

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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In the Matter of the Application for Approval
of Tribal-State Compact Key Employee
Finding of Suitability for:

Ryan Patrick Molsberry

Applicant.

CGCC Case No. CGCC-2021-0624-12Gi

DEFAULT DECISION AND ORDER

Hearing Date: Thursday, December 2, 2021
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, December 2, 2021 at 10:00 a.m.

2. Ryan Patrick Molsberry (Applicant) failed to appear and was not represented at the hearing.

FINDINGS OF FACT

3. On or about April 20, 2017, the Bureau of Gambling Control (Bureau) received an Application for Finding of Suitability Tribal Key Employee (Application) from Applicant.

4. On or around May 25, 2021, the Bureau issued its Tribal Key Employee Background Investigation Report in which it concluded that Applicant was not qualified for licensure pursuant to Business and Professions Code section 19857, subdivision (a), and disqualified from licensure pursuant to Business and Professions Code section 19859, subdivision (b). The Bureau recommended that the Commission deny Applicant’s Application.

5. On or about June 24, 2021, the Commission considered Applicant’s Application and elected to refer it to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

6. Applicant received notice of Commission consideration of his Application in two ways. First, Commission staff mailed an evidentiary hearing referral letter to Applicant’s address

1 of record via regular mail and certified mail on June 28, 2021 which included a blank Notice of
2 Defense form with instructions to return it to the Commission within 21 days of service or else
3 the Commission may issue a default decision. Commission staff received no response. (Exhibit
4 A)

5 7. Second, Applicant further received notice of the hearing through a hearing notice
6 sent by certified mail on October 26, 2021 to Applicant’s address of record which included
7 Exhibit A and stated that the hearing was set to occur on Thursday, December 2, 2021 at 10:00
8 a.m.

9 **DETERMINATION OF ISSUES**

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

13 9. In addition, the burden of proving Applicant’s qualifications to receive any license
14 from the Commission is on the applicant. (Bus. & Prof. Code § 19856, subd. (a).)

15 10. At an evidentiary hearing pursuant to Business and Professions Code sections
16 19870 and 19871 and Title 4, CCR section 12060 the burden of proof rests with the applicant
17 to demonstrate why a license should be issued. (Cal. Code Regs., tit. 4, § 12060, subd. (i).)

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

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

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

25 * * *

26 (2) If the application is to be scheduled at an evidentiary
27 hearing, pursuant to subsections (a) or (b) of Section 12060, the
notice of hearing shall inform the applicant of the following:

28 * * *

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

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

8 (a) When an applicant fails to submit a completed Notice of Defense,
9 CGCC-CH1-03 (New 5/20) according to the timelines on the form,
10 affirmatively waives his, her, or its right to an evidentiary hearing, or
11 he, she, or it fails to appear at an evidentiary hearing, the
12 Commission will, based on the interests of justice and judicial
13 economy:

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

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

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

23 16. The Commission may deny Applicant's application based upon the Bureau report,
24 any supplemental reports by the Bureau and any other documents or testimony already provided
25 to it, pursuant to CCR sections 12052, subdivision (c)(2)(F) and 12057, and Business and
26 Professions Code sections 19857 and 19859.

27 17. The Commission may further also deny Applicant's application based upon his
28 failure to prove to the Commission that he 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 (i).

Therefore, as the Applicant did not return a Notice of Defense form, did not attend
the default hearing, and did not submit any information or evidence in favor of granting his
Application, Applicant did not meet his burden of demonstrating why a license should be issued
pursuant to Business and Professions Code section 19856, subdivision (a) and Title 4, CCR

1 section 12060, subdivision (i). By failing to meet Applicant's burden of proving his
2 qualifications for licensure, Applicant has failed to satisfy the Commission that he is a person that
3 is in all other respects qualified to be licensed pursuant to Business and Professions Code section
4 19857, subdivision (c). As a result, the Commission finds that pursuant to California Code of
5 Regulations, Title 4, sections 12040, subdivision (a)(1), 12052, subdivision (c)(2)(F), and 12057,
6 Applicant's Application is subject to denial.

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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, 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 within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration shall be made in writing to the Commission, copied to the Bureau, and shall 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.

Title 4, CCR section 12066, subdivision (c) provides:

A decision of the Commission denying an application or imposing conditions on a license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). 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. RYAN PATRICK MOLSBERRY’S Application for Approval of Tribal-State Compact Key Employee Finding of Suitability is DENIED.

2. RYAN PATRICK MOLSBERRY may not apply to the Commission or the Bureau for any type of license, registration or work permit for one (1) year after the effective date of this Order.

This Order is effective on Monday, January 3, 2022.

Dated: 12/2/2021 Signature: 
DocuSigned by:
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Paula LaBrie, Chair

Dated: 12/2/2021 Signature: 
DocuSigned by:
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Cathleen Galgiani, Commissioner

Dated: 12/2/2021 Signature: 
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Eric Heins, Commissioner

Dated: 12/2/2021 Signature: 
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William Liu, Commissioner

Dated: 12/2/2021 Signature: 
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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. Ryan Molsberry case has been assigned to me for processing.

On June 28, 2021, I mailed a Gambling Control Act hearing referral letter to Ryan Molsberry 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 Ryan Molsberry that consideration of his 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 July 30, 2021 and I have not received the Notice of Defense form or any communication from Ryan Molsberry 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 30, 2021, in Sacramento, California.



Amy Arndt