

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

CGCC Case No. CGCC-2024-0125-8C
BGC Case No. BGC-HQ2024-00004AL

MICHAEL ANGEL ESPUDO JR.

DECISION AND ORDER

Applicant.

Hearing Date: October 1, 2024
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 October 1, 2024.

Applicant Michael Espudo (Applicant) appeared on his own behalf during the evidentiary hearing without representation.

Thomas Rinaldi, Supervising Deputy Attorney General, State of California (SDAG Rinaldi), represented complainant Yolanda Morrow, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

During the evidentiary hearing, Presiding Officer Russell Johnson (PO Johnson), Attorney IV 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) Applicant’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 Applicant’s signed Notice of Defense.

During the evidentiary hearing, PO Johnson accepted into evidence Exhibits 1-15, Bates Nos. BGC-001 to BGC-122, offered by the Bureau and identified on the Bureau’s Evidentiary Exhibit Index, pursuant to a stipulation between the parties.

PO Johnson closed the administrative record and the matter was submitted for decision on October 1, 2024.

FINDINGS OF FACT

Procedural History

1. On or about January 18, 2023, the Bureau received an Application for Employee Category License and Commission Work Permit or TPPPS Worker: Supplemental Information form (collectively, Application) from Applicant.

2. On February 1, 2023, the Commission issued Applicant a Third-Party Worker Temporary License, number TPWK-005780.

3. On November 7, 2023, the Commission received a Third-Party Worker Initial Background Investigation Report on Applicant from the Bureau. In this report, the Bureau alleges that Applicant failed to disclose multiple misdemeanor convictions on his Application. Based on the foregoing, the Bureau recommends that the Commission deny the Application.

4. On January 25, 2024, the Commission voted to refer consideration of the Application to a Gambling Control Act (Act) evidentiary hearing pursuant to CCR sections 12060(a) and 12054(a)(4).

5. On January 29, 2024, the Commission sent a letter to Applicant 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 February 7, 2024, the Commission received a signed Notice of Defense form from Applicant requesting an evidentiary hearing on the consideration of his Application.

7. On or about June 24, 2024, the Commission sent a Notice of Hearing to Applicant and SDAG Rinaldi providing that a prehearing conference was scheduled for August 20, 2024, at 10:00 a.m. and a GCA hearing was scheduled for October 1, 2024, at 10:00 a.m.

8. On August 16, 2024, SDAG Rinaldi sent a Statement of Reasons to Applicant and the Commission on behalf of the Bureau. In the Statement of Reasons, the Bureau requests that the Commission deny the Application based on Applicant's failure to disclose multiple misdemeanor convictions and a failure to establish that he is a person of good character, honesty, and integrity.

Applicant’s Employment History in Controlled Gambling

2 9. In January 2023, Applicant began working as a third-party proposition player for
3 Qualified Player Services, LLC (QPS), a licensed provider of third-party proposition player
4 services.

5 10. There was no evidence presented of any derogatory information relating to
6 Applicant’s employment with QPS.

7 **Applicant’s Criminal History**

8 11. Applicant has been convicted of multiple misdemeanor offenses, as follows:

- 9 a. On June 4, 2013, Applicant was convicted by a Texas court of one count of
10 Driving While Intoxicated with a Blood Alcohol Content of 0.15% or Higher, a
11 misdemeanor.
- 12 b. On June 4, 2020, Applicant was convicted by an Arizona court of one count of
13 Driving Under the Influence (DUI) of Liquor/Drugs/Vapor, a misdemeanor.
14 Applicant’s Texas and Arizona convictions are hereinafter referred to as “out-of-
15 state convictions.”
- 16 c. On or around August 9, 2006, Applicant was convicted by a California court of
17 multiple misdemeanor offenses filed under four separate case numbers, as follows:
 - 18 i. Three separate convictions for violation of Vehicle Code section 12500,
19 subdivision (a), Unlawful to Drive Unless Licensed, a misdemeanor;
 - 20 ii. Two separate convictions for violation of Vehicle Code section 23152,
21 subdivision (a), for DUI of Alcohol/Drugs, a misdemeanor;
 - 22 iii. One conviction for violation of Vehicle Code section 23152, subdivision
23 (b), for DUI of Alcohol with a Blood Alcohol level of .08% or Higher;
 - 24 iv. One conviction for violation of Penal Code section 1214.1, for Failure to
25 Pay Civil Assessment. These convictions are hereinafter referred to as
26 Applicant’s “California convictions.”

27 12. In total, Applicant was convicted of nine misdemeanor offenses.

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The Application

2 13. The Application consists of two parts. The first part is three pages and requires the
3 applicant to provide personal information. The instructions provide that “all responses must be
4 truthful and complete” and “any misrepresentation or failure to disclose required information or
5 documentation may constitute cause for denial of the application or discipline of the licensee.”
6 (Emphasis in original.) The Application includes a Declaration, signed by Applicant on January
7 15, 2023, verifying that the information contained in the Application is “true, accurate, and
8 complete.”

9 14. The second part of the Application is the Supplemental, which is eight pages and
10 contains nine sections. The instructions on the Supplemental also provide that “all responses must
11 be truthful and complete” and “any misrepresentation or failure to disclose required information
12 or documentation may constitute cause for denial of the application or discipline of the licensee.”
13 (Emphasis in original.) The Supplemental includes a Declaration, signed by Applicant on January
14 15, 2023, verifying that the information contained in the Supplemental is “true, accurate, and
15 complete.”

16 15. Section (4) of the Supplemental requires an applicant to disclose their criminal history.
17 The instructions provide as follows:

18 **You are required to disclose any and all criminal convictions** regardless of:

- 19 1) The date of the conviction, i.e. **it must be disclosed no matter how**
20 **old the conviction is**;
- 21 2) The degree of the conviction, i.e. **it must be disclosed whether it was**
22 **a felony or misdemeanor, which includes traffic violations** charged
23 as misdemeanors or felonies, including driving under the influence,
24 driving on a suspended license, etc.; and
- 25 3) The status of the conviction, i.e. **it must be disclosed regardless of**
26 **whether you had the conviction reduced, dismissed, or expunged,**
27 or whether you are on or off probation. (Emphasis in original.)

28 16. Question A) in Section (4) of the Supplemental asks the applicant “Have you **ever**

been convicted or pled guilty or nolo contendere (no contest) to a misdemeanor or felony?”

(Emphasis in original.) Applicant responded by checking “Yes.”

17. The next question requests the following details about any conviction disclosed: the approximate date of conviction, the arresting agency, court location, and a description of the factual circumstances that led to the conviction. Applicant disclosed that he was convicted of a DUI in Arizona on March 18, 2019, and a DUI in Texas on July 28, 2010.¹ Applicant did not disclose any of the California convictions.

Testimony of Joseph Rosa

18. Joseph Rosa (Rosa), Manager of the Bureau, testified that he was previously an Analyst and conducted the Bureau’s background investigation concerning Applicant and prepared the Bureau’s background investigation report.

19. Rosa testified that Applicant disclosed his two out-of-state convictions on the Application. The conviction dates Applicant provided for the two out-of-state convictions were inaccurate, but he accurately disclosed the arresting agency, charges and court locations, which was sufficient to allow the Bureau to locate substantiating documentation concerning the convictions.

20. Rosa testified that during his investigation he learned that Applicant was convicted of six additional misdemeanors in California that were not disclosed on the Application.

21. Through the background investigation, Rosa obtained records to identify the dates of the offenses that led to Applicant’s California convictions. Although the convictions were all issued on August 9, 2006, they stemmed from separate incidents occurring in August 2005, September 2005, and April 2006.

22. Rosa sent correspondence to Applicant requesting information about the California convictions, including the reason why Applicant did not disclose them. Applicant responded to the Bureau’s inquiry and stated that he did not disclose the California convictions because he could not recall the exact dates.

¹ The conviction dates Applicant provided were inaccurate. The convictions were actually incurred on June 4, 2013 (Texas) and June 4, 2020 (Arizona).

23. Rosa testified that the Bureau recommended denial of the Application due to Applicant's failure to fully and accurately disclose his criminal history information and the fact that Applicant had so many convictions.

Applicant's Testimony During the Evidentiary Hearing

24. Applicant testified that the period between 2004 and 2006 was a very difficult time for him that he did not want to remember. Since his last conviction, Applicant has not broken the law or been arrested, and he now has a driver's license and car insurance. Applicant no longer drives after drinking alcohol.

25. Applicant testified that he could not recall the dates for any of his convictions at the time he filled out the Application, including the out-of-state convictions. Applicant acknowledged that he knew he had a DUI and conviction relating to his driver's license in California and should have put something down on the Application to disclose that information.

26. Applicant testified that he knew the Bureau would find the information concerning the California convictions. Applicant stated he was not trying to be dishonest by not disclosing the California convictions. Applicant also acknowledged that his Application was not complete and accurate, and he should have taken more time to fill out the Application.

27. Applicant also testified that a QPS supervisor told him to fully and accurately fill out the Application. Applicant told the supervisor he did not know all of the dates and the supervisor told him to fill everything out to the best of his knowledge. Applicant testified that he looked online to try to find his former addresses to include on the Application. Applicant stated that he put pressure on himself to complete the Application quickly because his hours at his current job were being cut and he wanted to start working for QPS.

PERTINENT LEGAL AUTHORITY

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

29. The Act is an exercise of the police power of the state for the protection of the health, safety, and welfare of the people of the State of California, and shall be liberally construed to

effectuate those purposes. Business and Professions Code section 19971.

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

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

9 32. The Commission shall have all powers necessary and proper to enable it fully and
10 effectually to carry out the policies and purposes of this chapter. Business and Professions Code
11 section 19824.

12 33. The Commission has the power to deny any application for a license, permit, or
13 approval for any cause deemed reasonable by the Commission. Business and Professions Code
14 section 19824(b).

15 34. The burden of proving his or her qualifications to receive any license from the
16 Commission is on the applicant. Business and Professions Code section 19856(a); CCR section
17 12060(j).

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

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

25 37. An “unqualified person” means a person who is found to be unqualified pursuant to
26 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
27 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
28 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

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

17 41. An application will be denied if the Commission finds that the applicant has not
18 satisfied the requirements of Business and Professions Code section 19857. CCR section
19 12040(a)(1).

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

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

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

2 45. 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
5 a determination whether to approve or deny a license application. Business and Professions Code
6 sections 19824(a) and (d), 19826(a), and 19866.

7 **ASSESSMENT OF APPLICANT'S SUITABILITY FOR LICENSURE**

8 46. For the reasons provided below, the Commission finds that Applicant has failed to
9 meet his burden of providing that he is qualified for licensure based on his failure to disclose the
10 California convictions on the Application. Therefore, the Commission must deny the Application.

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

20 48. On the Supplemental, Applicant failed to disclose the California convictions. As a
21 direct result, Applicant also failed to disclose the required details concerning the California
22 convictions.

23 49. The facts of, and details regarding, Applicant's California convictions were discovered
24 by the Bureau during its background investigation. By failing to disclose the California
25 convictions or provide any of the required details regarding the California convictions on his
26 Supplemental, Applicant failed to provide information required by the Act. By failing to provide
27 information that is required by the Act, the Application is subject to denial pursuant to Business
28 and Professions Code section 19859(b) and CCR section 12040(a)(2).

50. The existence of, and details regarding, an applicant's criminal history are facts

material to the qualification for licensure of an applicant. For instance, they may affect the assessment of the applicant's general character, honesty, integrity, and/or ability to participate in controlled gambling. They may lead to a finding that the issuance of a license to such an applicant would be inimical to public health, safety, or welfare, or undermine public trust that the gambling operations with respect to which the license would be issued are free from criminal and dishonest elements, and would be conducted honestly. An applicant's criminal history may be sufficient to support a factual finding and legal conclusion that the applicant is disqualified from licensure, or poses a threat to the public interest of this state, to the effective regulation and control of controlled gambling, or creates or enhances the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements thereto. By failing to disclose the California convictions and any details regarding the convictions on the Supplemental, Applicant failed to reveal facts material to his qualifications for licensure and supplied information that is untrue regarding a material fact pertaining to the qualification criteria for licensure. Therefore, the Application is subject to denial pursuant to Business and Professions Code section 19859(b) and CCR section 12040(a)(2).

51. Applicant testified that he did not disclose the California convictions because he did not know the specific dates. However, Applicant did not know the specific dates of his out-of-state convictions, but still provided approximate dates and enough information to allow the Bureau to substantiate the information. Additionally, Applicant testified that he researched for the information needed to complete other parts of the Application, such as former addresses, but did not do so for his criminal history despite a QPS supervisor telling Applicant to fill the Application out completely and accurately. Applicant testified that he knew he had a DUI and conviction relating to his driver's license in California and he believed the Bureau would find that information. Applicant's explanations are not sufficient to meet his burden of establishing that he is not disqualified from licensure.

52. The Commission does not find that Applicant is unqualified for licensure based on a lack of honesty, character, or integrity, or that Applicant poses a threat to the public interest of this state or the integrity of controlled gambling and therefore is not denied based on Business

1 and Professions Code section 19857. However, because Applicant is disqualified from licensure
2 based on his failure to disclose the California convictions on the Application the Commission
3 must deny the Application.

4 53. All documentary and testimonial evidence submitted by the parties that is not
5 specifically addressed in this Decision and Order was considered but not used by the Commission
6 in making its determination on the Application.

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NOTICE OF APPLICANT’S APPEAL RIGHTS

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Applicant 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 (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.

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

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...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

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

2. Michael Espudo’s Third-Party Worker Temporary License, number TPWK-005780 is void and cannot be used hereafter pursuant to CCR section 12122(d).


3. No costs are awarded.

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

This Order is effective on January 11, 2025.

Dated: 12/12/2024 Signature: 
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Paula LaBrie, Chair

Dated: 12/12/2024 Signature: 
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Stacey Baxter, Commissioner

Dated: 12/12/2024 Signature: 
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Eric Heins, Commissioner

Dated: 12/12/2024 Signature: 
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William Liu, Commissioner

Dated: 12/12/2024 Signature: 
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Edward Yee, Commissioner