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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

DAVID GERRITSON

Respondent.

BGC Case No. BGC-HQ2018-00018SL  
CGCC Case No. GCADS-TPPL-022125

**DECISION AND ORDER**

Hearing Date: December 9, 2020  
Time: 10:00 a.m.

This matter was heard by 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, and held via Zoom video conference, on December 9, 2020.

Paras Modha, Deputy Attorney General, State of California (DAG Modha), represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Respondent David Gerritson (Gerritson) appeared on his own behalf without representation.

During the evidentiary hearing, Presiding Officer Kate Patterson took official notice of the Notice and Agenda of Commission Hearing, the Notice of Hearing with enclosures, the Conclusion of Prehearing Conference letter, the Bureau's Statement of Reasons, and Gerritson's signed Notice of Defense.

During the evidentiary hearing, Presiding Officer Kate Patterson accepted into evidence the following exhibits offered by the Bureau:

- (1) Copies of Statement to Respondent, Statement of Reasons, Business and Professions Code sections 19870 and 19871, California Code of Regulations section 12060, August 25, 2020 Gambling Control Commission Letter re Notice of Hearing and Prehearing Conference w/out

- 1 attachments; Declaration of Service by Certified Mail and Return Receipt,  
2 Bates Nos. 0001-0028;
- 3 (2) Application and Supplemental Information, Bates Nos. 0029-0041;  
4 (3) Bureau of Gambling Control Third-Party Player Initial Background  
5 Investigation Report Level III March 2020, Bates Nos. 0042-0050;  
6 (4) Commission Memo and Letters, Bates Nos. 0051-0054;  
7 (5) Registration History, Bates No. 0055;  
8 (6) Certification of Records, Bates No. 0056;  
9 (7) Court Documents (Certified) with Police Report: Conviction Date:  
10 04/25/2013; Case Number: F1242784; and Court Documents (Certified):  
11 Conviction Date: 10/06/2014; Case Number: CRL011240, Bates Nos.  
12 0057-0080;  
13 (8) Correspondence, Bates Nos. 0081-0118; and  
14 (9) Designated Agent Forms, Bates No. 0119.

15 The record was closed and the matter was submitted on December 9, 2020.

## 16 FINDINGS OF FACT

### 17 **Procedural History**

18 1. On or about November 16, 2018, the Bureau received an Application for Third-Party  
19 Proposition Player Services License for Player and a Level I Supplemental Information form  
20 (Supplemental) (collectively, Application) from Gerritson.

21 2. On or about March 17, 2020, the Commission received a Level III Third-Party Player  
22 Initial Background Investigation Report on Gerritson from the Bureau. In this report, the Bureau  
23 recommends that the Commission deny Gerritson's Application.

24 3. On or about May 5, 2020, the Executive Director of the Commission referred  
25 consideration of Gerritson's Application to a Gambling Control Act evidentiary hearing to be  
26 held pursuant to CCR section 12060, and sent a notice to Gerritson via regular and certified mail.

27 4. On or about May 20, 2020, the Commission received a signed Notice of Defense from  
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1 Gerritson requesting an evidentiary hearing on the consideration of his Application.

2 5. On or about August 25, 2020, the Commission sent a Notice of Hearing to Gerritson,  
3 Designated Agent Jordan Aman of Knighted Ventures, LLC (DA Aman), and DAG Modha via  
4 email.

5 6. On or about August 31, 2020, the Bureau sent a Statement of Reasons and related  
6 documents to Gerritson via certified mail. The Commission received the Statement of Reasons  
7 from the Bureau on or about August 31, 2020. In the Statement of Reasons, the Bureau requests  
8 that the Commission deny Gerritson's Application.

9 7. On or about October 21, 2020, the noticed Prehearing Conference was held before  
10 Presiding Officer Kate Patterson, Attorney III of the Commission. DAG Modha attended on  
11 behalf of the Bureau. Gerritson attended on his own behalf without representation.

12 8. On or about October 21, 2020, the Commission sent a Conclusion of Prehearing  
13 Conference letter to Gerritson, DA Aman, and DAG Modha.

14 9. The Commission heard this matter via Zoom video conference on December 9, 2020.  
15 The Bureau was represented throughout the hearing by DAG Modha. Gerritson appeared on his  
16 own behalf without representation.

17 **Gerritson's Employment History in Controlled Gambling**

18 10. From approximately May 2016 to October 2018, Gerritson was employed by Suns  
19 Gaming, Inc., a third party provider of proposition player services, as a third-party proposition  
20 player.

21 11. From approximately October 2018 to the present, Gerritson has been employed by  
22 Knighted Ventures, LLC, a third party provider of proposition player services, as a third-party  
23 proposition player under registration number TPPL-022125. Gerritson's registration expired on  
24 July 1, 2020.

25 12. There was no evidence presented during the evidentiary hearing that Gerritson has  
26 had any derogatory employment-related issues while working in controlled gambling.

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1 **Gerritson's Criminal History**

2 13. On or about April 25, 2013, Gerritson was convicted by the Santa Clara County  
3 Superior Court, California, of violating Penal Code section 594(a) and (b)(1), vandalism with  
4 damages in excess of \$400, a misdemeanor, in the case of *People v. Gerritson* (Super. Ct. Santa  
5 Clara County, 2012, Case No. F1242784). Gerritson was sentenced to four days in jail, three  
6 years of probation, and ordered to pay a fine and restitution.

7 14. On or about October 6, 2014, Gerritson was convicted by the Merced County Superior  
8 Court of violating Vehicle Code section 23152(b), driving under the influence (DUI) of alcohol  
9 with a blood alcohol level of .08 percent or higher, and Vehicle Code section 14601.1(a), driving  
10 on a suspended license, both misdemeanors, in the case of *People v. Gerritson* (Super. Ct. Merced  
11 County, 2014, Case No. CRL011240). Gerritson was sentenced to four days in jail, three years of  
12 probation, and ordered to complete a three month first offender DUI program and pay a fine.  
13 Gerritson completed the three month first offender DUI program on March 30, 2015.

14 15. On or about December 8, 2015, Judge Edward Lee of the Santa Clara Superior Court  
15 denied Gerritson's Petition for record clearance pursuant to Penal Code section 1203.4 because  
16 Gerritson had been convicted of a DUI and driving on a suspended license, both misdemeanors,  
17 by the Merced County Superior Court.

18 **Gerritson's Testimony During the Evidentiary Hearing**

19 16. During the evidentiary hearing, Gerritson testified that his criminal convictions were  
20 mistakes he had made in the past when he was young and that he should have been more  
21 responsible. He testified that he has had no issues with the law since the DUI and driving on a  
22 suspended license convictions. He testified that he has not had any issues working in controlled  
23 gambling, that he has a clean record, and that he demonstrates good professionalism at work.

24 17. Gerritson demonstrated remorse for his actions leading to the criminal convictions and  
25 his testimony appeared credible.

26 **Assessment of Gerritson's Suitability for Licensure**

27 18. The Commission does not find that Gerritson has bad character, lacks integrity, or  
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1 otherwise poses a threat to the public or to the effective regulation of controlled gambling.  
2 However, state law requires that the Commission deny a license application for anyone who has  
3 been convicted of certain types of misdemeanor crimes in the past ten years and who has not had  
4 the conviction set aside and dismissed pursuant to Penal Code sections 1203.4, 1203.4a, or  
5 1203.45. Specifically, “The Commission shall deny a license to any applicant who is disqualified  
6 for any of the following reasons: (d) Conviction of the applicant for *any misdemeanor involving*  
7 *dishonesty or moral turpitude within the 10-year period immediately* preceding the submission of  
8 the application . . .” Business and Professions Code section 19859 (emphasis added).

9 19. Misdemeanor vandalism was held to be a crime involving moral turpitude by the  
10 California Court of Appeal, Fourth District, in the published portion of the decision in *People v.*  
11 *Muniz* (2011) 198 Cal.App.4th 1324 (review granted Dec. 14, 2011, S196916, review dism. Oct.  
12 17, 2012).<sup>1</sup>

13 20. Gerritson’s April 25, 2013 conviction for violation of Penal Code section 594(a) and  
14 (b)(1), vandalism with damages in excess of \$400, occurred within the 10-year period  
15 immediately preceding the submission of his Application and he has not obtained relief from that  
16 conviction pursuant to California Penal Code sections 1203.4, 1203.4a, or 1203.45.

17 21. All documentary and testimonial evidence submitted by the parties that is not  
18 specifically addressed in this Decision and Order was considered but not used by the Commission  
19 in making its determination on Gerritson’s Application.

20 22. The matter was submitted for Commission consideration on December 9, 2020.

## 21 LEGAL CONCLUSIONS

22 23. Division 1.5 of the Business and Professions Code, the provisions of which govern the  
23 denial of licenses on various grounds, does not apply to licensure decisions made by the  
24 Commission under the Gambling Control Act. Business and Professions Code section 476(a).

25 24. The Commission has the responsibility of assuring that licenses, approvals, and  
26 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose

27 <sup>1</sup> *Muniz* is only partially certified for publication; however, the determination that  
28 misdemeanor vandalism is a crime involving moral turpitude under the least adjudicated elements  
test is contained in the published portion of the decision.

1 operations are conducted in a manner that is inimical to the public health, safety, or welfare.  
2 Business and Professions Code section 19823(a)(1).

3 25. The Commission has the power to deny any application for a license, permit, or  
4 approval for any cause deemed reasonable by the Commission. Business and Professions Code  
5 section 19824(b).

6 26. The burden of proving his or her qualifications to receive any license from the  
7 Commission is on the applicant. Business and Professions Code section 19856(a).

8 27. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
9 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or  
10 her qualifications to receive any license under the Gambling Control Act. CCR section 12060(i).

11 28. A requester shall be ineligible for licensing [as a third party proposition player] if the  
12 request to convert is for licensing as an owner, supervisor, or player, and the requester has, within  
13 the ten (10) year period immediately preceding the submission of the request to convert, been  
14 convicted of a misdemeanor involving moral turpitude, unless the applicant has been granted  
15 relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45. CCR section 12218.11(c).

16 29. The Commission shall deny a license to any applicant who is disqualified for having  
17 been convicted for any misdemeanor involving dishonesty or moral turpitude within the 10-year  
18 period immediately preceding the submission of the application, unless the applicant has been  
19 granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code. Business and  
20 Professions Code section 19859(d). Business and Professions Code section 19859(d) does not  
21 direct the Commission to consider the facts and circumstances of how a crime was committed,  
22 but only to look at the existence of a conviction.

23 30. In the published portion of *People v. Muniz* (2011) 198 Cal.App.4<sup>th</sup> 1324, the  
24 California Court of Appeal, Fourth District, held misdemeanor vandalism is a crime involving  
25 moral turpitude under the least adjudicated elements test.

26 31. Gerritson's April 25, 2013 conviction for violation of Penal Code section 594(a) and  
27 (b)(1), vandalism with damages in excess of \$400, occurred within the 10-year period  
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1 immediately preceding the submission of his Application and he has not obtained relief from that  
2 conviction pursuant to California Penal Code sections 1203.4, 1203.4a, or 1203.45.

3 32. Therefore, Gerritson is ineligible for licensing as a third party proposition player  
4 pursuant to CCR section 12218.11(c), and disqualified from licensure pursuant to California  
5 Business and Professions Code section 19859(d) and the court's ruling in *Muniz*.

6 33. Should Gerritson obtain relief from his April 25, 2013 conviction for violation of  
7 Penal Code section 594(a) and (b)(1), vandalism with damages in excess of \$400, pursuant to  
8 California Penal Code sections 1203.4, 1203.4a, or 1203.45, or upon the expiration of ten years  
9 from the date of the conviction, Gerritson may immediately reapply for a temporary or permanent  
10 license or a work permit available pursuant to the Gambling Control Act or Commission  
11 regulations.

#### 12 NOTICE OF APPLICANT'S APPEAL RIGHTS

13 Gerritson has the following appeal rights available under state law:

14 CCR section 12064, subsections (a) and (b) provide, in part:

15 (a) After the Commission issues a decision following a GCA hearing conducted  
16 pursuant to Section 12060, an applicant denied a license, permit, registration, or  
17 finding of suitability, or whose license, permit, registration, or finding of  
18 suitability has had conditions, restrictions, or limitations imposed upon it, may  
19 request reconsideration by the Commission. A request for reconsideration must  
20 be:

21 (1) Made in writing to the Commission, copied to the Complainant. The  
22 Bureau may provide a written response to the Commission within 10 calendar days  
23 of receipt of the request; and

24 (2) Received by the Commission and Complainant within 30 calendar days of  
25 service of the decision, or before the effective date specified in the decision,  
26 whichever is earlier.

27 (b) A request for reconsideration must state the reasons for the request, which  
28 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

1 condition or restriction on the grant of a license or approval may be reviewed by  
2 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5  
3 of the Code of Civil Procedure shall not apply to any judicial proceeding described  
4 in the foregoing sentence, and the court may grant the petition only if the court  
5 finds that the action of the commission was arbitrary and capricious, or that the  
6 action exceeded the commission's jurisdiction.

7 CCR section 12066, subsection (c) provides:

8 A decision of the Commission denying an application or imposing conditions on  
9 license shall be subject to judicial review as provided in Business and Professions  
10 Code section 19870, subdivision (e). Neither the right to petition for judicial  
11 review nor the time for filing the petition shall be affected by failure to seek  
12 reconsideration.

### 13 ORDER

14 1. David Gerritson's Application for Third-Party Proposition Player License is  
15 DENIED.

16 2. Gerritson's Third-Party Player Registration No. TPPL-022125 has expired by law and  
17 cannot be used hereafter.

18 3. Should Gerritson obtain relief from his April 25, 2013 conviction for violation of  
19 Penal Code section 594(a) and (b)(1) pursuant to California Penal Code sections 1203.4, 1203.4a,  
20 or 1203.45, or upon the expiration of ten years from the date of the conviction, Gerritson may  
21 immediately reapply for a temporary or permanent license or a work permit available pursuant to  
22 the Gambling Control Act or Commission regulations.

23 4. No costs are awarded.

24 5. Each side to pay its own attorneys' fees.

25 This Order is effective on February 22, 2021.

26 Dated: 1/21/21

27 Signature: 

Trang To, Acting Chairman

28 Dated: 1/21/21

Signature: 

Paula LaBrie, Commissioner

Dated: 1/21/21

Signature: 

Gareth Lacy, Commissioner