pacific
3 United Service, Inc. based upon the employer’s information that Applicant had been terminated
4 for provoking a fight.

5 13. On or about August 14, 2017 Applicant stated in an email which was provided to
6 the Bureau that he believed he wasn’t actually hired yet until he obtained “the badge,” but that the
7 company would compensate him for the training. As for the alleged fight, Applicant described a
8 verbal disagreement with another associate during training while the trainer had left the room.
9 Applicant stated the trainer came back and stopped the argument Applicant decided not to return
10 to the training after lunch.

11 14. On or about March 26, 2018, the Bureau provided its Third-Party Player
12 Background Investigation Report to the Commission where it concluded that Applicant was not
13 qualified for licensure. The Bureau recommended that the Commission deny Applicant’s
14 application.

15 15. On May 11, 2018, the Commission considered Applicant’s application and elected
16 to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision (a),
17 subsection (2). Commission staff mailed an evidentiary hearing referral letter via certified mail to
18 Applicant’s address of record which included a blank Notice of Defense form with instructions to
19 return it to the Commission within 15 days of receipt or else the Commission may issue a default
20 decision.

21 16. Commission staff received a Notice of Defense form from Applicant on June 18,
22 2018, requesting an evidentiary hearing, signed May 30, 2018.

23 17. Commission staff mailed a Notice of the Hearing sent certified mail on July 26,
24 2018 to Applicant’s address of record which provided the initial date for the hearing as Friday,
25 January 25, 2019 at 2:00 p.m. This hearing was ultimately continued with notice sent on February
26 13, 2019 where the hearing was scheduled to occur on Friday, June 14, 2019 at 1:30 p.m.

27 18. On or about December 6, 2018, the Bureau prepared and served upon Applicant a
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1 Statement of Reasons wherein it recommended that Applicant's application be denied. It is not
2 clear this was ever provided to the Commission outside of Exhibit 1.

3 19. On December 6, 2018, Presiding Officer Russell Johnson conducted a pre-hearing
4 conference with Deputy Attorney General James Waian and Applicant appearing via telephone. A
5 letter confirming this conference was mailed out to the parties that same day.

6 20. On June 14, 2019, the hearing was conducted with Deputy Attorney General
7 James Waian and Applicant both appearing. The record thereafter closed and the matter was
8 submitted.

9 Applicant's Testimony

10 21. Applicant testified at the hearing on his own behalf and subject to cross
11 examination. Applicant testified that he did not intend to deceive the Bureau in not disclosing his
12 employment with Pacific United Service, Inc. but that he didn't understand what was meant by
13 "employment." Applicant believed he was compensated for training but was not employed until
14 he actually got his badge. He testified that he was only there for two weeks and didn't know
15 anybody at the business. Applicant was apologetic about not providing Pacific United Services,
16 Inc. as a past employer and would fill out the application differently the next time. Applicant
17 discussed the possible issues with filling out the Application as partially based on never having
18 private employment before that required a license. He indicated beyond summer college jobs, he
19 had never been employed as he has always worked for his sisters or himself.

20 22. In discussing the allegation that he provoked a fight, Applicant explained that there
21 was a verbal disagreement when the trainer left the room about the appropriate play on a card
22 game. There were five trainees in the room playing cards, practicing, when one associate "hit"
23 with two face cards showing. Another trainee indicated as an aside to Applicant that a real dealer
24 would not do that and Applicant verbally agreed under his breath. The associate took affront
25 indicating Applicant should say it out loud. Applicant believes he might have relayed what he
26 said about not hitting on two face cards, but Applicant believed there was not much of an
27 exchange and no fighting. When the trainer came back, the trainer said to him and the associate
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1 that “if you don’t get along one of you guys has to choose a different training time.” Applicant
2 recalls shaking hands with the associate and continuing training.

3 23. Applicant believed he was not terminated, and does not recall ever meeting Chau
4 On who provided information to the Bureau. He does not recall signing any disciplinary
5 documents or receiving anything beyond a check from Pacific United Services, Inc. Moreover
6 there is nothing in the record that shows Mr. Tea ever did receive such notices from Pacific
7 United Services, Inc. Applicant explained that he decided not to return to training because he was
8 limited in his transportation with only one vehicle between him and his wife. Additionally the
9 training was 60 miles away from his home.

10 Applicant’s Employment

11 24. Applicant has been employed with Blackstone for almost three years and has
12 received several raises. He does not believe he is a danger to the community and understands that
13 his job is not to confront players, but rather to discuss with supervisors who review any incidents
14 on the surveillance camera.

15 25. The applicant should have included the training period with Pacific United
16 Service, Inc. as employment because he was paid, even if he never actually completed the
17 training or worked as a dealer. His explanation that he did not believe the training to be
18 employment was credible given the context of his minimal past work experience and his assertion
19 that he did not understand the terminology on the application. However, Applicant’s testimony
20 concerning his understanding today of what it means to be employed and why he left Pacific
21 United was credible and there was nothing substantive and detailed offered from Pacific United
22 Service, Inc. to rebut Applicant’s testimony.

23 26. Applicant gave credible testimony about the circumstances of application, his time
24 at Pacific United Service, Inc., and the alleged altercation. Applicant did not appear to be trying
25 to deceive the Bureau and the Commission or hide his past employment history. To the contrary
26 he did answer the Bureau with the truth as he understood it at the time and provided follow up
27 whenever requested by the Bureau. Also weighing in Applicant’s favor, he has been employed
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1 with Blackstone for nearly three years with no problems in his employment. There was no
2 evidence submitted involving arrests or criminal record.

3 LEGAL CONCLUSIONS

4 27. Division 1.5 of the Business and Professions Code, the provisions of which govern
5 the denial of licenses on various grounds, does not apply to licensure decisions made by the
6 Commission under the Gambling Control Act. (Bus. & Prof. Code § 476, subd. (a).)

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

10 29. At an evidentiary hearing pursuant to Business and Professions Code sections
11 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
12 demonstrate why a license or other approval should be issued. (Cal. Code Regs., tit. 4, § 12060,
13 subd. (i); Bus. & Prof. Code § 19856, subd. (a).)

14 30. Public trust and confidence can only be maintained by strict and comprehensive
15 regulation of all persons, locations, practices, associations, and activities related to the operation
16 of lawful gambling establishments and the manufacture and distribution of permissible gambling
17 equipment. (Bus. & Prof. Code § 19801, subd. (h).)

18 31. The Commission has the responsibility of assuring that licenses, approvals, and
19 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
20 operations are conducted in a manner that is inimical to the public health, safety, or welfare. (Bus.
21 & Prof. Code § 19823, subd. (a)(1).)

22 32. An "unqualified person" means a person who is found to be unqualified pursuant
23 to the criteria set forth in Business and Professions Code section 19857, and "disqualified person"
24 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
25 Professions Code section 19859. (Bus. & Prof. Code § 19823, subd. (b).)

26 33. The Commission has the power to deny any application for a license, permit, or
27 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code § 19824,
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1 subd. (b).)

2 34. No gambling license shall be issued unless, based on all of the information and
3 documents submitted, the commission is satisfied that the applicant is a person of good character,
4 honesty and integrity. (Bus. & Prof. Code § 19857, subd. (a).)

5 35. No gambling license shall be issued unless, based on all of the information and
6 documents submitted, the commission is satisfied that the applicant is a person whose prior
7 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
8 public interest of this state, or to the effective regulation and control of controlled gambling, or
9 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
10 the conduct of controlled gambling or in the carrying on of the business and financial
11 arrangements incidental thereto. (Bus. & Prof. Code § 19857, subd. (b).)

12 36. The commission shall deny a license to any applicant who is disqualified for
13 failure of the applicant to provide information, documentation, and assurances required by this
14 chapter or requested by the chief, or failure of the applicant to reveal any fact material to
15 qualification, or the supplying of information that is untrue or misleading as to a material fact
16 pertaining to the qualification criteria. (Bus. & Prof. Code § 19859, subd. (b).)

17 37. A requester shall be ineligible for licensing [as a third party proposition player] if
18 the requester has failed to meet the requirements of Business and Professions Code sections
19 19856 or 19857. (Cal. Code Regs., tit. 4, § 12218.11, subd. (e).)

20 38. Respondent has met his burden of proving that he is a person of good character,
21 honesty, and integrity. Therefore, Respondent is qualified to receive a third party proposition
22 player license pursuant to Business and Professions Code section 19857(a). As a result,
23 Respondent is not ineligible to receive a third party proposition player license pursuant to CCR
24 section 12218.11(e).

25 39. Respondent has met his burden of proving that he 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. Therefore, Respondent is qualified to receive a third party
4 proposition player license pursuant to Business and Professions Code section 19857(b). As a
5 result, Respondent is not ineligible to receive a third party proposition player license pursuant to
6 CCR section 12218.11(e).

7 40. Respondent has met his burden of proving that he is not disqualified from
8 licensure pursuant to Business and Professions Code section 19859 nor ineligible for licensing as
9 a third party proposition player pursuant to CCR section 12218.11.

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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, subsection (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 within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration 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:

- (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, subsection (c) provides:

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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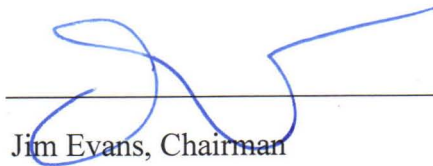
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1. CHI KANG TEA'S application for Third-Party Proposition Player License is APPROVED.
2. No costs are to be awarded.
3. Each side to pay its own attorneys' fees.

This Order is effective on 7-25-19.


Dated: 7/25/19

Signature: 
Jim Evans, Chairman

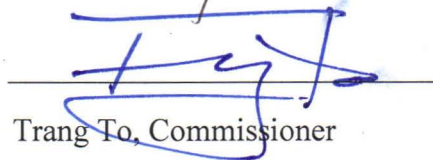
Dated: 7/25/19

Signature: 
Paula LaBrie, Commissioner

Dated: 7/25/19

Signature: 
Gareth Lacy, Commissioner

Dated: 7-25-19

Signature: 
Trang To, Commissioner