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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. CGCC-2019-1219-12A

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

RODERICK LEE HEBERT

Applicant.

DECISION AND ORDER

Hearing Date: August 7, 2020
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 August 7, 2020.

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. Roderick Lee Hebert (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 June 29, 2020, served by certified mail, return receipt requested;
- c) Applicant's Notice of Defense signed March 3, 2020;
- d) Bureau's Statement of Reasons, received June 19, 2020; and
- e) Conclusion of Prehearing Conference letter, dated April 15, 2020.

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

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1. Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit. 4, § 12060; and June 22, 2020 Declaration of Service by Overnight Courier, Bates Nos. 001-019;
2. March 3, 2020 Executed Notice of Defense form for Roderick Lee Hebert, Bates Nos. 020-022;
3. Notices from the California Gambling Control Commission
 - a. April 15, 2020 Notice of hearing (without enclosures); Bates Nos. 023-027;
 - b. December 23, 2019 Referral of Third-Party Proposition Player License Application to an Evidentiary Hearing for Roderick Hebert (without enclosure), Bates Nos. 028-030;
4. May 21, 2020 Letter from Kathi Hegelein, Third-Party Provider Unit, Bureau of Gambling Control, to Roderick Hebert Regarding Transfer of Third-Party Proposition Player Services Badge #TPPL-025469, Bates 031-033;
5. February 19, 2020 Request for an Additional/Transfer/Reinstatement Third Party Proposition Player Services Registration/License, for Roderick Lee Hebert, Bates Nos. 034-036;
6. January 17, 2020 Certified Registration History for Roderick Lee Hebert, Bates Nos. 037-039;
7. October 1, 2019 Third-Party Player Initial Background Investigation Report, Level III, Bureau of Gambling Control (with attachment), Bates Nos. 040-047;
8. March 11 and 20, 2019 Correspondence regarding Roderick Lee Hebert, and between the Bureau of Gambling Control and Roderick Lee Hebert, Bates Nos. 048-052;

- 1 9. February 14, 2019 Employment Verification Form for Roderick L. Hebert,
2 Bates Nos. 053-054;
- 3 10. May 8, 2018 Application for Third-Party Proposition Player Services
4 License for Supervisor, Player or Other Employee, for Roderick Lee
5 Hebert (including Level I Supplemental Information form), Bates Nos.
6 055-076;
- 7 11. May 8, 2018 Appointment of Designated Agent for Owners and
8 Proposition Players, for Roderick Lee Hebert, Bates Nos. 077-078;
- 9 12. February 24, 2014 Change in Status Form for a Third-Party Proposition
10 Player Services Registration or License, for Roderick Lee Hebert, Bates
11 Nos. 079-080; and
- 12 13. November 12, 2010 Letter from Deborah M. Dunn, Third-Party Provider
13 Unit, Bureau of Gambling Control, to Hien Nguyen, Acme Player Services,
14 LLC Regarding Summons to Apply for License, Bates 081-084.

15 6. The matter was submitted on August 7, 2020.

16 **FINDINGS OF FACT**

17 7. On or about April 12, 2018, the Commission issued Applicant a Third-Party
18 Proposition Player Services Registration, registration number TPPL-021221 as an employee of
19 Acme Player Services, LLC. Applicant subsequently left that employment and transferred to F2
20 TPS, LLC with a new registration number TPPL-025469. TPPL-021221 expired on April 30,
21 2020 and TPPL-025469 is set to expire on April 30, 2022.

22 8. On or about May 8, 2020, the Bureau received an Application for Third Party
23 Proposition Player Services License for Supervisor, Player or Other Employee from Applicant
24 along with a Supplemental Information Application, (collectively Application). Applicant signed
25 this Application under penalty of perjury on or around April 16, 2018. He stated therein that he
26 previously worked for Knighted Ventures, LLC (Knighted Ventures) but left because of a “Better
27 opportunity.”
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1 9. During the background investigation, the Bureau received an employment
2 verification form from Knighted Ventures which stated Applicant had been terminated because of
3 “absenteeism/tardiness.” On or about March 11, 2019, the Bureau sent Applicant a letter which
4 asked him to provide a detailed statement regarding the discrepancy as to his separation from
5 Knighted Ventures.

6 10. On or about March 20, 2019, Applicant provided a statement which stated:

7 Yes it is true that I was terminated from Knighted Ventures LLC due to
8 absenteeism/tardiness but prior to this termination I was in discussions of
9 employment opportunities with PT Gaming and therefore didn't have the desire to
show up to work. I felt as though I left for a better opportunity and thought that was a
better reasoning. I never had intentions of falsifying an application.

10 11. On or about October 1, 2019, the Bureau provided its Third-Party Player
11 Background Investigation Report to the Commission where it concluded that Applicant was not
12 qualified for licensure and disqualified for licensure as it believed Applicant failed to disclose his
13 termination from Knighted Ventures as well as provided false and misleading information about
14 why left that employment.

15 12. On December 19, 2019, the Commission considered Applicant’s Application and
16 elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision
17 (a), subsection (2). Commission staff mailed an evidentiary hearing referral letter via certified
18 mail to Applicant’s address of record which included a blank Notice of Defense form with
19 instructions to return it to the Commission within 15 days of receipt or else the Commission may
20 issue a default decision.

21 13. Commission staff received a Notice of Defense form from Applicant, requesting
22 an evidentiary hearing, signed March 3, 2020.

23 14. Commission staff mailed a Notice of Hearing sent certified mail on April 15, 2020
24 to Applicant’s address of record which stated the hearing was set to occur on Friday, August 7,
25 2020 at 1:30 p.m.

26 15. On or about June 22, 2020, the Bureau prepared and served upon Applicant a
27 Statement of Reasons wherein it recommended that Applicant’s Application be denied. The
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1 Commission received this Statement of Reasons on or about June 19, 2020.

2 16. On June 26, 2020, Presiding Officer Russell Johnson conducted a pre-hearing
3 conference with Deputy Attorney General James Waian appearing via telephone. Applicant was
4 not in attendance. A letter confirming this conference was mailed out to the parties on June 29,
5 2020.

6 17. On August 7, 2020, the hearing was conducted with Deputy Attorney General
7 James Waian and Applicant both appearing via a Zoom video conference. The record thereafter
8 closed and the matter was submitted.

9 Applicant's Testimony

10 18. Applicant testified at the hearing on his own behalf and subject to cross
11 examination. Applicant attempted to explain why he wrote "Better opportunity" on his
12 Application as the reason he left employment at Knighted Ventures rather than indicating he was
13 terminated. Applicant admitted that he failed to state that he was terminated from employment
14 with Knighted Ventures. Applicant however explained that at the time Knighted Ventures'
15 contract with the cardroom was about to end and he was already planning on starting work with
16 the new third party provider PT Gaming that was taking over the contract.

17 19. He further stated that he was not worried about being let go from Knighted
18 Ventures as he believed he was going to get an opportunity to manage with PT Gaming and
19 would receive higher pay. Applicant had also filled out the application with PT Gaming and had
20 discussions with their manager before he was terminated. He felt as if he had assurances from PT
21 Gaming about a new job. He admitted though that that writing "Better opportunity" was not
22 accurate. He indicated he was kind of lazy at the time and had accrued a number of "points" due
23 to absenteeism. He was young and did want to work. He had no desire to show up or push
24 himself hard. He later found reason to work. He did not however intend to falsify information as
25 he legitimately believed PT Gaming was a better opportunity.

26 20. Applicant also testified that he had never been denied a license before or been
27 licensed in any official capacity. He had never even applied for a license. Applicant also
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1 indicated he had handled his employment at a prior employer, B&D security, in a similar fashion
2 where once he got an interview with Knighted Ventures he simply stopped going to work with
3 B&D security.

4 21. Applicant's explanations about putting "Better opportunity" rather than indicating
5 he was terminated were believable. While the Commission does not believe it is a complete
6 answer to indicate Applicant's separation from Knighted Ventures as simply a "Better
7 opportunity," it was apparent from Applicant's testimony, along with the timing of the transition
8 of third party contracts between Knighted Ventures and PT Gaming, that Applicant could
9 legitimately have believed as he did. Moreover, Applicant's statements about a lack of maturity
10 and never having been licensed before reflected of lack of understanding about the need to
11 provide a complete answer to why he left employment. In essence, Applicant's actions in seeking
12 the better opportunity with PT Gaming who was coming to replace Knighted Ventures, combined
13 with his lack of maturity, led to his termination for "absenteeism/tardiness." Ultimately, the
14 Commission does not believe Applicant intended to deceive the Commission or Bureau or
15 misrepresent his employment history.

16 **LEGAL CONCLUSIONS**

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

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

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

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

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

8 27. An “unqualified person” means a person who is found to be unqualified pursuant
9 to the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
10 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
11 Professions Code section 19859. (Bus. & Prof. Code § 19823, subd. (b).)

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

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

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

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

3 32. A requester shall be ineligible for licensing [as a third party proposition player] if
4 the requester has failed to meet the requirements of Business and Professions Code sections
5 19856 or 19857. (Cal. Code Regs., tit. 4, § 12218.11, subd. (e).)

6 33. Applicant has met his burden of proving that he is a person of good character,
7 honesty, and integrity. Applicant has also met his burden of proving that he is a person whose
8 prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to
9 the public interest of this state, or to the effective regulation and control of controlled gambling,
10 or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities
11 in the conduct of controlled gambling or in the carrying on of the business and financial
12 arrangements incidental thereto. Therefore, Applicant is qualified to receive a third party
13 proposition player license pursuant to Business and Professions Code section 19857. As a result,
14 Applicant is not ineligible to receive a third party proposition player license pursuant to CCR
15 section 12218.11(e).

16 34. Applicant has met his burden of proving that he is not disqualified from licensure
17 pursuant to Business and Professions Code section 19859 nor ineligible for licensing as a third
18 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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ORDER

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3 1. RODERICK LEE HEBERT's application for Third-Party Proposition Player
4 License is APPROVED.

5 2. No costs are to be awarded.

6 3. Each side to pay its own attorneys' fees.
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8 This Order is effective on September 10, 2020.
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11 Dated: 9/10/20

Signature: 

Jim Evans, Chairman

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13 Dated: 9/10/20

Signature: 

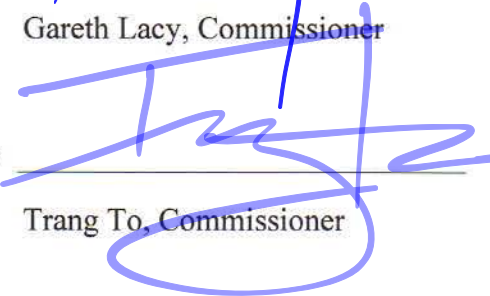
Paula LaBrie, Commissioner

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16 Dated: 9/10/20

Signature: 

Gareth Lacy, Commissioner

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Signature: 

Trang To, Commissioner