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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

BGC Case No. BGC-HQ2014-00003SL
CGCC Case No. CGCC-2013-1212-18C

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

RUSSELL AARON BUNCH


Respondent.

DECISION AND ORDER

Hearing Date: October 14, 2014
Time: 2:00 p.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 12050(b)(2), in Sacramento, California, on October 14, 2014.

Neil Houston, Deputy Attorney General, State of California, represented complainant Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Russell Aaron Bunch (Bunch) failed to appear and was not represented at the hearing.

During the administrative hearing, Presiding Officer Jason Pope took official notice of the following:

- (a) Notice of Hearing and Prehearing Conference, dated August 8, 2014, served by certified mail, return receipt requested; and
- (b) Conclusion of Prehearing Conference letter, dated September 11, 2014.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Bureau:

- (1) Statement of Reasons filed and served by the Bureau;
- (2) Copies of the December 19, 2013 letter from Katherine Ellis notifying Bunch that the Commission voted to refer consideration of his application to a hearing; August 8, 2014 Notice of Hearing and Prehearing Conference; and September 11, 2014 Conclusion of Prehearing Conference letter;

- 1 (3) Certified copy of the court records regarding Bunch's October 1, 2003
2 convictions for possession of a controlled substance, Florida Statutes
3 section 893.13, a third degree felony, and carrying a concealed weapon,
4 Florida Statutes section 790.01, a third degree felony, in the case *State of*
5 *Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2002, Case Nos. 02-
6 1176 and 03-3919);
- 7 (4) Certified copy of the court records regarding Bunch's October 4, 2005
8 conviction for possession of a controlled substance, Florida Statutes section
9 893.13(6)(a), a third degree felony, in the case *State of Florida v. Russell*
10 *Aaron Bunch* (Cir. Ct. Bay County, 2005, Case No. 05-001553);
- 11 (5) Certified copy of the court records regarding Bunch's June 25, 2010
12 convictions for obstructing or resisting executive officers in performance of
13 their duties, California Penal Code section 69, treated in this instance as a
14 misdemeanor pursuant to California Penal Code section 17(b), and driving
15 under the influence of alcohol or drugs, California Vehicle Code section
16 23152(B), also treated as a misdemeanor pursuant to Penal Code section
17 17(b), in the case *People v. Russell Aaron Bunch* (Sup. Ct. Lake County,
18 2009, Case No. CR921112); and
- 19 (6) Certified copy of the court records regarding Bunch's five convictions in
20 the State of Florida between October 1, 2003 and October 4, 2005.

21 The matter was submitted on October 14, 2014.

22 FINDINGS OF FACT

23 1. The Middletown Rancheria Tribal Gaming Regulatory Agency operates the Twin Pine
24 Casino and Hotel pursuant to a 1999 Tribal-State Gaming Compact between the State of
25 California and the Middletown Rancheria of Pomo Indians of California.

26 2. Bunch works as a Casino Manager of the Twin Pine Casino and Hotel, a key
27 employee position that requires the applicant to submit a Finding of Suitability application with
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1 the Commission.

2 3. On or about August 14, 2012, Bunch filed an Application for Finding of Suitability
3 Tribal Key Employee (Application) and State Gaming Agency Tribal Key Employee
4 Supplemental Background Investigation Information form to the Commission.

5 4. On or about July 18, 2013, the Bureau filed a Statement of Reasons with the
6 Commission recommending the denial of Bunch's Application.

7 5. At its December 12, 2013 meeting, the Commission voted to refer the matter of
8 Bunch's Application to an evidentiary hearing.

9 6. On or about December 19, 2013, the Executive Director of the Commission set the
10 matter for an administrative hearing to be conducted pursuant to Business and Professions Code
11 sections 19870 and 19871 and Title 4, CCR section 12050(b)(2).

12 7. On or about August 8, 2014, the Commission served a Notice of Hearing and
13 Prehearing Conference on Bunch and the Bureau.

14 8. On or about September 10, 2014, the noticed Prehearing Conference was held before
15 Presiding Officer Jason Pope, Attorney III of the Commission. Neil Houston, Deputy Attorney
16 General, attended on behalf of the Bureau. Bunch failed to attend the Prehearing Conference.

17 9. On or about September 11, 2014, the Commission served a Conclusion of Prehearing
18 Conference letter on Bunch and the Bureau.

19 10. The Commission heard Case No. CGCC-2013-1212-18C on October 14, 2014. The
20 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General Neil
21 Houston. Bunch failed to appear throughout the pendency of the hearing or make any contact
22 with the Commission or the Bureau.

23 11. On or about May 4, 1992, Bunch was convicted of reckless driving, a misdemeanor,
24 by the Bay County Circuit Court, Florida. Bunch was sentenced to six months' probation,
25 ordered to pay a fine and perform community service.

26 12. On or about January 25, 2001, Bunch was convicted of battery, a misdemeanor, by the
27 Bay County Circuit Court, Florida. Bunch was sentenced to two months and 12 days in jail and
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1 ordered to pay a fine.

2 13. On or about June 11, 2003, Bunch was convicted of possession of drug paraphernalia,
3 a misdemeanor, by the Bay County Circuit Court, Florida. Bunch was sentenced to one year
4 probation, and ordered to pay a fine, attend a work program and perform community service.

5 14. On or about October 1, 2003, Bunch was convicted of driving under the influence, a
6 misdemeanor, resisting an officer without violence, a misdemeanor, and criminal mischief, a
7 misdemeanor, in the case *State of Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2002,
8 Case No. 03-10737). Bunch was sentenced to 60 days in jail, ordered to pay restitution and court
9 costs, attend DUI school, and perform 50 hours of community service.

10 15. On or about October 1, 2003, Bunch was convicted of violating Florida Statutes
11 section 893.13, possession of a controlled substance, a third degree felony, in the case *State of*
12 *Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2002, Case No. 02-1176). Bunch was
13 sentenced to two years in state prison.

14 16. On or about January 9, 2004, Bunch was convicted of violating probation and driving
15 under the influence of alcohol or drugs, both misdemeanors. Bunch was sentenced to nine
16 months in jail and had his probation revoked.

17 17. On or about March 9, 2004, Bunch was convicted of violating Florida Statutes section
18 790.01, carrying a concealed weapon, a third degree felony, in the case *State of Florida v. Russell*
19 *Aaron Bunch* (Cir. Ct. Bay County, 2002, Case No. 03-3919). Bunch was sentenced to two years
20 in state prison to run concurrently with his prison sentence from his October 1, 2003 conviction.

21 18. On or about October 4, 2005, Bunch was convicted of violating Florida Statutes
22 section 893.13(6)(a), possession of a controlled substance, a third degree felony, in the case *State*
23 *of Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2005, Case No. 05-001553). Bunch was
24 sentenced to two years plus 316 days in state prison.

25 19. On or about June 25, 2010, Bunch was convicted of violating California Penal Code
26 section 69, obstructing or resisting executive officers in the performance of their duties, treated as
27 a misdemeanor pursuant to Penal Code section 17(b), and California Vehicle Code section
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1 23152(B), driving under the influence of alcohol or drugs, treated as a misdemeanor pursuant to
2 Penal Code section 17(b), in the case *People v. Russell Aaron Bunch* (Sup. Ct. Lake County,
3 2009, Case No. CR921112). Bunch was sentenced to 365 days in jail.

4 20. Failing to attend the hearing, Bunch did not present or submit any information or
5 evidence in favor of granting his Application.

6 21. Bunch's substantial criminal history, which includes three felony convictions and ten
7 misdemeanor convictions, demonstrates a pattern and practice of flagrant disregard for the law
8 and legal authority.

9 22. Bunch's substantial criminal history demonstrates a lack of good character and
10 integrity.

11 23. The matter was submitted for Commission consideration on October 14, 2014.

12 LEGAL CONCLUSIONS

13 24. Except for an applicant for licensing as a non-key Gaming Employee, the Tribal
14 Gaming Agency [Middletown Rancheria Tribal Gaming Regulatory Agency] shall require an
15 applicant to file an application with the Commission, prior to issuance of a temporary or
16 permanent tribal gaming license, for a determination of suitability for licensure under the
17 California Gambling Control Act. Tribal-State Compact between the State of California and the
18 Middletown Rancheria of Pomo Indians of California section 6.5.6.

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

22 26. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
23 and 19871 and Title 4, CCR section 12050(b)(2), the burden of proof rests with the applicant to
24 demonstrate why a license should be issued. Title 4, CCR section 12050(b)(3).

25 27. The burden of proving his or her qualifications to receive any license from the
26 Commission is on the applicant. Business and Professions Code section 19856(a).

27 28. An application to receive a license constitutes a request for a determination of the
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1 applicant's general character, integrity, and ability to participate in, engage in, or be associated
2 with, controlled gambling. Business and Professions Code section 19856(b).

3 29. In reviewing an application for any license, the Commission shall consider whether
4 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the
5 license will undermine public trust that the gambling operations with respect to which the license
6 would be issued are free from criminal and dishonest elements and would be conducted honestly.
7 Business and Professions Code section 19856(c).

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

12 31. An "unqualified person" means a person who is found to be unqualified pursuant to
13 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"
14 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
15 Professions Code section 19859. Business and Professions Code section 19823(b).

16 32. The Commission has the power to deny any application for a license, permit, or
17 approval for any cause deemed reasonable by the Commission. Business and Professions Code
18 section 19824(b).

19 33. No gambling license shall be issued unless, based on all of the information and
20 documents submitted, the commission is satisfied that the applicant is a person of good character,
21 honesty and integrity. Business and Professions Code section 19857(a).

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

2 35. 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 that is in all other
4 respects qualified to be licensed as provided in this chapter. Business and Professions Code
5 section 19857(c).

6 36. The commission shall deny a license to any applicant who is disqualified for
7 conviction of a felony. Business and Professions Code section 19859(c).

8 37. Bunch did not attend the Prehearing Conference or administrative hearing, or submit
9 any information or evidence in favor of granting his Application. As a result, Bunch did not meet
10 his burden of demonstrating why a finding of suitability should be issued pursuant to Business
11 and Professions Code section 19856(a) and Title 4, CCR section 12050(b)(3).

12 38. Bunch's criminal history demonstrates a lack of good character and integrity. As a
13 result, Bunch has failed to demonstrate that he is a person of good character, honesty and integrity
14 pursuant to Business and Professions Code section 19857(a). Therefore, Bunch is unqualified for
15 licensure pursuant to Business and Professions Code section 19857(a).

16 39. Bunch's criminal history demonstrates a pattern of prior activities that pose a threat to
17 the public interest of the State of California. As a result, Bunch has failed to demonstrate that he
18 is a person whose prior activities, criminal record, reputation and habits do not pose a threat to the
19 public interest of this state pursuant to Business and Professions Code section 19857(b).

20 Therefore, Bunch is unqualified for licensure pursuant to Business and Professions Code section
21 19857(b).

22 40. Bunch's criminal history includes three felony convictions. As a result, Bunch is
23 disqualified for licensure pursuant to Business and Professions Code section 19859(c).

24 41. Given that Bunch is disqualified for licensure pursuant to Business and Professions
25 Code section 19859(c) for having been convicted of three felonies, Bunch is not a person that is
26 in is all other respects qualified to be licensed pursuant to Business and Professions Code section
27 19857(c). Therefore, Bunch is unqualified for licensure pursuant to Business and Professions
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1 Code section 19857(c).

2 NOTICE OF APPLICANT'S APPEAL RIGHTS

3 Bunch has the following appeal rights available under state law:

4 Title 4, CCR section 12050, subsection (c)(6) provides, in part:

5 An applicant denied a license, permit, registration, or finding of suitability, or whose
6 license, permit, registration, or finding of suitability has had conditions imposed
7 upon it may request reconsideration by the Commission within 30 days of notice of
8 the decision. The request shall be in writing and shall outline the reasons for the
9 request, which must be based upon either newly discovered evidence or legal
10 authorities that could not reasonably have been presented before the Commission's
11 issuance of the decision or at the hearing on the matter, or upon other good cause for
12 which the Commission in its discretion decides merits reconsideration.

13 Business and Professions Code section 19870, subdivision (e) provides:

14 A decision of the commission denying a license or approval, or imposing any
15 condition or restriction on the grant of a license or approval may be reviewed by
16 petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of
17 the Code of Civil Procedure shall not apply to any judicial proceeding described in
18 the foregoing sentence, and the court may grant the petition only if the court finds
19 that the action of the commission was arbitrary and capricious, or that the action
20 exceeded the commission's jurisdiction.

21 Title 4, CCR section 12050, subsection (d) provides:

22 An appeal of a denial or imposition of conditions by the Commission shall be
23 subject to judicial review under Code of Civil Procedure section 1085 (pursuant to
24 Business and Professions Code section 19870, subdivision (e)). Neither the right to
25 petition for judicial review nor the time for filing the petition shall be affected by failure
26 to seek reconsideration.
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ORDER

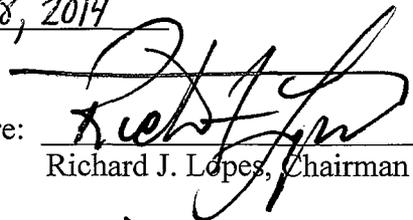
1
2 1. Russell Aaron Bunch's Application for Finding of Suitability Tribal Key Employee
3 is DENIED.

4 2. No costs are to be awarded.

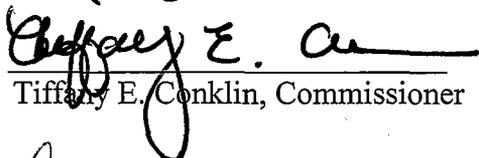
5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on December 8, 2014

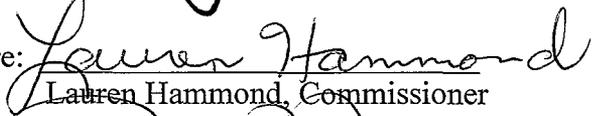
7 Dated: 11/6/2014

Signature: 
Richard J. Lopes, Chairman

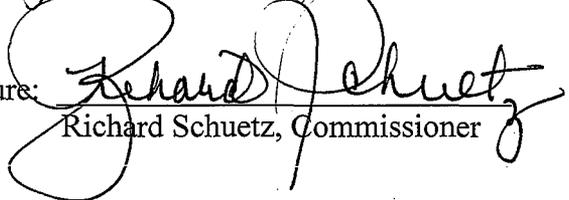
9 Dated: Nov. 6, 2014

Signature: 
Tiffany E. Conklin, Commissioner

11 Dated: Nov. 6, 2014

Signature: 
Lauren Hammond, Commissioner

13 Dated: Nov. 6, 2014

Signature: 
Richard Schuetz, Commissioner