

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

CGCC Case No. CGCC-2018-0920-7Bii

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

DEFAULT DECISION AND ORDER

KENNETH BRENTON SEARLE

Applicant.

Hearing Date: Thursday, February 21, 2019
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, February 21, 2019 at 10:00 a.m.

2. Kenneth Brenton Searle (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about May 22, 2017, the Bureau of Gambling Control (Bureau) received an Application for Approval of Third-Party Proposition Player Services License from Applicant.

4. Applicant has a valid Third-Party Player Registration, Registration No. TPPL-018884 which is valid until April 30, 2020.

5. On or about July 31, 2018, the Bureau issued its Third-Party Player Background Investigation Report in which it concluded that Applicant was unqualified for licensure pursuant to Business and Profession Code section 19857. The Bureau recommended that the Commission deny Applicant's application.

6. On or about September 20, 2018, the Commission considered Applicant's application and voted to refer the matter to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (b).

7. Applicant received notice of Commission consideration of Applicant's application

1 in two ways. First, Commission staff mailed an evidentiary hearing referral letter via certified
2 mail to Applicant's address of record on September 25, 2018 which included a blank Notice of
3 Defense form with instructions to return it to the Commission within 15 days of receipt or else the
4 Commission may issue a default decision. Commission staff received no response from Applicant
5 including a Notice of Defense form or otherwise as of October 31, 2018. (Exhibit A)

6 8. Second, Applicant further received notice of the hearing through a hearing notice
7 sent certified mail on November 7, 2018 to Applicant's address of record which included Exhibit
8 A and stated that the hearing was set to occur on Thursday, February 21, 2019 at 10:00 a.m.
9 Commission staff received the notice of hearing package back returned to sender, unclaimed,
10 unable to forward.

11 **DETERMINATION OF ISSUES**

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

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

17 11. At an evidentiary hearing pursuant to Business and Professions Code sections
18 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
19 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

21 (c) An applicant for any license, permit, finding of suitability,
22 renewal, or other approval shall be given notice of the meeting at
23 pursuant to Section 12006.

24 * * *

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

28 * * *

(F) The waiver of an evidentiary hearing, or failure of

1 the applicant to submit a Notice of Defense, or failure of an applicant
2 to appear at an evidentiary hearing, may result in:

3 1. A default decision being issued by the
4 Commission based upon the Bureau report, any supplemental reports
5 by the Bureau and any other documents or testimony already
6 provided or which might be provided to the Commission

7 13. An applicant for an owner, supervisor or player registration is ineligible for a
8 registration if they have had an application denied under Title 4, CCR Chapter 2.1 or the
9 Gambling Control Act. (Cal. Code Regs., tit. 4, § 12204, subd. (d).)

10 14. Title 4, CCR section 12205, subdivision (a) states in pertinent part:

11 Any regular registration issued in accordance with this chapter shall be
12 subject to cancellation pursuant this this section. A registration shall
13 be cancelled if the Commission determines after a noticed hearing that
14 the registration is ineligible for registration...

15 15. The Commission takes official notice of the Bureau report, any supplemental
16 reports by the Bureau and any other documents or testimony already provided to it in this matter
17 as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR
18 section 12052, subdivision (c)(2)(F)(1).

19 16. The Commission has jurisdiction to adjudicate this case by default.

20 17. The Commission may deny Applicant's application based upon the Bureau report,
21 any supplemental reports by the Bureau and any other documents or testimony already provided
22 to it, pursuant to CCR section 12052, subdivision (c)(2)(F)(1), and Business and Professions
23 Code sections 19857 and 19859.

24 18. The Commission may further also deny Applicant's application based upon
25 Applicant's failure to prove to the Commission Applicant is qualified to receive a license or other
26 approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4,
27 CCR section 12060(i).

28 19. Therefore, as the Applicant failed to 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,

1 CCR section 12060(i). The Commission further finds that pursuant to California Code of
2 Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1), Applicant's Application is subject to
3 denial.

4 20. In addition, as Applicant's application is subject to denial, Applicant would no
5 longer be eligible for a registration under Title 4, CCR section 12204, subdivision (d) and
6 Applicant's current registration is subject to cancellation pursuant to Title 4, CCR section 12205,
7 subdivision (a).

8 ///
9 ///
10 ///

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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 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, subdivision (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.

///
///
///

ORDER

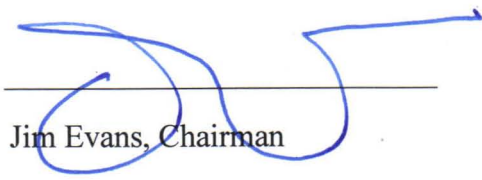
1
2
3 1. KENNETH BRENTON SEARLE Application for Approval of Initial Third-Party
4 Proposition Player Services License is DENIED.

5 2. KENNETH BRENTON SEARLE'S Third-Party Player Registration, No. TPPL-
6 018884 is cancelled.


7 3. KENNETH BRENTON SEARLE may not apply to the Commission or the Bureau
8 for any type of license, registration or work permit for one (1) year after the effective date of this
9 Order.

10
11 This Order is effective on 2/21/19.

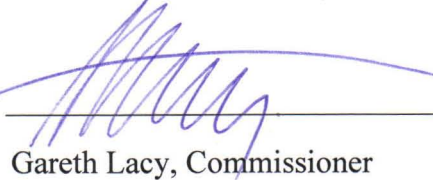
12
13 Dated: 2/21/19

Signature: 
Jim Evans, Chairman


14
15
16 Dated: 2/21/19

Signature: 
Paula LaBrie, Commissioner

17
18 Dated: 2/21/19

Signature: 
Gareth Lacy, Commissioner

19
20
21 Dated: 2/21/19

Signature: 
Trang To, Commissioner

DECLARATION OF ERICKA RAMIREZ

I, Ericka Ramirez, declare as follows:

I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Kenneth Searle's case has been assigned to me for processing.

On September 25, 2018, I mailed a Gambling Control Act hearing referral letter to Kenneth Searle at [REDACTED] by certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Kenneth Searle 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-ND-002) with instructions to return the Notice of Defense to the Commission within 15 days of receipt in order to preserve their right to an administrative hearing.

Today is October 31, 2018, and I have not received the Notice of Defense form or any communication from Kenneth Searle 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 October 31, 2018, in Sacramento, California.



Ericka Ramirez