

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

Wei Zu

Applicant.

BGC Case No. BGC-HQ2015-00021SL  
CGCC Case No. CGCC-2015-1022-9

**DECISION AND ORDER**

Hearing Date: June 13, 2016  
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, in Sacramento, California, on June 13, 2016.

Paras Modha, 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 (Complainant).

Applicant Wei Zu (Applicant) represented himself.

During the administrative hearing, Presiding Officer Russell Johnson, Attorney III with the Commission, took official notice of the Notice of Hearing and Prehearing Conference, with enclosures, sent by the Commission to Applicant and Complainant on February 1, 2016 which included Applicant's application and the Bureau's Investigation Report. Presiding Officer Johnson also took notice of Applicant's Notice of Defense and the Conclusion of Prehearing Conference Letter.

During the administrative hearing, Presiding Officer Johnson accepted into evidence the following exhibits offered by the Complainant:

- (1) Copies of the Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; Copy of Cal. Code. Regs., tit. 4, § 12060; and Certificate of Service by Certified Mail Service dated March 23, 2016, Bates Nos. 0001 - 0019;

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- (2) Notice of Defense dated November 8, 2015, Bates 0020 - 0021
- (3) Copies of the Notices from the Commission:
  - a. Commission letter dated April 7, 2016 re Conclusion of Prehearing Conference; Bates 0022 - 0025;
  - b. Commission letter dated March 18, 2016 re Changes of Presiding Officer Assignment, Bates 0026;
  - c. Commission letter dated February 1, 2016 re Notice of Hearing and Prehearing Conference, Bates 0027 – 0039;
  - d. Commission letter dated October 22, 2015 re Referral of Tribal Key Finding of Suitability to an Evidentiary Hearing, Bates 0040 – 0042; and
  - e. Commission letter dated October 9, 2015 re Notification of Scheduled Commission Meeting (TRKE-014957), Bates 0043.
- (4) Commission Meeting Memorandum dated October 22, 2015, Bates 0044 – 0045.
- (5) Renewal Application for Tribal Key Employee signed June 11, 2015, Bates 0046 – 0047.
- (6) California Department of Justice, Bureau of Gambling Control Tribal Key Employee Background Investigation Report, Level II, dated June 2015, Bates 0048 – 0054.
- (7) San Francisco County Superior Court Case No. 2338412 Documents:
  - a. Order for Dismissal dated March 19, 2015, Bates 0055 - 0057;
  - b. Domestic Violence Felony Complaint filed October 19, 2015, Bates 0058; and
  - c. Court Minutes re abstract of orders duly made in Case NO. 2338412 filed November 01, 2007, Bates 0059 – 0060.
- (8) San Francisco Police Department Incident Report dated October 16, 2007,

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Bates 0061 – 0069.

- (9) Eligibility Determination Notice of Results dated February 11, 2014, Bates 0070 – 0073.
- (10) Application for Finding of Suitability Tribal Key Employee dated September 19, 2013, Bates 0074 – 0082.
- (11) CADOJ Information re Fingerprint Submission dated April 8, 2014, Bates 0083 – 0084.

During the administrative hearing, Presiding Officer Johnson accepted into evidence the following exhibits offered by the Applicant:

- (a) Performance Appraisal Form from Graton Resort & Casino dated October 14, 2015, 6 pages.
- (b) Letters of Reference from:
  - a. Wei Lin (Applicant’s Wife), Dated May 9, 2016, 2 pages;
  - b. Kobee Lee, Dated April 1, 2016, 1 page;
  - c. Sally Soua Xiong (Co-worker), Dated May 11, 2016, 1 page;
  - d. Li Jun Yang (Co-worker), Dated May 9, 2016, 1 page;
  - e. Mary Phoong (Co-worker), Dated May 9, 2016, 1 page;
  - f. Alex Tan (Works under Applicant), Dated May 6, 2016, 1 page;
  - g. Jimmy Phui (Friend), Dated May 7, 2016, 1 page;
  - h. Yin Chen (Co-worker), Dated May 6, 2016, 1 page; and
  - i. Zhenghua Jin (Friend and former Co-worker), Dated May 14, 2016, 1 page.

The matter was submitted on June 13, 2016.

FINDINGS OF FACT

- 1. On or about August 20, 2015, Applicant submitted an Application for Finding of Suitability Tribal Key Employee to the Commission.
- 2. On or about October 9, 2015, the Commission sent notice to the Applicant that the

1 Commission was going to consider his application at its October 22, 2015 meeting.

2 3. At its October 22, 2015 meeting, the Commission voted to refer the consideration of  
3 Applicant's Application to an evidentiary hearing.

4 4. On or about November 12, 2015, Applicant submitted a Notice of Defense to the  
5 Commission requesting an evidentiary hearing and indicating he had an interpreter explain the  
6 form to him in Mandarin.

7 5. On or about February 1, 2016, the Commission served a Notice of Hearing and  
8 Prehearing Conference on Applicant and Complainant.

9 6. On or about April 7, 2016, the Complainant filed a Statement of Reasons with the  
10 Commission and served the Statement of Reasons on Applicant via certified mail. In its  
11 Statement of Reasons, the Complainant recommended the denial of Applicant's Application.

12 7. On or about March 18, 2016, the Commission notified the parties of a change in  
13 Presiding Officers for the hearing.

14 8. On or about April 5, 2016, the noticed Prehearing Conference was held before  
15 Presiding Officer Johnson. Paras Modha, Jr., Deputy Attorney General, attended on behalf of the  
16 Complainant. Applicant attended on his own behalf telephonically.

17 9. On or about April 7, 2016, the Commission served a Conclusion of Prehearing  
18 Conference letter on the parties.

19 10. The Commission heard Case No. CGCC-2015-1022-9 on June 13, 2016. The  
20 Complainant was represented throughout the hearing by Deputy Attorney General Paras Modha.  
21 Applicant represented himself throughout the hearing with the assistance of an interpreter. At the  
22 conclusion of the hearing, the record was closed and the parties notified that the Commission  
23 would issue a written decision within 75 days.

24 11. On October 16, 2007, Applicant was arrested by the San Francisco Police Department  
25 and charged with four felony counts of violating:

26 a. Penal Code § 273.5(a) (Domestic Violence);

27 b. Penal Code § 245(a)(1) (Assault with Force Likely to Cause Great Bodily  
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1 Injury);

2 c. Penal Code § 236 (False Imprisonment); and

3 d. Penal Code § 136.1(b)(1) (Dissuading a Witness from Reporting a Crime).

4 12. The police report indicated the victim from the October 16, 2007 incident was  
5 involved in a verbal argument with the Applicant which escalated to physical violence. The  
6 victim attempted to leave the apartment where she and the Applicant were at the time. She was  
7 pushed back into the apartment by the Applicant multiple times. The Applicant then pushed her  
8 against a wall and began hitting her. The victim also said Applicant elbowed her four times on  
9 the side of her head. The Applicant then began to scream to be let go and Applicant struck her  
10 with a closed right hand against her left eye. The victim indicated she was very afraid and  
11 Applicant then took both of his hands and wrapped them around her neck and began choking her.  
12 The victim thought Applicant was going to kill her. When the victim picked up her phone, the  
13 Applicant stated that “It’s okay, you can call the police, but I will kill you later.”

14 13. The Victim’s left eye was swollen shut and bruised as a result of the October 16, 2007  
15 incident.

16 14. Following the October 16, 2007 arrest, on or about November 1, 2007, Applicant  
17 plead guilty and was convicted of violating Penal Code § 242, simple battery, a misdemeanor.  
18 The four felony counts were dismissed.

19 15. A violation of Penal Code § 242, is a not a crime involving moral turpitude by the  
20 least adjudicated elements.

21 16. Applicant testified to the events that occurred on October 16, 2007 and admitted to  
22 many of the allegations in the police report including striking the victim with his closed fist.

23 17. Applicant’s conduct as indicated in the police report was severe and reflects poorly on  
24 his character and integrity.

25 18. Less than ten years have elapsed since Applicant’s conviction on November 1, 2007.

26 19. On or about March 10, 2015, Applicant received an order of dismissal of his  
27 conviction pursuant to Penal Code § 1203.4.

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1           20. No evidence was presented that Applicant has had any subsequent criminal  
2 convictions since November 1, 2007.

3           21. During the hearing, Applicant provided insufficient testimony and evidence to support  
4 his version of the alleged event(s) precipitating his arrest and subsequent criminal conviction;  
5 namely, that his victim initiated the fight, that it was not severe, that he did not choke the victim,  
6 and that he did not threaten the victim's life if she testified.

7           22. Witness Jimian Tien "Jimmy" testified on Applicant's behalf. Tien has known  
8 Applicant for four years. Tien believed Applicant to be a positive and friendly person who was  
9 consistently promoted. Tien thought of Applicant as a little brother and a good man. Tien  
10 believed Applicant had grown from a boy to a man over the time he knew him.

11           23. Applicant submitted nine letters of reference in support of his Application. The letters  
12 came from the following individuals:

- 13           a. Wei Lin (Applicant's Wife);
- 14           b. Kobe Lee;
- 15           c. Sally Soua Xiong (Co-worker);
- 16           d. Li Jun Yang (Co-worker);
- 17           e. Mary Phoong (Co-worker);
- 18           f. Alex Tan (Works under Applicant);
- 19           g. Jimmy Phui (Friend);
- 20           h. Yin Chen (Co-worker); and
- 21           i. Zhenghua Jin (Friend and former Co-worker).

22           24. The content of all nine letters is favorable toward Applicant's character and in support  
23 of his application. However, the letters do not mitigate the severity of Applicant's conduct on  
24 October 16, 2007.

25           25. There was no evidence presented of any disciplinary action or other issues related to  
26 Applicant's work history in the gambling industry beyond a reference in Exhibit A concerning a  
27 dispute with a host over job responsibilities.



1           32. At an evidentiary hearing pursuant to Business and Professions Code sections 19870  
2 and 19871 and CCR section 12060(b), the burden of proof rests with the applicant to prove his or  
3 her qualifications to receive any license under the Gambling Control Act. Business and  
4 Professions Code section 19856(a) & CCR section 12060(i).

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

9           34. An “unqualified person” means a person who is found to be unqualified pursuant to  
10 the criteria set forth in Section 19857. Business and Professions Code section 19823(b).

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

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

17           37. Applicant has failed to meet his burden of demonstrating that he is a person of good  
18 character and integrity. Therefore, Applicant is unqualified for the issuance of a finding of  
19 suitability pursuant to Business and Professions Code section 19857(a).

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NOTICE OF APPLICANT’S APPEAL RIGHTS

Applicant has the following appeal rights available under state law:

CCR section 12064, subsections (a) and (b) provide, in part:

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. The request 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 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 upon 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.

CCR section 12066, subsection (c) provides:

A decision of the Commission denying an application or imposing conditions on 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. Wei Zu's Application for Approval of Tribal Key Employee Finding of Suitability is DENIED.
- 2. No costs are to be awarded.
- 3. Each side to pay its own attorneys' fees.

This Order is effective on Sept 12, 2016.

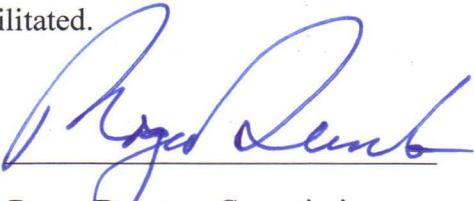
Dated: 8/11/16 Signature:   
 Jim Evans, Chairman

Dated: 8/11/2016 Signature:   
 Tiffany E. Conklin, Commissioner

Dated: 8/11/2016 Signature:   
 Lauren Hammond, Commissioner

I dissent from the majority decision and would find Wei Zu suitable. I join my fellow commissioners in condemning the acts of violence that Wei Zu pled guilty to. However, this is the only such incident in the record and it occurred almost 10 years ago. Wei Zu appeared honest and remorseful at the hearing. He also had a witness and several signed declarations which attested to his rehabilitated character.

Therefore, I believe Wei Zu is sufficiently rehabilitated.

Dated: 8/11/2016 Signature:   
 Roger Dunstan, Commissioner

1 I dissent from the majority decision and would find Wei Zu suitable. To be clear, I do not  
2 condone any domestic violence or violence in general including those acts to which Wei Zu pled  
3 guilty. However, I was unable to assess the credibility of the statements made in the police report  
4 that were attributed to his victim/ex-girlfriend and her friend. This leaves me somewhat uncertain  
5 as to what really happened in regards to the incident which led to Wei Zu's conviction.  
6 Furthermore, Wei Zu appeared honest and remorseful at the hearing in referring to the event. He  
7 also had a witness and several signed declarations which attested to his rehabilitated character.

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9 Therefore, as this was an isolated incident almost 10 years ago, I believe Wei Zu is sufficiently  
10 rehabilitated.

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12 Dated: 8/15/16

Signature: \_\_\_\_\_

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Trang To, Commissioner