

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for a Finding of Suitability, Tribal Key Employee Regarding:

HUE VANG

Respondent.

BGC Case No. BGC-HQ2016-0009SL
CGCC Case No. CGCC-2016-1006-9B

DECISION AND ORDER

Hearing Date: April 25, 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 Title 4, California Code of Regulations (CCR) section 12060(b), in Sacramento, California, on April 25, 2017.

Ronald Diedrich, 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.

Hue Vang (Respondent) represented himself at the hearing.

Bonnie Vang of Carmazzi Global Solutions (no relation to Respondent) was retained by the Commission and present at the hearing to serve as a Hmong interpreter for Respondent.

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

- (a) Notice of Hearing and Prehearing Conference with enclosures;
- (b) Application for Finding of Suitability signed by Respondent;
- (c) Tribal Key Employee Background Investigation Report dated July 2016;
- (d) Statement of Reasons by the Bureau;
- (e) Notice of Defense signed by Respondent;
- (f) Letter at Conclusion of Prehearing Conference;

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (1) Statement of Reasons and Statement to Applicant, filed and served by the Bureau, Bates Nos. 001-027;
- (2) Notices from the Commission: (a) September 23, 2016, Notification of Scheduled Commission Meeting, Bates Nos. 028; (b) Licensing Division Memorandum, prepared September 12, 2016 for the October 6, 2016 Commission meeting, Bates Nos. 029-030; (c) October 7, 2016 letter from the Commission's Licensing Division Manager to Respondent notifying him of the Commission's referral of consideration of his application for a Finding of Suitability to an evidentiary hearing, Bates Nos. 031-033; (d) December 8, 2016 Notice of Hearing with redacted Attachments A & B, Bates Nos. 034-045; (e) March 23, 2017, Conclusion of Prehearing Conference, Bates Nos. 046-049.
- (3) Redacted copies of Respondent's Application for Finding of Suitability Tribal Key Employee, and Tribal Key Employee Supplemental Background Investigative Information, both dated December 23, 2015, Bates Nos. 050-058;
- (4) Redacted copy of Respondent's State Gaming Agency, Tribal Key Employee Supplemental Background Investigation Information, dated October 16, 2006, Bates Nos. 059-072;
- (5) A redacted copy of the Bureau's July 2016 Tribal Key Employee Background Investigation Report regarding Respondent, Bates Nos. 073-081;
- (6) Redacted copies of documents received from the Picayune Rancheria of Chukchansi Indians Tribal Gaming Commission: (a) December 22, 2015 Determination of Suitability, Notification of Results to NIGC, Bates No. 082; (b) Tribal Gaming Agency: Tribal Key Employee Background Investigation Checklist, Bates No. 083; (c) Respondent's application to the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- Picayune Rancheria of Chukchansi Indians Tribal Gaming Commission for a license as a key employee, December 18, 2015, Bates No. 084-093;
- (7) Certified and redacted records related to Respondent’s August 24, 1999, felony conviction in the case of *People of the State of California v. Hue Vang*, (Super. Ct. Merced County, 1999, No. 23707)(“*People v. Vang*”): (a) Merced Police Department Case Report and Merced County Sheriff’s Department Booking Sheet, Bates Nos. 094-105; (b) Criminal Complaint, filed May 19, 1999, Bates Nos. 106-108; (c) Information, filed July 15, 1999, Bates Nos. 109-112; (d) Transcript of July 1, 1999, Preliminary Examination, Bates Nos. 113-137; (e) Transcript of August 24, 1999, Change of Plea, Bates Nos. 138-151; (f) August 24, 1999, Minute Order reflecting conviction, Bates Nos. 152-153; (g) September 28, 1999 Minute Order re Commitment to County Jail and Order Granting Probation, Bates Nos. 154-156; (h) Order of Probation, filed September 28, 1999, Bates Nos. 157-167; (i) November 12, 2002 Minute Order and November 21, 2002 Order, denying Respondent’s petition to reduce his felony conviction to a misdemeanor and granting his petition to set aside his conviction pursuant to Penal Code section 1203.4, Bates Nos. 168-172; (j) Petition pursuant to PC 17B, filed December 11, 2003; January 5, 2004, Minute Order, and January 15, 2004, Order granting Respondent’s petition to have his felony conviction deemed a misdemeanor, Bates Nos. 173-181; (k) Petition for Dismissal and Amended Petition for Dismissal filed on May 23, 2013 by Respondent, Bates Nos. 182-185;
- (8) Redacted copy of Department of Justice Criminal History Information, dated March 18, 2016, Bates Nos. 186-187;
- (9) Redacted copy of Department of Homeland Security Information dated March 30, 2016, Bates Nos. 188-189.

1 Supplemental Background Investigation Information form in October 2006. Respondent disclosed
2 his conviction on the form. Respondent was granted a license by the Tribal Gaming Agency.

3 6. Respondent worked at the Casino as a Dealer from December 2006 to October 2014.
4 The Bureau did not conduct a background investigation during this time period because
5 Respondent did not hold a key employee position.

6 7. In December 2015 Respondent began working at the Casino as a Dual Rate Floor
7 Supervisor, a key employee position, causing Respondent to submit a Finding of Suitability
8 Application to the Commission.

9 8. On or about February 16, 2016, the Bureau received Respondent's initial Application
10 for Finding of Suitability, Tribal Key Employee. Respondent did not disclose the conviction on
11 the Supplemental Background Investigation Information form.

12 9. On May 2, 2016 Respondent replied to an inquiry from the Bureau regarding his
13 undisclosed conviction. In the response, Respondent described the circumstances surrounding his
14 conviction, including that he was in an altercation in a pool hall, and stated that he may have
15 misread or misinterpreted the question on the application.

16 10. In July 2016, the Bureau issued a Tribal Key Employee Background Investigation
17 Report, Level II, recommending that the Commission approve Respondent's application for
18 Finding of Suitability as a key employee.

19 11. At its October 6, 2016 hearing, the Commission referred Respondent's application to
20 an evidentiary hearing.

21 12. On or about October 17, 2016, the Commission received Respondent's signed Notice
22 of Defense form confirming his request for an evidentiary hearing and requesting a Hmong
23 interpreter.

24 13. On or about December 2, 2016, the Bureau filed a Statement of Reasons with a
25 revised recommendation that the Commission deny Respondent's application.

26 14. The Commission heard Case No. CGCC-2016-1006-9B on April 25, 2017. The
27 Bureau was represented throughout the pendency of the hearing by Deputy Attorney General
28

1 Ronald Diedrich. Respondent represented himself at the hearing.

2 15. At the Commission hearing, Respondent testified that the conviction stemmed from a
3 fight in a pool hall. Respondent testified that he punched someone twice in self-defense after
4 being choked from behind. Respondent denied that he hit anyone with a pool stick during the
5 altercation.

6 16. Respondent's testimony regarding the pool hall fight was consistent with an earlier
7 written statement that Respondent provided to the Bureau about the incident and his statements
8 contained in the Merced Police Department Case Report. While Respondent's testimony
9 regarding the pool hall fight was inconsistent with the elements of the crime that he plead no
10 contest to, the Commission found his testimony credible and not dishonest.

11 17. Respondent's Conviction was serious, but it occurred 18 years ago and Respondent
12 testified that he has not been arrested or convicted of any crimes since the 1999 conviction.

13 18. Respondent testified that he previously disclosed the conviction to the Tribal Gaming
14 Agency in 2006, but when he filled out the Commission application in 2016, Respondent did not
15 disclose the conviction because he believed it had "fallen off" and was dismissed.

16 19. Respondent testified that his misunderstanding regarding the need to disclose his
17 1999 conviction was caused in part due to his confusion regarding the chain of events in the
18 judicial system. Respondent also testified that in 2006 his wife¹, Mai Li, helped him fill out the
19 application, but he did not have assistance filling out the 2016 application.

20 20. Respondent's wife, Mai Li, testified that she found the application confusing when
21 she assisted Respondent with filling it out in 2006 due to the circumstances of Respondent's
22 conviction being dismissed before it was reduced to a misdemeanor.

23 21. Respondent has worked in the gaming industry since 2006 without any
24 disciplinary issues.

25 22. Respondent admitted a letter of reference from the Assistant Operations Manager at
26 the Casino stating that Respondent has no disciplinary actions in his work history and is a

27 ¹ Mai Li testified that she was Respondent's common law wife. Respondent also referred
28 to Mail Li as his wife during portions of his testimony.

1 dedicated, punctual, and reliable employee with a good attitude and integrity.

2 23. The Commission finds that Respondent's failure to disclose his Conviction was not
3 intentional. Respondent disclosed the conviction to the Tribal Gaming Agency in 2006, which
4 indicates that he did not omit the information from his application with the intent to deceive the
5 Bureau.

6 24. Respondent demonstrated that he is a person of good character, honesty, and integrity.

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

10 26. The matter was submitted for Commission consideration on April 25, 2017.

11 LEGAL CONCLUSIONS

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

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

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

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

26 5. In reviewing an application for any license, the Commission shall consider whether
27 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the
28

1 license will undermine public trust that the gambling operations with respect to which the license
2 would be issued are free from criminal and dishonest elements and would be conducted honestly.
3 Business and Professions Code section 19856(c).

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

8 7. An “unqualified person” means a person who is found to be unqualified pursuant to
9 the criteria set forth in Business and Professions Code section 19857, and “disqualified person”
10 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
11 Professions Code section 19859. Business and Professions Code section 19823(b).

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

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

18 10. An application for a Key Employee License shall be denied by the Commission if the
19 applicant is found unqualified pursuant to the criteria set forth in subdivisions (a) or (b) of
20 Business and Professions Code section 19857.

21 11. Respondent met his burden of demonstrating that he is a person of good character,
22 honesty, and integrity. Therefore, Respondent is qualified for the issuance of a Key Employee
23 License pursuant to Business and Professions Code section 19857(a).

24 NOTICE OF APPLICANT’S APPEAL RIGHTS

25 Respondent Hue Vang has the following appeal rights available under state law:

26 Title 4, CCR section 12064, subsections (a) and (b) provide, in part:

27 An applicant denied a license, permit, registration, or finding of suitability, or whose
28 license, permit, registration, or finding of suitability has had conditions, restrictions,

1 or limitations imposed upon it, may request reconsideration by the Commission
2 within 30 calendar days of service of the decision, or before the effective date
3 specified in the decision, whichever is later. The request shall be made in writing to
4 the Commission, copied to the Bureau, and shall state the reasons for the request,
5 which must be based upon either newly discovered evidence or legal authorities that
6 could not reasonably have been presented before the Commission's issuance of the
7 decision or at the hearing on the matter, or upon other good cause which the
8 Commission may decide, in its sole discretion, merits reconsideration.

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

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

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

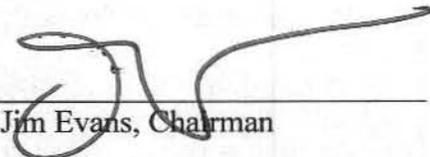
18 A decision of the Commission denying an application or imposing conditions on license
19 shall be subject to judicial review as provided in Business and Professions Code section
20 19870, subdivision (e). Neither the right to petition for judicial review nor the time for
21 filing the petition shall be affected by failure to seek reconsideration.
22
23
24
25
26
27
28

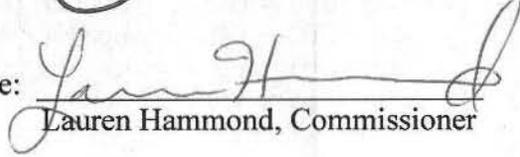
ORDER

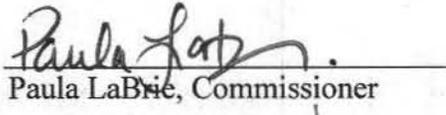
1
2 1. Hue Vang's Application for a Finding of Suitability, Tribal Key Employee is
3 GRANTED.

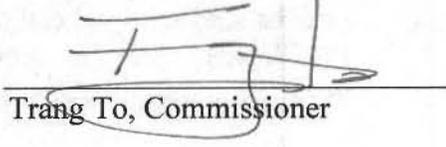
4 2. Each side to pay its own attorneys' fees.

5 This Order is effective on May 11, 2017.

6 Dated: May 11, 2017 Signature: 
7 Jim Evans, Chairman

8 Dated: May 11, 2017 Signature: 
9 Lauren Hammond, Commissioner

10 Dated: May 11, 2017 Signature: 
11 Paula LaBrie, Commissioner

12 Dated: MAY 11, 2017 Signature: 
13 Trang To, Commissioner

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28