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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

BRANDON RICHARD CREAM

Applicant.

CGCC Case No. CGCC-2022-0512-9Bi
BGC Case No. BGC-HQ2022-00010SL

DECISION AND ORDER

Hearing Date: January 31, 2023
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, via Zoom video conference, on January 31, 2023.

Applicant Brandon Cream (Cream) appeared on his own behalf during the evidentiary hearing.

Neil Houston, Deputy Attorney General, State of California (DAG Houston), represented complainant Yolanda Morrow, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

During the evidentiary hearing, Presiding Officer Paras Modha (PO Modha), Attorney III of the Commission, took official notice of the following documents: the Commission’s Notice and Agenda of Commission Hearing; the Commission’s Conclusion of Prehearing Conference letter; the Commission’s Notice of Hearing and Prehearing Conference with attachments (A) Cream’s Application for Employee Category License, and (B) the Bureau’s Third-Party Worker Initial Background Investigation Report; the Bureau’s Statement of Reasons; and Cream’s signed Notice of Defense.

During the evidentiary hearing, PO Modha accepted into evidence Exhibits 1-13, Bates Nos. Complainant 001-157, offered by the Bureau and identified on the Bureau’s Evidentiary Exhibit Index, pursuant to a stipulation between the parties.

PO Modha closed the administrative record and the matter was submitted for decision on January 31, 2023.

FINDINGS OF FACT

Procedural History

1. On or about April 22, 2021, the Bureau received an Application for Employee Category License and a Supplemental Information form (collectively, Application) from Cream.

2. On April 27, 2021, the Commission issued Third-Party Worker Temporary License, number TPWK-000889 to Cream for his employment as a TPPPS player for Commerce Group, Inc. (Commerce), a licensed third-party provider of proposition player services (TPPPS).

3. On February 9, 2022, the Commission received a Third-Party Worker Initial Background Investigation Report on Cream from the Bureau. In this report, the Bureau alleges that Cream failed to disclose a misdemeanor conviction on his Application. Based on the foregoing, the Bureau recommends that the Commission deny Cream’s Application.

4. On May 12, 2022, the Commission voted to refer the consideration of Cream’s Application to a Gambling Control Act (Act) evidentiary hearing pursuant to CCR sections 12060(a) and 12054(a)(4).

5. On May 13, 2022, the Commission sent a letter, via regular and certified mail, to Cream notifying him that the Commission referred the consideration of his Application to an evidentiary hearing and providing a Notice of Defense form for him to sign and return.

6. On or about May 31, 2022, Cream signed and returned the Notice of Defense form. On the form, Cream requested an evidentiary hearing on the consideration of his Application and requested that all communications for the purposes of the evidentiary hearing be provided to him via email.

7. On or about July 15, 2022, the Commission sent a Notice of Hearing, via e-mail, to Cream and DAG Houston. The hearing was set for January 31, 2023 at 10:00 a.m.

8. On or about December 12, 2022, the Bureau sent a Statement of Reasons to Cream and the Commission. In the Statement of Reasons, the Bureau alleges two causes for denial based on Cream’s failure to disclose a misdemeanor conviction on his Application, and a failure to establish that he is a person of good character, honesty, and integrity due that nondisclosure. Based on the foregoing, the Bureau requests that the Commission deny Cream’s Application.

1 9. The Commission heard this matter via Zoom video conference on January 31, 2023.
2 PO Modha closed the administrative record on January 31, 2023.

3 **Cream’s Employment History in Controlled Gambling**

4 10. Cream has worked for Commerce as a TPPPS player since March 2021 and remains
5 employed. Cream’s duties as a TPPPS player include participating in controlled games as a
6 TPPPS player, ensuring the rules of card games are followed, and reporting suspicious or
7 unauthorized activities. There was no evidence presented of any derogatory information relating
8 to Cream’s work history for Commerce.

9 **Cream’s Criminal History**

10 11. On October 2, 2018, Cream was convicted upon a plea of guilty by the San Joaquin
11 County Superior Court of violation of Penal Code section 148, subdivision (a)(1), resisting,
12 delaying or obstructing officer or emergency medical technician, a misdemeanor. Cream was
13 sentenced to serve 15 days in jail, three years of probation, and ordered to pay a fine. Imposition
14 of the sentence was suspended.

15 **Cream’s Application**

16 12. Cream’s Application consists of two parts. The first part is three pages and contains
17 five sections, including applicant information. Cream signed the first part of the Application on or
18 about March 10, 2021.

19 13. The second part of the Application is the Supplemental, which is eight pages and
20 contains nine sections. The Supplemental requires that the applicant disclose, among other things,
21 their criminal history information.

22 14. Section 4 of the Supplemental requires an applicant to disclose their criminal history
23 information. Section 4 includes instructions, including that:

24 **YOU ARE REQUIRED TO DISCLOSE ANY AND ALL CRIMINAL CONVICTIONS, REGARDLESS**
25 **OF...3) THE STATUS OF THE CONVICTION, I.E. IT MUST BE DISCLOSED REGARDLESS OF**
26 **WHETHER YOU HAD THE CONVICTION REDUCED, DISMISSED, OR EXPUNGED, OR WHETHER**
27 **YOU ARE ON OR OFF PROBATION...**¹

28 ¹ For all references to the Supplemental, text is recited herein with the same formatting and emphasis as in the form signed by Cream, such as bold text, underlined text, and small caps.

1 15. Section 4(A) of the Supplemental asks, “HAVE YOU **EVER** BEEN CONVICTED OR PLED
2 GUILTY OR NOLO CONTENDERE (NO CONTEST) TO A MISDEMEANOR OR FELONY?”

3 16. Cream checked “No” to question 4(A). The next question on the Supplemental
4 requests the following details about any conviction disclosed: the approximate date of conviction,
5 the arresting agency, court location, and a description of the factual circumstances that led to the
6 conviction. Cream did not provide any additional details or otherwise indicate on the Application
7 that he had been convicted of a crime.

8 17. Section (9) of the Supplemental is a Declaration, signed by Cream on or about March
9 24, 2021, in which Cream declared under penalty of perjury that the information provided in the
10 Supplemental was “true, accurate, and complete.” However, the Supplemental contained
11 information that was not true or accurate because Cream did not disclose that he was convicted of
12 a misdemeanor. Additionally, the Supplemental was not complete because Cream failed to
13 provide the approximate date of conviction, the arresting agency, court location, and a description
14 of the factual circumstances that led to the conviction. The fact of, and details regarding, Cream’s
15 conviction were discovered by the Bureau during its background investigation.

16 **Cream’s Statements to the Bureau Concerning His Conviction**

17 18. During the course of its background investigation, the Bureau asked Cream to provide
18 a signed and dated statement describing in detail the events leading up to the actual incident that
19 resulted in the conviction and to explain why he did not disclose the conviction on the
20 Application.

21 19. On September 15, 2021, Cream provided the Bureau with the following explanation:

22
23 My fiancé and I were at a bar in Lodi CA. When we walked in we were
24 getting looks from a couple the whole night. After a few hours my
25 girlfriend went to get us drinks and apparently the couple made very racial
26 remarks and slurs towards my girlfriend. She came back and told me, so I
27 let the bartender know. But before I got there, the super drunk guy making
28 racist remarks pushed me and decided to get physical. No punches were
thrown but a bystander called the police and only I was arrested. Yes, I
was very angry with the police for not also arresting the guy who started
the confrontation.

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I lost my cool and the police said they were taking me to jail. I sat in the drunk tank till the next morning, apologized to the judge, and even apologized to the arresting officers.

This was the most humiliating moment of my life. I almost lost everything, and thus made a promise that I have kept to this day stating I will never consume alcohol again, and have kept that promise. My fiancé wouldn't be here if I had broken this promise. So I ask you, please not to judge me for a mistake. I completely regret my actions, and have never had an incident since. I don't want to lose my gambling control license for a mistake I made. My Supervisors and co-workers can tell you how hard I've worked to get where I'm at with this job.²

Thank you so much for your patience with me and my badging packet. I wasn't trying to hide anything at all. I'm an open book. I just forgot to go back to that question in the packet, that was all. It was an honest mistake. I wasn't trying to keep anything hidden or anything like that.

20. Thereafter the Bureau wrote to Cream asking him to explain three discrepancies between his September 15, 2021 statement and details contained in the police report from the incident: (1) that according to the police report, Cream was on the sidewalk heavily intoxicated and resisted arrest; (2) the police report does not mention a fight with another patron in the bar; (3) the police report describes a statement from Cream's girlfriend that she did not know what caused the incident.

21. Cream responded on December 9, 2021, that:

I'd like this opportunity to explain the discrepancy from the police report mentioned in the recent email to me and my employer.

The gentleman I had an exchange with at the bar left the premises [sic] after our initial words. I had too much to drink, and was escorted outside to speak with the authorities. In my frustrated and inebriated state, I was not cooperative at first. I regret this action to this day. As mentioned in my previous response, I apologized to the entire department upon leaving, and regret my actions that evening. The police were addressing my attitude and intoxication, and did not witness the exchange I had with the bar patron that left, which is why I assume they did not mention it in the police report. The gentleman did not stay to file a complaint or report anything.

² Cream underlined this language in the original document, which was handwritten.

1 My girlfriend was distraught that evening, and understandably so. My
2 behavior put her in an uncomfortable situation. The words exchanged with
3 the gentleman inside were quick and did not last, which is why I believe
4 by the time the police were taking details, she was confused, tired, and
5 unhappy about the whole situation, leaving her to report nothing about the
6 exchange I had with the other bar patron.

I'd like to sincerely apologize again for my [sic] that night overall. I hope
this letter clarifies the discrepancies.

7 **Testimony of Brian Gilleland**

8 22. Brian Gilleland (Gilleland), Staff Services Manager II of the Bureau, testified that he
9 supervised the Bureau staff performing a background investigation on Cream in connection with
10 his Application.

11 23. Gilleland testified that on the Application, Cream indicated that he had never been
12 convicted of a crime. However, during its investigation, Bureau staff reviewed databases and
13 found that Cream was convicted of a misdemeanor. The Bureau asked Cream to explain the
14 reason he did not disclose the conviction on his Application and to explain the circumstances
15 leading to the conviction.

16 24. The Bureau also obtained a copy of the police report concerning the incident leading
17 to Cream's conviction and asked Cream to explain discrepancies between the version of events
18 set forth in Cream's prior statements and the police report.

19 25. Cream responded to the Bureau's inquiries regarding his conviction. However, due to
20 Cream's failure to fully and accurately disclose the information on this Application, the Bureau
21 recommended denial of his Application.

22 **Cream's Testimony During the Evidentiary Hearing**

23 26. Cream testified that his statements to the Bureau during the background investigation
24 concerning the circumstances leading to the conviction were not intentionally misleading to the
25 extent any of this statements conflicted with the police report. Cream explained that he was very
26 intoxicated when the incident occurred, he later "blacked out," and he was not aware of some of
27 the details in the police report.

28 27. Cream explained that due to his lack of memory of the incident, he asked his girlfriend

1 to recite to him the events leading to the conviction so that he could respond to the Bureau's
2 inquiries. Cream testified that he responded to the Bureau to the best of his ability.

3 28. Regarding his failure to disclose the conviction on the Application, Cream testified
4 that he was excited about the job opportunity with Commerce and was jumping between
5 questions in the application packet as he filled it out. Cream testified that he forgot to go back to
6 the criminal history section of the Application, and he has "nothing to hide."

7 29. Cream testified that at the time he completed the Application, he was not absolutely
8 clear that what happened to him was a "conviction." The night of the incident Cream was highly
9 intoxicated. Cream spent one night in jail and went straight to court from his jail cell in the
10 morning. Cream was not given an opportunity to sober up before the hearing and was still
11 intoxicated, could barely stand, had "no voice," and difficulty raising his hand.

12 30. Cream testified that he recalls having a public defender to represent him in court.
13 However, Cream did not meet with his public defender before appearing before the judge.

14 31. Cream stated that he was still intoxicated in court, and as a result he has an unclear
15 recollection of the events. He slightly recalls that charges were read to him, but does not recall
16 what the charges were, or specific words used to describe the charges. Cream recalls that he was
17 sentenced that morning, but does not recall the terms of the sentence. Cream was very distraught
18 during his hearing because he had no idea what he did and the process was happening very
19 quickly with only vague information available to him.

20 32. Cream apologized at the hearing for not disclosing his conviction. Cream testified he
21 thought that by serving a jail sentence, the conviction may have been taken off his record and he
22 was not certain of the true status of his conviction.

23 33. Cream took full responsibility for the events leading to his conviction during the
24 hearing. Cream explained that he confronted two people at a bar who were quietly talking
25 because he believed the couple had made an inappropriate comment about Cream's girlfriend.
26 Cream described himself as "the aggressor," and was remorseful that he made what could have
27 been a small incident into a much bigger one. Cream testified that he has not sought professional
28 help for alcoholism or anger management, but with the help of his family, coworkers, and

1 especially his girlfriend, he has learned to channel his anger in healthier ways and he has not had
2 any incidents since. Cream testified that he has not been to a bar since the incident leading to his
3 conviction. Cream described himself as being sober for five years, though he also testified he still
4 drinks at special occasions and has an occasional beer at home.

5 **Jaycee Macalino's Letter of Support and Testimony During the Evidentiary Hearing**

6 34. Jaycee Macalino (Macalino) is the Designated Agent for, and Chief Financial Officer
7 of, Commerce.

8 35. Macalino submitted a letter of support to the Commission dated February 11, 2022,
9 which was admitted into evidence at the hearing. Macalino wrote that Cream has excelled in his
10 role at Commerce and his conduct on the casino floor has always been formal and respectful.
11 Macalino wrote that Cream is determined to understand the rules of the games and to uphold the
12 integrity of the games he is tasked to monitor. Macalino further advised in his letter that Cream is
13 one of the very few staff members that addresses management with, "sir" or "ma'am," and Cream
14 has listened intently to constructive criticism and guidance.

15 36. Macalino also testified at the hearing that he has never written a recommendation
16 letter for an employee whose badge was "pending denial." Macalino testified that in addition to
17 Cream's qualities referenced in the recommendation letter, Cream has impeccable attendance and
18 punctuality. Macalino also testified that Cream expressed deep regret that he had omitted
19 information from the Application. Macalino believes that Cream's past conduct and conviction
20 does not define his current character.

21 37. The Commission found Macalino's testimony and letter to be credible and useful in
22 evaluating Cream's honesty, character, and integrity. Based in part on this evidence, the
23 Commission declines to find that Cream lacks the honesty, character, and integrity to be qualified
24 for licensure, and finds that Cream is able to immediately reapply for licensure.

25 PERTINENT LEGAL AUTHORITY

26 38. Division 1.5 of the Business and Professions Code, the provisions of which govern the
27 denial of licenses on various grounds, does not apply to licensure decisions made by the
28 Commission under the Act. Business and Professions Code section 476(a).

1 39. The Act is an exercise of the police power of the state for the protection of the health,
2 safety, and welfare of the people of the State of California, and shall be liberally construed to
3 effectuate those purposes. Business and Professions Code section 19971.

4 40. Public trust that permissible gambling will not endanger public health, safety, or
5 welfare requires that comprehensive measures be enacted to ensure that gambling is free from
6 criminal and corruptive elements, that it is conducted honestly and competitively, and that it is
7 conducted in suitable locations. Business and Professions Code section 19801(g).

8 41. Public trust and confidence can only be maintained by strict and comprehensive
9 regulation of all persons, locations, practices, associations, and activities related to the operation
10 of lawful gambling establishments. Business and Professions Code section 19801(h).

11 42. The Commission has the responsibility of assuring that licenses, approvals, and
12 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
13 operations are conducted in a manner that is inimical to the public health, safety, or welfare.
14 Business and Professions Code section 19823(a)(1).

15 43. An “unqualified person” means a person who is found to be unqualified pursuant
16 to the criteria set forth in Section 19857, and “disqualified person” means a person who is found
17 to be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions
18 Code section 19823(b).

19 44. The Commission shall have all powers necessary and proper to enable it fully and
20 effectually to carry out the policies and purposes of this chapter. Business and Professions Code
21 section 19824.

22 45. The Commission has the power to deny any application for a license, permit, or
23 approval for any cause deemed reasonable by the Commission. Business and Professions Code
24 section 19824(b).

25 46. The Commission has the power to take actions deemed to be reasonable to ensure
26 that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
27 gambling activities. Business and Professions Code section 19824(d).

28 47. The burden of proving his or her qualifications to receive any license from the

1 Commission is on the applicant. Business and Professions Code section 19856(a); CCR section
2 12060(j).

3 48. No gambling license shall be issued unless, based on all of the information and
4 documents submitted, the Commission is satisfied that the applicant is a person of good character,
5 honesty, and integrity. Business and Professions Code section 19857(a).

6 49. No gambling license shall be issued unless, based on all of the information and
7 documents submitted, the Commission is satisfied that the applicant is a person whose prior
8 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
9 public interest of this state, or to the effective regulation and control of controlled gambling, or
10 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
11 the conduct of controlled gambling or in the carrying on of the business and financial
12 arrangements incidental thereto. Business and Professions Code section 19857(b).

13 50. No gambling license shall be issued unless, based on all of the information and
14 documents submitted, the Commission is satisfied that the applicant is a person that is in all other
15 respects qualified to be licensed as provided in this chapter. Business and Professions Code
16 section 19857(c).

17 51. The Commission shall deny a license to any applicant who is disqualified for
18 failure of the applicant to provide information, documentation, and assurances required by this
19 chapter or requested by the chief, or failure of the applicant to reveal any fact material to
20 qualification, or the supplying of information that is untrue or misleading as to a material fact
21 pertaining to the qualification criteria. Business and Professions Code section 19859(b).

22 52. An application will be denied if the Commission finds that any of the provisions of
23 Business and Professions Code section 19859 apply to the applicant. CCR section 12040(a)(2).

24 53. The hearing need not be conducted according to technical rules relating to evidence
25 and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a
26 finding, if it is the sort of evidence upon which reasonable persons are accustomed to rely upon in
27 the conduct of serious affairs, regardless of the existence of any common law or statutory rule that
28 might make improper the admission of the evidence over objection in a civil action. Business and

1 Professions Code section 19871(a)(4); CCR section 12060(g)(2).

2 54. An applicant for licensing or for any approval or consent required by this chapter,
3 shall make full and true disclosure of all information to the department and the commission as
4 necessary to carry out the policies of this state relating to licensing, registration, and control of
5 gambling. Business and Professions Code section 19866.

6 55. The Bureau relies, in large part, on the applicant's disclosures while conducting a
7 background investigation. The failure to honestly, accurately, and completely disclose
8 information on an application subverts the Bureau's efforts to conduct a thorough and complete
9 investigation. Business and Professions Code sections 19826(a) and 19866.

10 56. Both the substance of an applicant's disclosures, and the truthfulness and
11 thoroughness of an applicant's disclosures, are considered by the Bureau in making a
12 recommendation as to the applicant's suitability for licensure, and by the Commission in making
13 a determination whether to approve or deny a license application. Business and Professions Code
14 sections 19824(a) and (d), 19826(a), and 19866.

15 ASSESSMENT OF CREAM'S SUITABILITY FOR LICENSURE

16 57. Based on the testimony of Cream and Macalino, combined with the letter of support
17 by Macalino, the Commission does not conclude that Cream lacks the requisite character,
18 honesty, or integrity to be licensed. Cream's criminal history consists of one incident resulting in
19 a conviction. Cream acknowledges his role in the incident, regrets being the aggressor, and has
20 taken action to ensure that he does not end up in a similar situation in the future.

21 58. Additionally, the Commission found Cream's testimony that he did not have a clear
22 recollection of events the evening before his conviction to be credible and does not find that the
23 discrepancies between the police report and Cream's version of events support denial of his
24 Application.

25 59. However, for the reasons provided below, the Commission finds that Cream is
26 disqualified from licensure based on his failure to disclose his conviction on the Application.
27 Therefore, the Commission must deny Cream's Application.

28 60. The Commission was not convinced that Cream did not understand that he was

1 convicted of a crime. Cream appeared in court with the representation of a public defender after
2 spending a night in jail. Cream recalled that charges were presented against him and that he pled
3 to those charges. Cream spent time in jail as a result of the conviction and was on probation
4 thereafter. Cream testified that the incident, and day in court, was very traumatic for him and his
5 girlfriend. The most logical inference from the facts presented is that Cream knew that he was
6 convicted of a crime and intentionally did not include that information on the Application.

7 61. Further, the Application was clear that even if a conviction is expunged or dismissed,
8 it must still be disclosed. If Cream thought his jail sentence somehow reduced the conviction, he
9 would still have needed to disclose it. Additionally, if Cream were truly confused about the
10 outcome of the court hearing that resulted in him pleading to a crime and being sentenced, he
11 should have sought out the correct information before filling out the Application and signing it
12 under penalty of perjury.

13 62. All of the information requested on the application has been considered through the
14 legislative and regulatory processes and determined necessary in order for the Commission to
15 discharge its duties properly. An applicant is neither expected, nor permitted, to determine the
16 importance of the information requested, and instead is required to provide true, accurate, and
17 complete information as requested. To address any issues in completing the application, and to
18 ensure that the information disclosed on an application is “true, accurate, and complete,” the
19 burden is on the applicant to carefully and thoroughly read the application, and to seek assistance
20 with filling out the application if necessary. The applicant is responsible for both the information
21 they disclose, and for failing to disclose required information, on the application.

22 63. The existence of, and details regarding, an applicant’s criminal history are facts
23 material to the qualification for licensure of an applicant. For instance, they may affect the
24 assessment of the applicant’s general character, honesty, integrity, and/or ability to participate in
25 controlled gambling. They may lead to a finding that the issuance of a license to such an applicant
26 would be inimical to public health, safety, or welfare, or undermine public trust that the gambling
27 operations with respect to which the license would be issued are free from criminal and dishonest
28 elements, and would be conducted honestly. An applicant’s criminal history may be sufficient to

1 support a factual finding and legal conclusion that the applicant is disqualified from licensure, or
2 poses a threat to the public interest of this state, to the effective regulation and control of
3 controlled gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices,
4 methods, and activities in the conduct of controlled gambling or in the carrying on of the business
5 and financial arrangements thereto.

6 64. Cream was required to disclose on the Application that he was convicted of a
7 misdemeanor, the approximate date of conviction, the arresting agency, court location, and a
8 description of the factual circumstances that led to the conviction. The Bureau only determined
9 that Cream had been convicted of a misdemeanor through conducting its background
10 investigation. By failing to disclose his conviction, and the circumstances leading to the
11 conviction, Cream failed to provide information required by the Act. By failing to provide
12 information required by the Act on his Application, Cream's Application is subject to denial
13 pursuant to Business and Professions Code section 19859(b) and CCR section 12040(a)(2).

14 65. Cream failed to disclose his conviction on his Application. Additionally, and as a
15 direct result of failing to disclose his conviction, Cream failed to provide additional information
16 requested concerning the conviction, such as the date, court, and circumstances leading to the
17 conviction. As provided above, these details are facts material to Cream's qualifications for
18 licensure. By failing to disclose his conviction and the circumstances leading to the conviction on
19 his Application, Cream failed to reveal facts material to his qualifications for licensure. By failing
20 to reveal facts material to his qualifications for licensure, Cream's Application is subject to denial
21 pursuant to Business and Professions Code section 19859(b) and CCR section 12040(a)(2).

22 66. All documentary and testimonial evidence submitted by the parties that is not
23 specifically addressed in this Decision and Order was considered but not used by the Commission
24 in making its determination on Cream's Application.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Cream has the following appeal rights available under state law:

CCR section 12064, subsections (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. A request for reconsideration must be:

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

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

(b) A request for reconsideration must 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 (f) provides:

A decision of the commission after an evidentiary hearing, 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 held to consider that petition, 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.

CCR section 12066, subsection (c) provides, in part:

Neither the right to petition for judicial review nor the time for filing the petition will be affected by failure to seek reconsideration.

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ORDER

1. Brandon Cream’s Application for Third-Party Proposition Player Services Employee Type License is DENIED.

2. Brandon Cream’s Third-Party Worker Temporary License, number TPWK-002177 is void and cannot be used hereafter pursuant to CCR section 12122(d).

3. Brandon Cream may immediately reapply for a license or work permit.

4. No costs are awarded.

5. Each side to pay its own attorneys’ fees.

This Order is effective on May 5, 2023.

Dated: 4/5/2023
Signature: 
38D0AB38C651466
Paula LaBrie, Chair

Dated: 4/5/2023
Signature: 
3D1DB000F9274AA...
Cathleen Galgiani, Commissioner

Dated: 4/5/2023
Signature: 
2B4CE9520F8845C...
Eric Heins, Commissioner

Dated: 4/5/2023
Signature: 
7722F4571420449...
William Liu, Commissioner

Dated: 4/5/2023
Signature: 
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Edward Yee, Commissioner