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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 for:

CGCC Case Nos. CGCC-2022-0526-10B
BGC Case No. BGC-HQ2022-00012SL

DECISION AND ORDER

MARCOS SAMUEL CABRERA

Hearing Date: November 30, 2022
Time: 10:00 a.m.

Applicant.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections¹ 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, and held via Zoom video conference, on November 30, 2022.

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.

Applicant Marcos Cabrera (Cabrera) appeared on his own behalf.

During the evidentiary hearing, Presiding Officer Paras Modha (Presiding Officer) 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 with two attachments: (a) Cabrera’s Application for Employee Category License and (b) the Bureau’s Third-Party Worker Initial Background Investigation Report, Level III, with attachments; the Bureau’s Statement of Reasons, and Cabrera’s signed Notice of Defense.

Pursuant to a stipulation between the parties, the Presiding Officer accepted into evidence Exhibits 1 through Exhibit 10 offered by the Bureau, which contain bates numbering BGC 001-130 with a Table of Contents that separately identifies each document.

The record closed and the matter was submitted on November 30, 2022.

¹ All references to statute refer to the California Business and Professions Code unless otherwise stated.

FINDINGS OF FACT

I. BACKGROUND

Procedural History

1. Cabrera has worked in controlled gaming since September 2021 when he was employed by Faros Unlimited, Inc. as a Banker providing third-party proposition player services (TPPPS).

2. On October 1, 2021, the Bureau received Cabrera’s initial Application for a TPPPS Worker License to allow for his continued employment with Faros Unlimited, Inc., together with an Application for Employee Category License and a Commission Work Permit or TPPPS Worker Supplemental Information form (Application).

3. On October 7, 2021, the Commission issued Cabrera a Temporary Third-Party Proposition Worker Services License No. TPWK-002396, which is valid through September 30, 2023.

4. On or about April 6, 2022, the Commission received a Third-Party Worker Initial Investigation Report, Level III, from the Bureau recommending that Cabrera’s Application be denied on the basis that he was convicted of a misdemeanor offense and provided untrue and misleading information to the Bureau concerning the circumstances of that offense.

5. At its May 26, 2022 meeting, the Commission referred consideration of Cabrera’s Application to a Gambling Control Act (GCA) evidentiary hearing to be held pursuant to CCR section 12060.

6. On or about June 14, 2022, the Commission received a Notice of Defense form signed by Cabrera and requesting an evidentiary hearing on the consideration of his Application. The form did not indicate that Cabrera was represented by an attorney.

7. On or about July 15, 2022, the Commission sent a Notice of Hearing to Cabrera and DAG Houston providing that an evidentiary hearing would be held before the Commission on November 30, 2022.

8. On September 30, 2022, the Commission received the Bureau’s Statement of Reasons. In the Statement of Reasons, the Bureau requests that the Commission deny Cabrera’s

1 Application under Business and Professions Code sections 19859, subdivision (b), and section
2 19857, based on him supplying information to the Bureau relating to his conviction that was
3 untrue or misleading as to a material fact pertaining to the licensure qualification criteria.

4 **Cabrera's Criminal History**

5 9. On January 8, 2018, a misdemeanor complaint was filed against Cabrera in the Los
6 Angeles County Superior Court alleging that on or about November 3, 2017, Cabrera committed
7 the crime of hit and run driving resulting in property damage in violation of California Vehicle
8 Code (CVC) section 20002(a), a misdemeanor; the crime of driving when privilege suspended or
9 revoked in violation of CVC section 14601.1(a), a misdemeanor; and the crime of driving at an
10 unsafe speed in violation of CVC section 22350, an infraction.

11 10. On March 14, 2018, Cabrera was convicted upon a plea of nolo contendere of a
12 misdemeanor violation of CVC section 20002(a), hit and run with property damage. The
13 remaining counts were dismissed. Cabrera was sentenced to three years of probation, ordered to
14 complete a work program, and to pay a fine and restitution.

15 **California Highway Patrol Report Regarding November 3, 2017 Incident**

16 11. During the course of the background investigation on the Application, the Bureau
17 obtained the State of California, Department of California Highway Patrol Traffic (CHP)
18 Collision Report (CHP Report) concerning the incident that led to Cabrera's conviction.

19 12. The CHP Report provided that on November 3, 2017, Cabrera was involved in a four-
20 party accident. Cabrera, identified in the report as Party 1, was driving a Honda Accent. Party 2
21 was the driver of a white Toyota Prius. Party 3 was the driver of a white Dodge Ram. Party 4 was
22 the driver of a white Nissan Altima (also collectively referred to as "involved parties").

23 13. According to the CHP Report, Cabrera fled the scene immediately following the
24 collision and prior to CHP arrival. When CHP arrived, Party 2 and 3 were standing by on the
25 right shoulder of State Route 91 and Cabrera and Party 3 were standing by within a Walmart
26 shopping center.

27 14. The CHP officer first responded to the two vehicles on the shoulder and directed them
28 to park at Trader Joe's for a safer location to make an incident report. In the parking lot, Parties 2

1 and 4 relayed that Cabrera had fled the scene immediately after the traffic collision and a separate
2 dodge truck (Party 3) was involved in the collision and began following Cabrera after he fled.

3 15. According to the CHP Report, Cabrera and/or Party 3 called 911 and dispatch told
4 them to meet the involved parties and a CHP officer at the Trader Joe’s parking lot.

5 16. CHP interviewed Party 3 in the Trader Joe’s parking lot. Party 3 advised that he
6 observed Cabrera flee at a high rate of speed and followed him to the Walmart shopping center
7 parking lot and parked directly behind Cabrera to keep him from fleeing. Party 3 stated that
8 Cabrera first screamed at him, but then “related he was sorry for leaving the scene of the
9 collision.”

10 17. The CHP Report contains the following statements attributed to Cabrera:

11 Party #1 related he was driving in the H.O.V. lane, when traffic ahead of
12 Vehicle #1 came to a sudden stop. Party #1 related he was approximately “3-4
13 feet behind” the vehicle ahead of him when traffic suddenly slowed and
14 stopped. Party #1 related he applied the brakes to Vehicle #1, but was unable
15 to stop before front of Vehicle #1 hit the rear of the car ahead (Vehicle #2).
16 Party #1 related he then panicked due to the collision, and made a sharp
17 turning motion to the right, crossing into the #1 lane. Party #1 related he did
18 not look in the #1 lane before completing the lane change, and collided with a
19 large truck that was passing on the right in the #1 lane (Vehicle #3). Party #1
20 related Vehicle #1 then bounced off the left side of the large truck, back
towards the H.O.V. lane, and collided with two other vehicles. Immediately
following the third and fourth impacts, Party #1 related he got more scared
and sped away. Party #1 related he exited the freeway at Shoemaker Road,
and drove through the area to find a place to park and gather his thoughts.
Party #1 related he drove into the Walmart shopping center parking lot and
came to a stop, when he was contacted by the person in the large Dodge truck.
Party #1 related he stood by after Party #3 told him to wait for responding
officers for a collision report.

21 **Cabrera’s Statements to the Bureau Concerning the Conviction**

22 18. Cabrera disclosed his conviction on the Application, but did not explain the factual
23 circumstances that led to the conviction, as requested. Thereafter, the Bureau requested that
24 Cabrera provide a written statement explaining the circumstances.

25 19. On November 11, 2022, Cabrera provided the Bureau with a written statement
26 (November Statement) explaining the circumstances leading to his conviction. The statement
27 provides:

28 On the day of the incident, I was on my way to work where I bumped into a
car back bumper. As I was merging lanes, about to tell the gentleman to
follow me to exit the freeway, as there was too much traffic to stay on

1 freeway, a car hit me; with that impact I hit another vehicle. I informed the
2 vehicles to follow me and exit freeway. We parked in a shopping center after
3 exiting the freeway, calling 911, and wait for officer(s) to arrive. When the
4 officer arrived, he asked if we needed medical attention. None of us did need
5 medical attention, so he started his investigation, asking questions about the
6 incident. I was the last to be question, and when the officer was done, he
7 stated that with his 7 yrs of experience, since I “fled the scene” it’s technically
8 a hit-and-run. I stated to the officer that the DMV pamphlet states that existing
9 a busy freeway because of an accident is safer than being on freeway, but the
10 officer still charged me with a hit-and-run.

11 20. On February 17, 2022, the Bureau requested that Cabrera provide a further written
12 statement explaining discrepancies between the version of the events described in the November
13 Statement and the CHP report. The Bureau specifically requested that Cabrera address the
14 following statements attributed to Cabrera in the CHP report indicating the following: (1) that he
15 fled the scene immediately after the collision because he was scared; (2) that he drove away “to
16 find a place to park and gather his thoughts” and; (3) another party involved in the accident
17 followed him to the parking lot and told him to wait until police officers arrived.

18 21. On March 9, 2022, Cabrera provided an additional statement to the Bureau, (March
19 Statement):

20 At the time after the accident (as in after I hit the cars I hit), I shouted at the
21 vehicles to follow me off the freeway, but as I was shaken up at that time and
22 drove faster than anticipated making it seem to other drivers as if I was
23 leaving the scene without the other drivers knowledge. At the time I was
24 driving my mothers [sic] car and she let me borrow the vehicle that day as my
25 coworker who gave me rides to work called off for something important. So
26 after the crash, I was scared and worried about what she would do when I
27 returned her vehicle. So much was going through my head at the time the
28 officer was talking to everyone. I was young and inexperienced with vehicles
and procedures when things happen. As the years have passed, receiving a
driver's license and being able to drive a car is a very big privilege to have and
not be taken for granted. I have learned from my mistake and am very grateful
for the opportunity to be able to work as a banker.

Cabrera’s GCA Hearing Testimony

22. Cabrera testified that at the time of the accident he had a suspended driver’s license.
Cabrera borrowed his mother’s car because he needed to get to work. Cabrera was worried after
the accident because his mother was very protective of her vehicle.

23. Cabrera testified that he first hit Party 2 in the carpool lane, which caused a three-party
accident between Cabrera, Parties 2 and 4. Cabrera testified that Party 2 had his/her window

1 down and Party 2 and Party 4 were in close proximity to him. Cabrera yelled out his window for
2 Parties 2 and 4 to follow him.

3 24. Cabrera testified that as he was exiting the freeway, Party 3 who was driving a large
4 white truck came out of nowhere and began to chase him. Cabrera denied that Party 3 had been
5 involved in the accident. Cabrera testified that Party 3 likely believed that Cabrera was fleeing the
6 scene of the accident and tried to get in front of him. Cabrera was afraid and thought Party 3 may
7 intend to assault him, so he attempted to get around Party 3.

8 25. Cabrera testified that the information contained in the CHP Report indicating that
9 Party 3 was involved in the accident was incorrect and Party 3 was not involved until intervening
10 in attempt to stop Cabrera from leaving the scene.

11 26. Cabrera testified that he left the interstate and parked in a nearby shopping center and
12 called 911 twice and described the vehicles involved in the accident. Cabrera testified that upon
13 calling 911, he was alerted to go to the Trader Joe’s parking lot to join the other involved parties
14 and the responding officer, and Cabrera and Party 3 walked there together.

15 **II. RELEVANT STATUTORY AND REGULATORY PROVISIONS**

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

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

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

26 30. An “unqualified person” means a person who is found to be unqualified pursuant to
27 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
28 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code

1 section 19823(b).

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

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

8 33. The burden of proving his or her qualifications to receive any license from the
9 Commission is on the applicant. Business and Professions Code section 19856(a) and CCR
10 section 12060(i).

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

16 35. An application for a license will be denied if the Commission finds that the applicant has
17 not satisfied the requirements of Business and Professions Code section 19859. CCR section
18 12040(a)(2).

19 36. A temporary license will be associated with an application for an initial license. Upon
20 issuance or denial of an initial license by the Commission, the temporary license will become void
21 and cannot be used thereafter pursuant to CCR section 12122(a) and (d).

22 **III. ASSESSMENT OF SUITABILITY FOR LICENSURE**

23 37. Section 19859, subdivision (b) provides, in part, that the commission *shall* deny a
24 license to any applicant who is disqualified for failure “to reveal any fact material to qualification,
25 or the supplying of information that is untrue or misleading as to a material fact pertaining to the
26 qualification criteria.”

27 38. The Bureau relies, in large part, on the applicant’s disclosures while conducting a
28 background investigation. The failure to accurately disclose complete information on an application

1 or during the Bureau's background investigation subverts the Bureau's efforts to conduct a thorough
2 and complete investigation. Both the substance of an applicant's disclosures, and the truthfulness and
3 thoroughness of an applicant's disclosures, are considered by the Bureau in making a
4 recommendation as to the applicant's suitability for licensure, and by the Commission in making a
5 determination whether to approve or deny a license application.

6 39. There is a significant area of concern regarding Cabrera's suitability for licensure
7 under Section 19859, subdivision (b), based on misleading statements he made to the Bureau and
8 Commission concerning the circumstances leading to his misdemeanor conviction for violation of
9 CVC section 20002(a), hit and run with property damage.

10 40. Cabrera's November Statement, March Statement, and his testimony before the
11 Commission conflicts with the CHP Report in several important ways. His testimony and
12 statements indicated that he left the scene after telling the parties to follow him to get out of
13 traffic and park at a safe location, which is very different than statements attributed to Cabrera in
14 the CHP Report admitting that he left the scene because he was scared and panicked.

15 41. Cabrera's November Statement to the Bureau was particularly misleading because in it
16 he stated that "I informed the vehicles to follow me and exit freeway. We parked in a shopping
17 center after exiting the freeway, calling 911, and wait for officer(s) to arrive." In contrast, the
18 CHP Report provides that Cabrera fled the scene, Parties 2 and 4 called 911 and parked on the
19 side of the interstate until CHP directed them to park at a Trader Joe's. Only upon calling 911 did
20 Cabrera learn where the other involved parties had been directed to park and that police
21 responded to them already, at which point Cabrera walked to join them. The events noted in the
22 CHP Report are very different from Cabrera's November Statement. Cabrera's testimony at the
23 hearing confirmed that after leaving the scene, he was not with Parties 2 and 4 until later after he
24 and Party 3 left from the Walmart parking lot and walked to meet the other involved parties at a
25 Trader Joe's parking lot.

26 42. Additionally, Cabrera's testimony at the hearing that Party 3 was not involved in the
27 accident and chased Cabrera, scaring him and causing him to flee, was also misleading. The CHP
28 Report fully documents that a white truck was involved in the accident, including describing the

1 damage to Party 3's truck and statements from an interview conducted by CHP with Party 3. The
2 CHP Report also contains statements from interviews with Parties 2 and 4, which also confirm
3 that a white truck was involved in the collision, which began to chase Cabrera as he fled the
4 scene.

5 43. Cabrera's November Statement, March Statement, and his testimony at the hearing
6 attempted to make the circumstances of the conviction sound more favorable to him by indicating
7 that he told involved parties to follow him and was therefore not truly intending to flee the scene.
8 In both the November Statement and March Statement, Cabrera asserts that he told the involved
9 parties to follow him. At the hearing, Cabrera testified that he yelled for Parties 2 and 4 to follow
10 him. Cabrera's November Statement and March Statement to the Bureau, and his testimony at the
11 hearing were misleading by implying that Cabrera informed the involved parties to follow him.

12 44. Additionally, Cabrera's testimony that he fled the scene because Party 3 chased him,
13 and it scared Cabrera was not credible. While it is always plausible that a police report is not
14 100% accurate, Cabrera's version of events strays too significantly from the CHP Report to be
15 credible. Cabrera was likely trying to leave the scene of the accident because he was driving his
16 mother's car that she is very protective over, and he did not have insurance and was driving on a
17 suspended license.

18 45. The Commission finds that Cabrera intentionally supplied information to the Bureau
19 that was untrue or misleading regarding the circumstances leading to his conviction, which
20 disqualifies him from licensure and requires that his application be denied pursuant to Section
21 19859, subdivision (b) and CCR section 12040(a)(2). In addition, as the Application is subject to
22 denial, Cabrera's temporary license is void pursuant to CCR section 12122(d) and cannot be used
23 hereafter.

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

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NOTICE OF APPLICANT’S APPEAL RIGHTS

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Cabrera has the following appeal rights available under state law:

CCR section 12064, subdivisions (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 (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.

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

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

- 1. Marcos Cabrero’s Application for Third-Party Proposition Player Services License is DENIED.
- 2. Marco Cabrero’s Third-Party Worker Temporary License, Number TPWK-002396 is void and cannot be used hereafter.
- 3. No costs are awarded.
- 4. Each side to pay its own attorneys’ fees.

This Order is effective on March 13, 2023

Dated: 2/9/2023 Signature: 
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 Paula LaBrie, Chair

Dated: 2/9/2023 Signature: 
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 Cathleen Galgiani, Commissioner

Dated: 2/9/2023 Signature: 
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 Eric Heins, Commissioner

Dated: 2/9/2023 Signature: 
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 William Liu, Commissioner

Dated: 2/9/2023 Signature: 
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 Edward Yee, Commissioner