

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

Samay Nhey

Applicant.

CGCC Case No. CGCC-2022-0908-06

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, November 17, 2022
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, and held via Zoom video conference, on Thursday, November 17, 2022 at 10:00 a.m.

2. Samay Nhey (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about December 1, 2021, the Bureau of Gambling Control (Bureau) received an Application for Third-Party Proposition Player Services Employee Type License (Application) from Applicant.

4. Applicant was issued a temporary license, License No. TPWK-002958, which expires on November 30, 2023.

5. On or about July 6, 2022, the Commission received the Bureau’s Third-Party Worker Initial Background Investigation Report in which it concluded that Applicant is not qualified for licensure pursuant to Business and Professions Code sections 19857, subdivision (a), and is disqualified from licensure pursuant to Business and Professions Code section 19859, subdivision (b). The Bureau recommended that the Commission deny the Application.

6. On September 8, 2022, the Commission considered Applicant’s Application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12054, subdivision (a)(2).

pursuant to subsections (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:

* * *

(F) The waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at an evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

14. Title 4, CCR section 12057, subdivision (a), provides in pertinent part:

(a) When an applicant fails to submit a completed Notice of Defense, CGCC-CH1-03 according to the timelines on the form, affirmatively waives his, her, or its right to an evidentiary hearing, or fails to appear at an evidentiary hearing, the Commission will, based on the interests of justice and judicial economy:

(1) Issue a default decision after the consideration of the Bureau report, any supplemental reports by the Bureau, and any other documents or testimony provided or which may be provided to the Commission before the decision is issued;

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

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

17. The Commission may deny Applicant’s Application based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided to it, pursuant to Title 4, CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and Professions Code sections 19857 and 19859.

18. The Commission may further also deny Applicant’s Application based upon her failure to prove to the Commission that she is qualified to receive a license or other approval as required by Business and Profession Code section 19856, subdivision (a) and Title 4, CCR section 12060, subdivision (j).

1 19. A temporary license will be associated with an application for an initial license.
2 Upon issuance or denial of an initial license by the Commission, the temporary license will
3 become void and cannot be used thereafter pursuant to Title 4, CCR section 12122, subdivisions
4 (a) and (d).

5 20. Therefore, as the Applicant did not return a Notice of Defense form, did not attend
6 the default hearing, and did not submit any information or evidence in favor of granting the
7 Application, Applicant did not meet her burden of demonstrating why a license should be issued
8 pursuant to Business and Professions Code section 19856, subdivision (a) and Title 4, CCR
9 section 12060, subdivision (j). By failing to meet Applicant’s burden of proving her
10 qualifications for licensure, Applicant has failed to satisfy the Commission that she is a person
11 that is in all other respects qualified to be licensed pursuant to Business and Professions Code
12 section 19857, subdivision (c). As a result, the Commission finds that pursuant to Title 4, CCR
13 sections 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and 12057, Applicant’s
14 Application is subject to denial.

15 21. In addition, as the Application is subject to denial, Applicant’s temporary license
16 is void pursuant to Title 4, CCR section 12122, subdivision (d) and cannot be used hereafter.

17 ///
18 ///
19 ///
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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:

(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 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 or restrictions on a license after an evidentiary hearing will be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (f). Neither the right to petition for judicial review nor the time for filing the petition will be affected by failure to seek reconsideration.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


ORDER

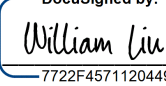
- 1. SAMAY NHEY’S Application for Third-Party Proposition Player Services Employee Type License is DENIED.
- 2. SAMAY NHEY’S temporary license, Number TPWK-002958 is void and cannot be used hereafter.
- 3. SAMAY NHEY may not apply to the Commission or the Bureau for any type of license or work permit for one (1) year after the effective date of this Order.

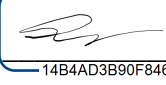
This Order is effective on Monday, December 19, 2022.

Dated: 11/17/2022 Signature: 
DocuSigned by:
38D0AB38C651466...
 Paula LaBrie, Chair

Dated: 11/17/2022 Signature: 
DocuSigned by:
3D1DB086F9274AA...
 Cathleen Galgiani, Commissioner

Dated: 11/17/2022 Signature: 
DocuSigned by:
2B4CE9520F8845C...
 Eric Heins, Commissioner

Dated: 11/17/2022 Signature: 
DocuSigned by:
7722F4571120449...
 William Liu, Commissioner

Dated: 11/17/2022 Signature: 
DocuSigned by:
14B4AD3B90F8462...
 Edward Yee, Commissioner

DECLARATION OF AMY ARNDT

I, Amy Arndt, declare as follows:


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

On September 9, 2022, I mailed a Gambling Control Act hearing referral letter to Samay Nhey 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 Samay Nhey that consideration of their 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-CH1-03) 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 10, 2022 and I have not received the Notice of Defense form or any communication from Samay Nhey 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 10, 2022, in Sacramento, California.



Amy Arndt