

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

Il Koo Lee

Applicant.

BGC Case No. BGC-HQ2016-00010SL  
CGCC Case No. CGCC-2016-1006-9A

**DECISION AND ORDER**

Hearing Date: March 8, 2017  
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 March 8, 2017.

Ronald Diedrich, Deputy Attorney General, State of California, represented Wayne J. Quint, Jr., Chief of the Bureau of Gambling Control, Department of Justice, State of California (Complainant).

Respondent Il Koo Lee (Applicant) appeared on his own behalf.

Applicant had the assistance of an interpreter, Kim Lee, during the hearing who translated to Korean.

During the administrative hearing, Presiding Officer Russel Johnson took official notice of the Notice of Hearing, with enclosures, sent by the Commission to Applicant and Complainant, on December 1, 2016; the Conclusion of Prehearing conference letter set out February 2, 2017; the Bureau Statement of Reasons; and Applicant's signed Notice of Defense.

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

- (1) Statement of Reasons; Statement to Respondent; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code. Regs., tit 4, § 12060; October 27, 2016, Certificate of Service by Certified Mail Service; and Notice of Defense, dated August 3, 2016, Bates Nos. Complainant 001-023;

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- (2) California Gambling Control Commission Notices and Memorandum:
  - a. September 12, 2016, Commission’s Licensing Division’s Memorandum regarding Il Koo Lee for the October 6, 2016 meeting. Bates Nos. Complainant 024-025;
  - b. October 7, 2016, letter, sans enclosure, from Lisa Rowell, the Commission’s Licensing Division Manager to Mr. Lee notifying him of the Commission’s referral of consideration of his application for a Finding of Suitability to an evidentiary hearing. Bates Nos. Complainant 026-028;
  - c. The December 1, 2016, Notice of Hearing and Prehearing Conference, with redacted copies of Attachments A & B, and Proof of Service. Bates Nos. Complainant 029-037;
  - d. February 2, 2017, Conclusion of Prehearing Conference. Bates Nos. Complainant 038-043;
- (3) Redacted copies of Mr. Lee’s Application for Finding of Suitability Tribal Key Employee, dated December 28, 2015; and Tribal Key Employee Supplemental Background Investigative Information, dated December 29, 2015, which were received by the Bureau on January 12, 2016. Bates Nos. Complainant 044-052;
- (4) A redacted copy of the Bureau’s July 2016 Tribal Key Employee Background Investigation Report regarding Mr. Lee. Bates Nos. 053-056;
- (5) Redacted copies of documents received from the Habematolel Pomo Upper Lake Gaming Commission:
  - a. January 8, 2016, Determination of Suitability, Notification of Results to BGC. Bates Nos. Complainant 057;
  - b. Investigation Report, dated December 23, 2015, 2015, with attached copy of Mr. Lee’s California Driver License. Bates Nos. Complainant

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058-060;

- c. Mr. Lee’s tribal gaming license. Bates Nos. Complainant 061;
- d. January 8, 2016, letter to the Commission from Kathleen Treppa, Secretary, Habematolel Tribal Gaming Commission. Bates Nos. Complainant 062;

- (6) Redacted copies of criminal history and residency records:
  - a. February 17, 2016, Department of Justice Criminal History Information. Bates Nos. Complainant 063-064;
  - b. April 21, 2016, Department of Homeland Security unclassified records, with attachments. Bates Nos. Complainant 065-067;

(7) Certified copies of the Los Angeles County Superior Court records for the Mar 23, 2013, conviction in the case of *People of the State of California v. Il Koo Lee* (Super. Ct. L.A. County, 2013, No. 3MP04160). Bates Nos. Complainant 068-082; and

(8) Certified copies of the Los Angeles County Municipal [Superior] Court records for the January 21, 1998, conviction in the case of *People of the State of California v. Il Koo Lee* (Super. Ct. L.A. County, 1998, NO. 3MT13704) Bates Nos. 083-098.

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

- (A) Habematolel Pomo of Upperlake Gaming License Application for Running Creek Casino Employees for Applicant.

The matter was submitted on March 8, 2017.

FINDINGS OF FACT

1. On or about January 12, 2016, Applicant submitted an Application for Finding of Suitability Tribal Key Employee, dated December 28, 2015, and a Tribal Key Employee Supplemental Background Investigation Information for a key employee position at the Running

1 Creek Casino, which is owned and operated by the Habematolel Pomo of Upper Lake.

2 2. On or about July 20, 2016, the Complainant issued its Bureau Report containing a  
3 recommendation that Applicant's application be approved.

4 3. At its October 6, 2016 meeting, the Commission voted to refer consideration of  
5 Applicant's Application to a Gambling Control Act (GCA) evidentiary hearing.

6 4. On or about October 7, the Commission sent a letter, via certified mail, to Applicant  
7 informing him that the Commission referred consideration of his Application to a GCA  
8 evidentiary hearing.

9 5. On or about October 13, 2016, Applicant signed a Notice of Defense and subsequently  
10 sent it to the Commission and Bureau requesting an evidentiary hearing on the consideration of  
11 his Application.

12 6. On or about December 1, 2016, the Commission served a Notice of Hearing on  
13 Applicant and Complainant.

14 7. On or about December 8, 2016, the Bureau filed a Statement of Reasons with the  
15 Commission and served the Statement of Reasons on Applicant via certified mail. In its Statement  
16 of Reasons, the Bureau altered its recommendation of approval of Applicant's Application  
17 contained in the Bureau Report to denial.

18 8. On February 1, 2017, the noticed Prehearing Conference was held before Presiding  
19 Officer Johnson. Ronald Diedrich, Deputy Attorney General, attended on behalf of the  
20 Complainant. Applicant attended on his own behalf.

21 9. On or about February 2, 2017, the Commission served a Conclusion of Prehearing  
22 Conference letter on Applicant and Complainant.

23 10. The Commission heard Case No. CGCC-2016-1006-9A on March 8, 2017 at 10:00  
24 a.m. The Complainant was represented throughout the hearing by Deputy Attorney General  
25 Ronald Diedrich. Applicant represented himself throughout the hearing with the assistance of an  
26 interpreter.

27 11. On or about January 21, 1998, Applicant was convicted by the Los Angeles Superior  
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1 Court of violating Vehicle Code section 23152(b), driving under the influence of alcohol/.08  
2 percent (DUI), a misdemeanor.

3 12. On or about May 23, 2013, Applicant was convicted by the Los Angeles County  
4 Municipal [Superior] Court Vehicle Code section 23152(b), driving under the influence of  
5 alcohol/.08 percent (DUI), a misdemeanor.

6 13. On Applicant's Tribal Key Employee Supplemental Background Investigation  
7 Information form submitted to Complainant, Section 9 entitled Criminal History Information asks  
8 in pertinent part "HAVE YOU EVER BEEN CONVICTED OF A CRIME, PLED GUILTY OR  
9 PLEA OF NOLO CONTEDERE (NO CONTEST) TO A CRIME?" Applicant checked the box  
10 marked "No."

11 14. Applicant's January 21, 1999 and May 23, 2013 DUI convictions are misdemeanor  
12 crimes. As a result, Applicant should have checked the box marked "Yes" to Section 9 of the  
13 Tribal Key Employee Supplemental Background Investigation Information form and explained  
14 the convictions in the succeeding boxes.

15 15. On or about December 17, 2015, Applicant also submitted a Habematolel Pomo of  
16 Upperlake Gaming License Application for Running Creek Casino Employees to the Habematolel  
17 Pomo of Upper Lake Gaming Commission. On pg. 8 of that application, Section Six, Subdivision  
18 B, Applicant was asked:

19 For each Misdemeanor, conviction or ongoing Misdemeanor prosecution or plea of guilty  
20 or no contest (excluding minor traffic violations), state the name and address of the court  
21 involved and the date and disposition if any:

22 Applicant disclosed and explained the May 23, 2013 Los Angeles County Municipal [Superior]  
23 Court DUI conviction with an additional notation that "Probation ends 4/2016."

24 16. Though the form does not indicate a ten year limitation for disclosure, Carmen Snow,  
25 a Commissioner for the Habematolel Pomo of Upper Lake Gaming Commission testified that the  
26 preceding ten years is all her gaming commission is concerned with. Commissioner Snow  
27 indicated that she believed the form only required disclosure of ten years of criminal history  
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1 information.

2 17. Applicant testified that he did not read through the Complainant's Supplemental  
3 Background Investigation Information form carefully. He indicated it was a mistake that he did  
4 not mark the Section 9 box "Yes." He also testified that if he had wanted to hide the conviction,  
5 he would not have marked it on the tribal application either.

6 18. Commissioner Snow also testified that Running Creek Casino had never had any  
7 problems with Applicant including any issues of theft or shortages and that she had no concerns  
8 with Applicant's honesty.

9 19. There was no evidence offered that Applicant had any employment issues or  
10 disciplinary action related to his work in controlled gambling.

11 20. Based upon Applicant's completion of the Tribal Key employee application and  
12 Commissioner Snow's understanding of the Tribal form's requirements for 10 years of disclosure,  
13 Applicant did not appear to have any intent to deceive the Complainant and the Commission  
14 when he marked "No" on the Tribal Key Employee Supplemental Background Investigation  
15 information form Section 9. This mistake, though serious, does not indicate a material failure to  
16 disclose information to the Complainant.

17 21. Therefore, as there was evidence offered that Applicant had no issues of theft, loss,  
18 shortages, or employment disciplinary issues, and Commissioner Snow had no concerns with his  
19 honesty, Applicant has met his burden of demonstrating that he is a person of good character,  
20 honesty, and integrity and a person whose prior activities, criminal record, reputation, habits and  
21 associations do not pose a threat to the public interest of the State of California or to the effective  
22 regulation and control of controlled gambling.

23 22. All documentary and testimonial evidence submitted by the parties that is not  
24 specifically addressed in this Decision and Order was considered but not used by the Commission  
25 in making its determination on Applicant's Application.

26 23. The matter was submitted for Commission consideration on March 8, 2017.

27 **LEGAL CONCLUSIONS**

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

4           25. Public trust and confidence can only be maintained by strict and comprehensive  
5 regulation of all persons, locations, practices, associations, and activities related to the operation  
6 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
7 equipment. Business and Professions Code section 19801(h).

8           26. 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           27. An “unqualified person” means a person who is found to be unqualified pursuant to  
13 the criteria set forth in Section 19857. Business and Professions Code section 19823(b).

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

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

19           30. An application to receive a license constitutes a request for a determination of the  
20 applicant’s general character, integrity, and ability to participate in, engage in, or be associated  
21 with, controlled gambling. Business and Professions Code section 19856(b).

22           31. In reviewing an application for any license, the commission shall consider whether  
23 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the  
24 license will undermine public trust that the gambling operations with respect to which the license  
25 would be issued are free from criminal and dishonest elements and would be conducted honestly.  
26 Business and Professions Code section 19856(c).

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

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

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

13 35. No gambling license shall be issued unless, based on all of the information and  
14 documents submitted, the commission is satisfied that the applicant is a person that is in all other  
15 respects qualified to be licensed as provided in this chapter. Business and Professions Code  
16 section 19857(c).

17 36. Applicant has met his burden of demonstrating that he is qualified for the issuance of a  
18 Tribal-State Key Employee Finding of Suitability.

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ORDER

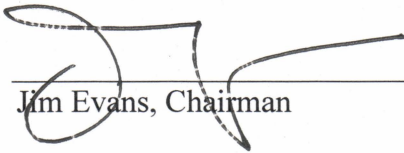
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2 1. Il Koo Lee's Application for Tribal-State Key Employee Finding of Suitability is  
3 APPROVED.

4 2. No costs are to be awarded.

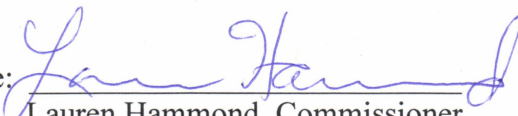
5 3. Each side to pay its own attorneys' fees.

6 This Order is effective on April 6, 2017.

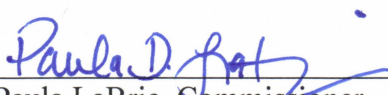
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8 Dated: 4/6/17

9 Signature:   
Jim Evans, Chairman

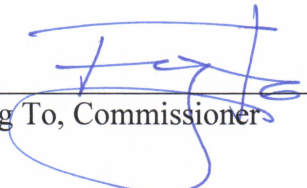
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12 Signature:   
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Paula LaBrie, Commissioner

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