

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:

EMILLIANO GUERRERO

Applicant.

CGCC Case No. CGCC-2024-0523-8Bii

DEFAULT DECISION AND ORDER

Hearing Date: September 19, 2024
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 September 19, 2024, at 10:00 a.m.

2. Emilliano Guerrero (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about August 1, 2023, the Bureau of Gambling Control (Bureau) received an initial Application for Employee Category License: TPPPS Worker License (Application) from Applicant.

4. On April 8, 2024, the Commission received the Bureau’s Level II Third-Party Worker Initial Background Investigation Report (Bureau Report) on Applicant.

5. On May 23, 2024, the Commission considered Applicant’s Application and voted to refer it to a Gambling Control Act (CGA) evidentiary hearing pursuant to title 4, CCR section 12054(a)(4).

6. Applicant received notice of the Commission’s consideration of their Application in two ways. First, Commission staff mailed a GCA evidentiary hearing referral letter to Applicant’s address of record via U.S. regular mail and certified mail on May 23, 2024, which included a blank Notice of Defense form with instructions to return it to the Commission within

1 30 calendar days of service and that the failure to do so may result in the Commission issuing a
2 default decision denying Applicant's Application. Commission staff did not receive a Notice of
3 Defense form or any communication from Applicant within 30 calendar days of service. (Exhibit
4 A.)

5 7. Second, the Commission served a Notice of Hearing Without Applicant
6 Participation to Applicant's address of record via certified mail, on July 29, 2024, with Exhibit A
7 attached, notifying Applicant that due to their failure to return the Notice of Defense form within
8 30 days of receipt, a hearing via Zoom video conference will be conducted on September 19,
9 2024, at 10:00 a.m., where the Commission may issue a default decision without Applicant's
10 participation.

11 **DETERMINATION OF ISSUES**

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

15 9. In addition, the burden of proving an applicant's qualifications to receive any
16 license from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

17 10. At an evidentiary hearing pursuant to Business and Professions Code sections
18 19870 and 19871 and title 4, CCR section 12060, the burden of proof rests with the applicant to
19 demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (k).)

20 11. An application will be denied if the Commission finds that the applicant has not
21 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.
22 4, § 12040, subd. (a)(1).)

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

24 (c) An applicant for any license, permit, finding of suitability, renewal, or
25 other approval shall be given notice of the meeting at which the
26 application is scheduled to be heard. Notice shall be given pursuant to
Section 12006.

27 * * *

28 (2) If the application is to be scheduled at an evidentiary hearing,

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

* * *

(F) That 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 the evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

13. 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;

* * *

14. 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).

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

16. 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 section 19857.

17. The Commission may also deny Applicant's Application based upon failure of the Applicant to prove to the Commission that Applicant 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 (k).

1 18. 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 19. Therefore, as Applicant did not return a Notice of Defense form, did not attend the
6 default hearing, and did not submit any information or evidence in favor of granting their
7 Application, Applicant's burden of demonstrating why a license should be issued pursuant to
8 Business and Professions Code section 19856, subdivision (a), and title 4, CCR section 12060,
9 subdivision (k), was not met. By failing to meet the burden of proving qualifications for
10 licensure, Applicant has failed to satisfy the Commission that Applicant is a person that is in all
11 other respects qualified to be licensed pursuant to Business and Professions Code section 19857,
12 subdivision (c). As a result, the Commission finds that pursuant to title 4, CCR sections 12040,
13 subdivision (a)(1), 12052, subdivision (c)(2)(F), and 12057, Applicant's Application is subject to
14 denial.

15 **NOTICE OF APPLICANT'S APPEAL RIGHTS**

16 Applicant has the following appeal rights available under state law:

17 Title 4, CCR section 12064, subdivision (a) and (b) provide:

18 (a) After the Commission issues a decision following a GCA hearing conducted
19 pursuant to Section 12060, an applicant denied a license, permit, registration, or
20 finding of suitability, or whose license, permit, registration, or finding of suitability
21 has had conditions, restrictions, or limitations imposed upon it, may request
reconsideration by the Commission. A request for reconsideration must be:

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

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

26 (b) A request for reconsideration must state the reasons for the request, which
27 must be based upon either:
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

(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.

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.

ORDER

1. EMILLIANO GUERRERO’s Application for Third-Party Proposition Player Services Employee Type License is DENIED.
2. EMILLIANO GUERRERO’s Temporary Third-Party Proposition Player Services Employee Type License Number TPWK-006926 is void and cannot be used hereafter.

///
///
///

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

3. EMILLIANO GUERRERO 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 October 21, 2024.

Dated: 9/19/2024
Signature: 
38D0AB38C651466...
Paula LaBrie, Chair

Dated: 9/19/2024
Signature: 
928DBC0554B423...
Stacey Luna Baxter, Commissioner

Dated: 9/19/2024
Signature: 
2B4CE9520F0845C...
Eric Heins, Commissioner

Dated: 9/19/2024
Signature: 
7722F4574120449...
William Liu, Commissioner

Dated: 9/19/2024
Signature: 
14B4AD3B90E8462...
Edward Yee, Commissioner

EXHIBIT A

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. Emilliano Guerrero case has been assigned to me for processing.

On May 23, 2024, I mailed a Gambling Control Act hearing referral letter to Emilliano Guerrero 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 Emilliano Guerrero 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 30 days of receipt in order to preserve their right to an administrative hearing.

Today is July 15, 2024 and I have not received the Notice of Defense form or any communication from Emilliano Guerrero 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 July 15, 2024, in Sacramento, California.



Amy Arndt