

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

Ronald Zambrano

Applicant.

CGCC Case No. CGCC-2020-0123-14

DECISION AND ORDER

Hearing Date: January 20, 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 January 20, 2021.

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

3. Ronald Zambrano (Applicant) was present on his own behalf.

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

- a) Notice and Agenda of Commission Meeting;
- b) Notice of Hearing with enclosures including Applicant's Application and the Bureau Report, dated September 1, 2020, served by certified mail;
- c) Applicant's Notice of Defense signed February 20, 2020;
- d) Bureau's Statement of Reasons, received September 4, 2020; and
- e) Conclusion of Prehearing Conference letter, dated December 7, 2020.

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

- 1. Copies of Statement to Respondent, Statement of Reasons, Business and

1 Professions Code sections 19870 and 19871, California Code of Regulations
2 section 12060, September 1, 2020 Gambling Control Commission Letter re
3 Notice of Hearing and Prehearing Conference w/out attachments; Declaration
4 of Service by Certified Mail and Return Receipt, Bates Nos. 0001 – 0027;

- 5 2. Application, Bates Nos. 0028 - 0029;
- 6 3. Bureau of Gambling Control Third-Party Proposition Player Services Level III
7 Player Renewal Report and Attachments; Report Addendum, Bates Nos. 0030
8 – 0036;
- 9 4. Commission Memo and Letters, Bates Nos. 0037 – 0043;
- 10 5. Registration and License History, Bates No. 0044;
- 11 6. Certification of Records; Bates No. 0045;
- 12 7. Court Documents, Conviction Date: 03/25/2020, Case Number: CR-19-
13 002704; Bates Nos. 0046 – 0050;
- 14 8. Police Report; Arrest Date: 01/25/2019; Case Number: P19000859; Bates Nos.
15 0051 – 056;
- 16 9. Correspondence, Bates Nos. 0057 – 0067;
- 17 10. Designated Agent Form, Bates No. 0068;
- 18 11. Certified Copy of Conviction, Bates No. 0069-0079;
- 19 6. The matter was submitted on January 20, 2021.

20 **FINDINGS OF FACT**

21 7. On or about October 4, 2019, the Bureau received an Application for Third Party
22 Proposition Player Services License for Supervisor, Player or Other Employee from Applicant
23 along with a Supplemental Information Application, (collectively Application). Applicant signed
24 this Application under penalty of perjury on or around September 27, 2019. In that Application,
25 Applicant marked the box indicating that he had been convicted of a misdemeanor since he last
26 submitted an application.

27 8. During the background investigation, the Bureau learned that Applicant had been
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1 convicted of violating Penal Code section 647(b)(2), solicitation of prostitution. The Bureau
2 subsequently sent a letter on or around November 27, 2019 to Applicant asking him to provide a
3 statement describing in detail the events leading up to the actual incident that resulted in the
4 conviction.

5 9. On or around November 28, 2019, Applicant sent a signed statement to the Bureau
6 which stated, "I went to get a massage [sic] the lady giving me the massage said I could pay more
7 for her to do extra. I agreed gave her the money and the police came in and I was arrested."

8 10. Soon thereafter, the Bureau obtained the police records pertaining to Applicant's
9 arrest. These records reflected a very different narrative than the Applicant's. Specifically, the
10 report indicates that Applicant initiated the contact via cellphone with an undercover police
11 officer from a number listed on a known website used for prostitution.

12 11. In contrast to the statement to the Bureau, Applicant did not go "to get a massage"
13 where he was then offered extra services by the masseuse. Rather he sought prostitution by
14 calling a number associated with prostitution; asked for prostitution using terms the police report
15 indicated were for sex acts; followed up with additional questions with the undercover officer;
16 and even confirmed a price before he ever met the undercover officer.

17 12. On or about December 12, 2019, the Bureau provided its Third-Party Player
18 Background Investigation Report to the Commission where it concluded that Applicant was not
19 qualified for licensure and disqualified for licensure as it believed Applicant was convicted of a
20 crime involving moral turpitude, and he failed to make true and full disclosure of the events
21 leading to his conviction.

22 13. On or about January 23, 2020, the Commission considered Applicant's
23 Application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section
24 12054, subdivision (a), subsection (2). Commission staff mailed an evidentiary hearing referral
25 letter via certified mail to Applicant's address of record which included a blank Notice of Defense
26 form with instructions to return it to the Commission within 15 days of receipt or else the
27 Commission may issue a default decision. Applicant was issued an interim renewal license
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1 during the pendency of the evidence hearing, TPPL-020086.

2 14. Commission staff received a Notice of Defense form from Applicant, requesting
3 an evidentiary hearing, signed February 10, 2020.

4 15. Commission staff mailed a Notice of Hearing sent certified mail on September 1,
5 2020 to Applicant's address of record which stated the hearing was set to occur on Wednesday,
6 January 20, 2021 at 10:00 a.m.

7 16. On or about September 4, 2020, the Commission received a Statement of Reasons
8 from the Bureau which the Bureau had prepared and served upon Applicant that same day.

9 17. On December 7, 2020, Presiding Officer Russell Johnson conducted a pre-hearing
10 conference with Deputy Attorney General Paras Modha appearing via Zoom teleconferencing.
11 Applicant appeared via Zoom video conferencing. A letter confirming this conference was
12 emailed out to the parties that same day.

13 18. On January 21, 2021, the hearing was conducted with Deputy Attorney General
14 Paras Modha and Applicant both appearing via Zoom video conference. The record thereafter
15 closed and the matter was submitted.

16 Applicant's Testimony

17 19. Applicant testified at the hearing on his own behalf and subject to cross
18 examination. Applicant attempted to explain why he wrote the statement which was very different
19 than the information contained in the police report. Applicant admitted that the police report was
20 correct in how it described the incident. He also admitted that his statement to the Bureau was
21 intentionally misleading because he was embarrassed. Applicant further stated that he was sorry
22 for what he did and is in a better place now.

23 20. Applicant appeared to be honest and forthright while giving his testimony at the
24 hearing. Applicant's candor at the hearing was appreciated. Unfortunately, candor during the
25 hearing process is no replacement for candor in the background investigation process. Applicant's
26 statement to the Bureau was misleading and untrue while being related to the underlying incident
27 which led to his conviction. These were material facts regarding his conviction and ultimately his
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1 application.

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

5 **LEGAL CONCLUSIONS**

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

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

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

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

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

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

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

4 29. Interim renewal licenses are issued for a period or two years from the date the
5 previous license expires, or until a decision is final, whichever is earlier. (Cal. Code Regs., tit. 4,
6 § 12035(b)(2).)

7 30. The commission shall deny a license to any applicant who is disqualified for
8 failure of the applicant to provide information, documentation, and assurances required by this
9 chapter or requested by the chief, or failure of the applicant to reveal any fact material to
10 qualification, or the supplying of information that is untrue or misleading as to a material fact
11 pertaining to the qualification criteria. (Bus. & Prof. Code § 19859, subd. (b); Cal. Code Regs.,
12 tit. 4, § 12040(a)(2).)

13 31. Applicant provided untrue or misleading information as to a material fact
14 pertaining to his application and qualification criteria concerning the incident that led to his Penal
15 Code 647(b)(2) conviction. Therefore, Applicant is disqualified from licensure pursuant to
16 Business and Professions Code section 19859 and Title 4, CCR section 12040(a)(2).

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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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ORDER

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1. Ronald Zambrano’s application for a Renewal of his Third-Party Proposition Player License is Denied.
2. Ronald Zambrano’s Interim Renewal License, TPPL-020086, expires upon this decision’s effective date.
3. No costs are to be awarded.
4. Each side to pay its own attorneys’ fees.

This Order is effective on March 8, 2021.

Dated: 2/4/21

Signature: Paula LaBrie

Paula LaBrie, Chair

Dated: 2/4/21

Signature: Gareth Lacy

Gareth Lacy, Commissioner