

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

CARLOS ALBERTO GOMEZ

Applicant.

CGCC Case No. CGCC-2020-0827-11D

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, November 19, 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 Thursday, November 19, 2020 at 10:00 a.m.

2. Carlos Alberto Gomez (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about April 23, 2019, 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-022644 which expires on January 31, 2021.

5. On or around June 25, 2020, the Bureau issued its Third-Party Player Background Investigation Report in which it concluded that Applicant was not qualified for licensure pursuant to Business and Professions Code section 19857. The Bureau recommended that the Commission deny Applicant's application.

6. On or about August 28, 2020, the Commission considered Applicant's application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision (a).

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

1 in several ways. First, Commission staff mailed an evidentiary hearing referral letter to
2 Applicant's address of record via regular mail and certified mail on August 28, 2020 which
3 included a blank Notice of Defense form with instructions to return it to the Commission within
4 15 days of receipt or else the Commission may issue a default decision. Commission staff
5 received no response. (Exhibit A)

6 8. Second, Applicant further received notice of the hearing through a hearing notice
7 sent certified mail on October 20, 2020 to Applicant's address of record which included Exhibit
8 A and stated that the hearing was set to occur on Thursday, November 19, 2020 at 10:00 a.m.

9 **DETERMINATION OF ISSUES**

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

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

15 11. At an evidentiary hearing pursuant to Business and Professions Code sections
16 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant to
17 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

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

22 * * *

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

25 * * *

26 (F) The waiver of an evidentiary hearing, or failure of
27 the applicant to submit a Notice of Defense, or failure of an applicant
to appear at an evidentiary hearing, may result in:

28 1. A default decision being issued by the

1 Commission based upon the Bureau report, any supplemental reports
2 by the Bureau and any other documents or testimony already
provided or which might be provided to the Commission

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

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

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

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

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

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

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

23 19. Therefore, as the Applicant did not return a Notice of Defense form, did not attend
24 the default hearing, and did not submit any information or evidence in favor of granting
25 Applicant's Application, Applicant did not meet Applicant's burden of demonstrating why a
26 license should be issued pursuant to Business and Professions Code section 19856(a) and Title 4,
27 CCR section 12060(i). The Commission further finds that pursuant to California Code of
28 Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1), Applicant's Application is subject to

1 denial.

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

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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, 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.

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ORDER

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3 1. CARLOS ALBERTO GOMEZ' Application for Approval of Initial Third-Party
4 Proposition Player Services License is DENIED.

5 2. CARLOS ALBERTO GOMEZ' Third-Party Player Registration, No. TPPL-
6 022644 is cancelled.

7 3. CARLOS ALBERTO GOMEZ' 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.

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11 This Order is effective on Monday, December 21, 2020.

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13 Dated: 11/19/2020

Signature: 

Paula LaBrie, Commissioner

14
15
16 Dated: 11/19/20

Signature: 

Gareth Lacy, Commissioner

17
18
19 Dated: 11/19/20

Signature: 

Trang To, Commissioner

DECLARATION OF SHANA MARQUEZ

I, Shana Marquez, declare as follows:

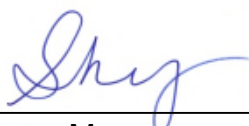
I am employed by the California Gambling Control Commission as an analyst in the Commission's Licensing Division. Carlos Gomez's case has been assigned to me for processing.

On August 28, 2020, I mailed a Gambling Control Act hearing referral letter to Carlos Gomez at [REDACTED] by regular mail and certified mail pursuant to California Code of Regulations (CCR) Title 4, Division 18, Chapter 1, section 12006. This letter provided notice to Carlos Gomez 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 21 days of receipt in order to preserve their right to an administrative hearing.

Today is October 1, 2020, and I have not received the Notice of Defense form or any communication from Carlos Gomez 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 1, 2020, in Sacramento, California.



Shana Marquez