

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

CGCC Case No. GCADS-TRKE-015150

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

**DEFAULT DECISION AND ORDER**

GARY LEE ROBINSON

Applicant.

Hearing Date: August 27, 2015  
Time: 1:30 pm

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, on Thursday, August 27, 2015.

2. Gary Lee Robinson (Applicant) failed to appear and was not represented at the hearing.

**FINDINGS OF FACT**

3. On or about April 1, 2014, the Commission received an Application for Finding of Suitability Tribal Key Employee from Applicant.

4. On or about January 14, 2015, the Bureau of Gambling Control (Bureau) issued its Tribal Key Employee Background Investigation Report in which it concluded that Applicant was unqualified for licensure pursuant to Business and Profession Code section 19857 and disqualified for licensure pursuant to Business and Profession Code section 19859. The Bureau recommended that the Commission deny Applicant's application.

5. On or about March 2, 2015, the Commission's Executive Director referred Applicant's application to an evidentiary hearing pursuant to Title 4, CCR section 12060, subdivision (a).

6. Applicant received notice of Commission consideration of Applicant's application in two ways. First, Commission staff mailed an evidentiary hearing referral letter via certified

1 mail to Applicant's address of record on March 2, 2015 which included a blank Notice of Defense  
2 form with instructions to return it to the Commission within 15 days of receipt or else the  
3 Commission may issue a default decision. A copy of the letter was mailed to Applicant's  
4 Designated Agent Crystal Sweeney. Commission staff received a signed Notice of Defense form  
5 from Applicant waiving Applicant's right to an evidentiary hearing. (Exhibit A)

6 7. Second, Applicant further received notice of the hearing through a hearing notice  
7 sent certified mail on May 14, 2015 to Applicant's address of record which included Exhibit A  
8 and stated that the hearing was set to occur on Thursday, August 27, 2015 at 1:30 p.m. A copy of  
9 the letter was mailed to Applicant's Designated Agent Crystal Sweeney. Commission staff  
10 received confirmation of receipt in return, signed by Elizabeth Marlcue [sic].

#### 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. (i).)

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

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

24 \* \* \*

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

27 \* \* \*

28 (F) The waiver of an evidentiary hearing, or failure of

1 the applicant to submit a Notice of Defense, or failure of an  
2 applicant to appear at an evidentiary hearing, may result in:

3 1. A default decision being issued by the  
4 Commission based upon the Bureau report, any  
5 supplemental reports by the Bureau and any other  
6 documents or testimony already provided or which might  
7 be provided to the Commission . . . .

8 12. The Commission takes official notice of the Bureau report, any supplemental  
9 reports by the Bureau and any other documents or testimony already provided to it in this matter  
10 as required by Business and Professions Code section 19870, subdivision (a) and Title 4, CCR  
11 section 12052, subdivision (c)(2)(F)(1).

12 13. The Commission has jurisdiction to adjudicate this case by default.

13 14. The Commission may deny Applicant's application based upon the Bureau report,  
14 any supplemental reports by the Bureau and any other documents or testimony already provided  
15 to it, pursuant to CCR section 12052, subdivision (c)(2)(F)(1), and Business and Professions  
16 Code sections 19857 and 19859.

17 15. The Commission may further also deny Applicant's application based upon  
18 Applicant's failure to prove to the Commission Applicant is qualified to receive a license or  
19 other approval, as required by Business and Profession Code section 19856(a) and Title 4, CCR  
20 section 12060, subdivision (i).

21 16. Therefore, as the Applicant returned a Notice of Defense form waiving his right to  
22 a hearing, did not attend the default hearing, and did not submit any information or evidence in  
23 favor of granting Applicant's Application, Applicant did not meet Applicant's burden of  
24 demonstrating why a finding of suitability should be issued pursuant to Business and Professions  
25 Code section 19856(a) and Title 4, CCR section 12060(i). The Commission further finds that  
26 pursuant to California Code of Regulations, Title 4, section 12052, subdivision (c)(2)(F)(1),  
27 Applicant's Application is subject to denial.

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1 NOTICE OF APPLICANT'S APPEAL RIGHTS

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

3 Title 4, CCR section 12064, subsection (a) and (b) provide, in part:

4 (a) After the Commission issues a decision following a GCA hearing conducted  
5 pursuant to Section 12060, an applicant denied a license, permit, registration, or  
6 finding of suitability, or whose license, permit, registration, or finding of  
7 suitability has had conditions, restrictions, or limitations imposed upon it, may  
8 request reconsideration by the Commission within 30 calendar days of service of  
9 the decision, or before the effective date specified in the decision, whichever is  
10 later.

11 (b) A request for reconsideration shall be made in writing to the Commission,  
12 copied to the Bureau, and shall state the reasons for the request, which must be  
13 based upon either:

- 14 (1) Newly discovered evidence or legal authorities that could not  
15 reasonably have been presented before the Commission's issuance of the  
16 decision or at the hearing on the matter; or,  
17 (2) Other good cause which the Commission may decide, in its sole  
18 discretion, merits reconsideration.

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

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

27 Title 4, CCR section 12066, subsection (c) provides:

28 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  
2 1. Gary Lee Robinson's Application for Approval of Initial Tribal-State Compact  
3 Key Employee Finding of Suitability is DENIED.

4 2. Gary Lee Robinson may not apply to the Commission or the Bureau for any type  
5 of license, registration or work permit for one (1) year after the effective date of this Order.

6  
7 This Order is effective on 9/28/15.

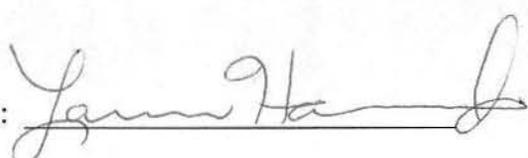
8  
9 Dated: 8.27.15

Signature:   
10 Jim Evans, Chairman

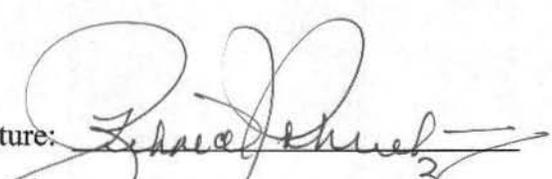
11  
12  
13 Dated: \_\_\_\_\_

Signature: \_\_\_\_\_  
14 Tiffany E. Conklin, Commissioner

15  
16  
17 Dated: 8-27-15

Signature:   
18 Lauren Hammond, Commissioner

19  
20  
21 Dated: Aug. 27, 2015

Signature:   
22 Richard Schuetz, Commissioner

Received by Licensing

APR 30 2015

CGCC



State of California  
 California Gambling Control Commission  
 2399 Gateway Oaks Drive, Suite 220  
 Sacramento, CA 95833-4231  
 (916) 263-0700; Fax: (916) 263-0452  
 www.cgcc.ca.gov

**NOTICE OF DEFENSE**  
 CGCC - ND - 002 (New 01/14)

In the Matter of:

CGCC No. \_\_\_\_\_

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issued by the Commission. The Notice of Defense is due:

- Within 15 calendar days of receipt, if provided by Commission staff or the Bureau; or,
- Within 15 calendar days of the date of service, if provided with the Notice of Hearing.

(Please select one of the following:)

A	<input type="checkbox"/>	I acknowledge and accept that the conditions, limitations and restrictions attached to the notice will be placed on my license, registration, finding of suitability or other approval, and waive my right to an evidentiary hearing. (See Box 2)	
1	B	<input checked="" type="checkbox"/>	I waive my right to an evidentiary hearing. (See Box 2)
C	<input type="checkbox"/>	I request an evidentiary hearing where the Commission will consider the merits of my application and any recommendation of the Bureau.	

The waiver of my right to an evidentiary hearing includes a waiver of the following associated rights:

- The right to be heard at the hearing
- The right to a copy of the hearing's governing procedure
- The right to discovery
- The right to present oral evidence
- The right to present and examine witnesses
- The right to introduce relevant exhibits
- The right to cross-examine opposing witnesses
- The right to impeach witnesses
- The right to offer rebuttal evidence
- The right to challenge evidence used against me
- The right to request reconsideration following the decision's issuance
- The right to petition for review of the decision under Section 1085 of the Code of Civil Procedure

The waiver of an evidentiary hearing may result in a default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which may be provided to the Commission, or that the hearing may continue to occur on the originally noticed date without applicant participation.

3	<input checked="" type="checkbox"/>	I understand English or have had an interpreter read and explain this form to me in _____
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NOTICE OF DEFENSE

(Please select one of the following:)	
A	<input type="checkbox"/> I am represented by counsel, whose name, address and telephone number appear below:
	Name:
	Mailing Address:
	City, State and Zip Code:
	Telephone Number:
B	<input checked="" type="checkbox"/> I am not represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be provided to the Commission and the Bureau so that counsel will be on the record to receive legal notices, pleadings, and other papers.

Signature: Ray Roberson

Date: 4-28-15

Relationship to Gambling Enterprise: \_\_\_\_\_ (N/A if Individual signing on own behalf)