

BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

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

CHARLES BAIN

Respondent.

BGC Case No. BGC-HQ2017-00013SL  
CGCC Case No. CGCC-2017-0828-14D2

**DECISION AND ORDER**

Hearing Date: March 13, 2018  
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 13, 2018.

William Williams (Williams), Deputy Attorney General, State of California, represented complainant Stephanie Shimazu, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Charles Bain (Respondent) represented himself at the hearing.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing and attachments, the signed Notice of Defense, and the Conclusion of Prehearing conference letter.

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

(1) Correspondence dated January 5, 2018 re: Application for Approval of Tribal Key Employee Finding of Suitability; Statement to Respondent; Statement of Reasons; Correspondence dated December 6, 2017 re: Notice of Hearing and Prehearing Conference and attachments, Bates Nos. 0001 – 0026;

(2) Shingle Springs Tribal Gaming Commission’s Letter dated October 2, 2013 to Charles Bain re: Notice of Gaming License Denial / Revocation, Bates Nos. 0027 – 0030;

(3) Notice of Defense dated September 5, 2017, Bates Nos. 0031 – 0032;

1 (4) California Gambling Control Commission Letter dated August 30, 2017 re: Referral of  
2 Initial Tribal Key Employee Finding of Suitability to an Evidentiary Hearing, Bates Nos. 0033 –  
3 0034;

4 (5) California Gambling Control Commission, Licensing Division Memorandum,  
5 Commission Meeting dated August 28, 2017, Bates Nos. 0035 – 0036;

6 (6) California Gambling Control Commission Letter dated August 16, 2017 re:  
7 Notification of Scheduled Commission Meeting, Bates Nos. 0037;

8 (7) Bureau of Gambling Control Tribal Key Employee Background Investigation Report –  
9 Level II, dated June 6, 2017, Bates Nos. 0038-0053; Federated Indians of Graton Rancheria  
10 Eligibility Determination Notice of Results, Bates Nos. 0054 – 0060;

11 (8) Application for Finding of Suitability Tribal Key Employee dated February 15, 2017,  
12 Bates Nos. 0061 – 0063;

13 (9) Email Correspondence between the Bureau of Gambling Control and Shingle Springs  
14 Tribal Gaming Commission Background Investigator, Bates Nos. 0064 – 0071;

15 (10) Application for Finding of Suitability Tribal Key Employee dated February 18, 2016  
16 Bates Nos. 0072 – 0080;

17 (11) Equifax Credit Reports dated August 15, 2016, Bates Nos. 0081 – 0093;

18 (12) United States Bankruptcy Court Case No. 11-36508 Summary of Schedules  
19 (Creditors Holding Secured Claims) dated July 5, 2011, Bates Nos. 0094 – 0113;

20 (13) January 31, 2018 Letter to Respondent from Office of the Attorney General,  
21 Department of Justice re: Second Supplemental Disclosure with attached Red Hawk Casino  
22 documents including policy and job description information; payroll action notices; Team  
23 Member Coaching/Counseling/ Discipline notices, miscellaneous emails and audio disk of phone  
24 interview with Susan Yashenko on January 23, 2018; and audio disk of phone interview with  
25 Jolyn Barreuther on January 23, 2018, Bates Nos. 0114 – 0133;

26 (14) February 7, 2018 Letter to Respondent from the Office of the Attorney General,  
27 Department of Justice re: Third Supplemental Disclosure with attached audio disk of phone  
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1 interview with Fred Moore and Bureau of Gambling Control Investigative Report dated January  
2 30, 2018 with attachments, Bates Nos. 0134 – 0185;

3 (15) December and October 2017 Email correspondence between Melissa Avent,  
4 Manager, Department of Justice, and Michael McConnell, Background and Licensing Manager,  
5 Shingle Springs Gaming Commission;

6 (16) Informal transcription of Brian Fichtner’s January 24, 2018 interview with Jolyn  
7 Barreuther.

8 During the evidentiary hearing, Presiding Officer Jason Pope accepted into evidence the  
9 following exhibits offered by Respondent:

- 10 A) Letter of reference by Brian Rodgers, Bates Nos. 000002;
- 11 B) Letter of reference by Robin Waters, Bates Nos. 000003;
- 12 C) Letter of reference by Chelsea Lawrence, Bates Nos. 000004;
- 13 D) Letter of reference by Eva McCurry, Bates Nos. 000005;
- 14 E) Letter of reference by Chris Mouton, Bates Nos. 000006;
- 15 F) Letter of reference by JD Donovan, President of Sonoma County Pride  
16 Organization, Bates Nos. 000007;
- 17 G) Graton, Table Games Dealer Appraisal, 4/14/2014, Bates Nos. 000008-000009;
- 18 H) Graton, Table Games Dealer Appraisal 11/2/2014, Bates Nos. 000010-000011;
- 19 I) Graton, Table Games Dealer Appraisal 5/1/2015, Bates Nos. 000012-000013;
- 20 J) Graton, Performance Appraisal, 3/14/2017 (Floor Supervisor), Bates Nos.  
21 000014-000020;
- 22 K) Notarized Statement by Raul Moreno, Bates Nos. 000021-000022.

### 23 FINDINGS OF FACT

24 1. Respondent is a Dual Rate Supervisor at Graton Resort and Casino (Graton), a key  
25 employee position that requires him to submit a Finding of Suitability application to the  
26 Commission pursuant to the Tribal-State Gaming Compact between the State of California and  
27 the Federated Indians of the Graton Rancheria.  
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1           2. On or about March 17, 2016, the Bureau received Respondent's Application for  
2 Finding of Suitability Tribal Key Employee and a Tribal Key Employee Supplemental  
3 Background Investigation form (collectively, Application) to the Bureau. On the Application,  
4 Respondent indicated that he was terminated from his prior position at the Red Hawk Casino  
5 (Red Hawk).

6           3. On or about June 6, 2017, the Bureau issued its Tribal Key Employee Background  
7 Investigation Report in which it recommended that Respondent's Application be approved.

8           4. At its August 28, 2017 meeting, the Commission voted to refer the consideration of  
9 Respondent's Application to a Gambling Control Act evidentiary hearing.

10          5. On or about September 7, 2017, Respondent submitted a Notice of Defense to the  
11 Commission requesting an evidentiary hearing on the consideration of his Application.

12          6. On or about December 6, 2017, the Commission sent a Notice of Hearing to  
13 Respondent stating that an evidentiary hearing and prehearing conference were scheduled.

14          7. On or about January 3, 2018, the Bureau filed a Statement of Reasons with the  
15 Commission. In its Statement of Reasons, the Bureau recommended that the Commission deny  
16 Respondent's Application.

17          8. On or about February 6, 2018, the noticed Prehearing Conference was held before  
18 Presiding Officer Jason Pope, Attorney III of the Commission. William Williams, Deputy  
19 Attorney General, attended on behalf of the Bureau. Respondent attended on his own behalf.

20          9. The Commission heard CGCC Case No. CGCC-2017-0828-14D on March 13, 2018.  
21 The Bureau was represented throughout the hearing by Deputy Attorney General William  
22 Williams. Respondent represented himself at the hearing.

23          10. Melissa Avent, Department of Justice Administrator I, Bureau of Gambling Control,  
24 Tribal Gaming Section, testified on behalf of the Bureau. Ms. Avent testified that she reviewed  
25 the Bureau report on Respondent's application. She testified that originally the Bureau  
26 recommended Respondent's license be approved despite the Bureau having concerns about his  
27 suitability because Red Hawk provided very limited documentation regarding the reasons for  
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1 Respondent's termination. However, after Respondent's case was referred to an evidentiary  
2 hearing, Red Hawk provided additional documents, such as termination paperwork and two  
3 witness statements, which resulted in the Bureau changing the recommendation to denial.

4 11. The two witness statements provided by Red Hawk are dated September 27, 2013 and  
5 are signed by Fred Moore and Jolyn Barreuther. Ms. Barreuther was a floor supervisor at Red  
6 Hawk. Mr. Moore was Ms. Barreuther and Respondent's supervisor.

7 12. Ms. Barreuther's written statement alleges that on September 21, 2013 she was in the  
8 Baccarat pit with Respondent while he looked up his partner on the comp rating program. Ms.  
9 Barreuther states that Respondent told her that his partner/boyfriend had only \$5.00 in comps and  
10 "mentioned rating his partner to get comps. I thought he was joking." Ms. Barreuther further  
11 stated that Respondent's partner was not present at the casino. Ms. Barreuther stated that when  
12 she relieved Respondent for his break, she found that a patron was being rated in the comp rating  
13 program. Ms. Barreuther called, the name, "Raul," (presumably the name of the person being  
14 rated in the comp rating program) and no one answered, so she closed the player out and alerted  
15 her manager. The statement ends mid-sentence, as if there is a missing second page.

16 13. Mr. Fred Moore was Ms. Barreuther's manager. His statement alleges that on  
17 September 21, Ms. Barreuther alerted him that Respondent was rating his partner, Raul, to  
18 increase Raul's comp dollars, but Raul was not physically present at the casino. Mr. Moore states  
19 that Respondent was called to the shift office to meet with him and his supervisor, Susan  
20 Yashenko. Ms. Yashenko asked Respondent "if this was true that he was rating his partner who  
21 was not on property to increase his comp dollars. Charles admitted that yes he was doing that.  
22 Susan told him he was being terminated at that time."

23 14. On September 21, 2013, Ms. Yashenko and Mr. Moore signed a Team Member  
24 Discipline Notice stating that Respondent was terminated. The notice states "Charles admitted to  
25 entering false ratings for his partner. This was done on several occasions."

26 15. Special Agent Brian Fichtner testified on behalf of the Bureau. Agent Fichtner  
27 summarized his interviews with Mr. Moore, Ms. Yashenko, and Ms. Barreuther. The Bureau also  
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1 admitted audio recordings of the interviews into evidence. The factual findings herein are based  
2 on the audio recordings of the interviews and not on Agent Fichtner's testimony summarizing the  
3 content of the interviews.

4 16. On January 23, 2018, Agent Fichtner interviewed Ms. Yashenko. Initially, Ms.  
5 Yashenko did not remember Respondent or his termination. As the interview progressed, Ms.  
6 Yashenko stated that she could remember the incident, but could not put a face to Respondent's  
7 name. Ms. Yashenko recalled Ms. Barreuther telling her that Respondent revealed to her that he  
8 "adjusted the comp status" for someone he had a personal relationship with. Ms. Yashenko did  
9 not recall Respondent admitting to her that he adjusted the comp status for his partner. Ms.  
10 Yashenko stated that Respondent must have been terminated following an investigation, because  
11 "we don't terminate on the spot." Ms. Yashenko also stated that this incident was the only one  
12 that she was aware of involving Respondent adjusting a comp status.

13 17. On January 24, 2018, Agent Fichtner interviewed Ms. Barreuther. Ms. Barreuther told  
14 Agent Fichtner that on September 21, she took over for Respondent to give him a break. While  
15 Respondent was on break, Ms. Barreuther saw that a patron was being rated in the comp rating  
16 program with no description. She closed out the rating. Ms. Barreuther said when Respondent  
17 came back from his break, he told Ms. Barreuther that he had "made a false average bet" for his  
18 partner to get him some free perks at Red Hawk. Ms. Barreuther also stated that "I can guess that  
19 he followed through with it" because Raul was in the system and when she got there Raul  
20 physically wasn't there. Ms. Barreuther stated that she had not thought that anything  
21 inappropriate had occurred until Respondent made this admission to her. Ms. Barreuther stated  
22 that she did not know of any other time that Respondent made a false rating. Ms. Barreuther  
23 referred to Respondent as being "on the way out" and not caring. Ms. Barreuther stated that she  
24 went to Mr. Moore right away to tell him what Respondent had done.

25 18. Ms. Barruther's 2018 interview with Agent Fichtner varies from her 2013 written  
26 statement. In her written statement, Ms. Barruther claimed that Respondent "mentioned rating his  
27 partner to get comps" *prior* to Ms. Barreuther relieving him for a break. There is no mention in  
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1 the 2013 written statement of Respondent admitting that his partner was not present or admitting  
2 that he made a *false* rating. However, in the 2018 interview, Ms. Barreuther claims that *after*  
3 Respondent's break, he admitted to her that he had made a "false average bet" for his partner.  
4 Later in the interview, Ms. Barreuther describes the incident as her making a "guess" that  
5 Respondent had made a false average bet. Ultimately, it is unclear from the interview whether  
6 Ms. Barreuther believes that Respondent made a clear admission to her, and if so, why that  
7 information was not contained in her 2013 written statement.

8 19. Agent Fichtner interviewed Mr. Moore on January 30, 2018. Mr. Moore was initially  
9 unable to recall whether Respondent worked on his same shift or what Respondent was  
10 terminated for. After Agent Fichtner read Mr. Moore's 2013 written statement to him, Mr. Moore  
11 stated that it "jogged" his memory and he could recall being in the office with his supervisor, Ms.  
12 Yashenko, and Respondent; however, he could not recall what questions they asked Respondent  
13 or how Respondent responded. Later in the interview, Mr. Moore states that Respondent admitted  
14 that he was rating his partner who was not on the property. Mr. Moore stated that he believed Ms.  
15 Barreuther knew Raul and that was how she knew that he was not present on the property.

16 20. Mr. Moore also stated in his interview that there was a five or six day period where  
17 Red Hawk investigated the incident before he and Ms. Yashenko questioned Respondent in the  
18 office. Mr. Moore claimed that Ms. Yashenko went back and looked at prior comps that had been  
19 issued and when Raul was rated before questioning Respondent about the incident.

20 21. Mr. Moore also told Agent Fichtner that the normal procedure at Red Hawk when an  
21 employee was accused of misconduct was to put surveillance on the employee to catch the  
22 employee in the act or to suspend the employee pending an investigation. Mr. Moore stated that it  
23 was unusual to terminate an employee right away. Mr. Moore opined that the investigation done  
24 prior to Respondent's termination would include watching camera footage to see if Respondent  
25 was the one who inputted the rating and any relevant footage would be saved indefinitely.

26 22. Respondent testified that on September 21, 2013, he was working as a Floor  
27 Supervisor in the Baccarat pit. His partner, Raul, was at the casino and asked if he had any  
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1 comps on his account for food. Respondent told Raul that he did not have enough play for a  
2 comp.

3 23. Respondent testified that as a Floor Supervisor he had the ability to give Raul a comp  
4 of up to \$50, but he did not think it would be appropriate because Raul had not yet been playing.  
5 Respondent testified that Raul then went to the Baccarat tables to play.

6 24. Respondent testified that for a table player to earn comps, they give his/her Player's  
7 Card to the dealer. The dealer will give the card to the Floor Supervisor to swipe to begin rating  
8 the player by tracking his/her average bets and time played in the comp rating program. When a  
9 player leaves the table, the Floor Supervisor will "close the player out." The system then  
10 calculates how many dollars of comps the player earns from playing.

11 25. Respondent testified that at Red Hawk, there was sometimes a delay between the time  
12 that a player actually left the Baccarat table and the time that the Floor Supervisor would close the  
13 player out on the comp rating program. A delay could occur if the tables were full and the Floor  
14 Supervisor was not able to accurately keep track of all of the players at a given time. Each table  
15 could have 30 or more players and a floor supervisor at Red Hawk was responsible for, among  
16 other duties, rating players at two tables. Respondent stated that it was especially difficult to keep  
17 track of the players on weekends and holidays when the tables were full.

18 26. September 21, 2013 was a Saturday.

19 27. Respondent testified that at his current position at Graton, Floor Supervisors are only  
20 assigned to rate one Baccarat table at a time because it is too difficult to rate players at two tables  
21 at once like he was required to do at Red Hawk.

22 28. Respondent testified that on September 21, 2013, Raul began to play Baccarat.  
23 Respondent testified that he would have swiped Raul's player's card and returned it to the dealer,  
24 who would then return the card to Raul.

25 29. Respondent testified that Ms. Barreuther came to relieve him for his break.  
26 Respondent noticed that Raul had left the table and told Ms. Barreuther that his partner had left  
27 and needed to be closed out. Respondent then went on a break.  
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1           30. Respondent testified that Raul likely left the table 10-20 minutes before Respondent  
2 realized that he was gone and closed him out. Respondent testified that he should have been more  
3 attentive, especially because he knew the player.

4           31. Respondent testified that a player would earn “next to nothing” for 10-20 minutes of  
5 play. In a December 12, 2017 email, Ms. Avent confirmed with Michael O’Connell of the  
6 Shingle Springs Gaming Commission that no monetary value was added to Raul’s player’s card  
7 account as a result of this incident.

8           32. Respondent testified that prior to September 21, 2013, he and several other Red Hawk  
9 employees had given their two-week notice because they had been hired to work at Graton.  
10 Respondent testified that Red Hawk management was frustrated by the resignations and felt that  
11 management wanted to make an example of him.

12           33. On September 21, 2013 at 10:55PM, Susan Yashenko sent an email with the subject  
13 line, “Resignations.” The email states, “we are experiencing severe “attitudes” with team  
14 members who have given notice. How much garbage do we take and is it okay if I release a few  
15 earlier than their resignation date?”

16           34. Respondent testified that soon after his break, he was called into his supervisor’s  
17 office and asked his partners name. Respondent testified that he told his managers that his  
18 partner’s name was Raul. Ms. Yashenko asked Respondent if he had inputted a false rating for  
19 Raul. Respondent testified that he denied making a false rating but admitted that he might not  
20 have closed Raul out as quickly as he should have. Respondent testified that immediately after he  
21 admitted not closing Raul out as quickly as he should have, that he was terminated.

22           35. On September 21, 2013 at 11:41PM Ms. Yashenko sent another email stating that  
23 Respondent admitted to her and Mr. Moore that he entered a false rating. In that email she stated  
24 “With that information and knowing that Charles has given us his resignation, I terminated him.”

25           36. Respondent testified that he did not know Ms. Barreuther well and would not have  
26 confided in her if he were engaging in misconduct. Respondent further testified that he never told  
27 Ms. Barreuther that he did not care and that he would never want to leave a job on bad terms  
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1 because it would impact his future employment. Respondent also testified that he chose not to  
2 appeal his termination from Red Hawk because he called the Graton Gaming Commission and  
3 was told that his termination from Red Hawk would not prevent him from working at Graton.

4 37. Respondent testified that he felt his termination was “fraudulent” because no  
5 investigation was done and it was unusual for Red Hawk to wait six days before requesting  
6 witnesses to prepare written statements.

7 38. Respondent admitted a sworn statement written by his partner, Raul. Raul states that  
8 he was present at the Red Hawk Casino on the night of September 21, 2013. He approached the  
9 Baccarat table where Respondent was working and inquired whether he qualified for a comp for  
10 food. Respondent informed Raul that he did not have enough play to qualify for a comp. Raul sat  
11 at the table for a couple of games and provided his player card. Raul stated that the table was too  
12 busy for his comfort and he chose to leave the table. Raul stated that he did not inform  
13 Respondent when he left the table. Raul stated that he had only been to Red Hawk on a couple of  
14 occasions prior to this visit.

15 39. Respondent also submitted multiple letters of reference in support of his Application:

- 16 a. Brian Rodgers (Rogers) is a Casino Manger/Dealer School Director at Graton.  
17 Rodgers states that Respondent worked his way up from a dealer to a floor  
18 supervisor, and now serves as his assistant in the Dealer School. Rodgers states  
19 that Respondent is honest, reliable, and trustworthy.
- 20 b. Robin Walters (Walters) has been Respondent’s co-worker since 2013.  
21 Walters states that Respondent is efficient, detail-oriented, and extremely  
22 competent, with excellent communication and organizational skills.
- 23 c. Chelsea Lawrence (Lawrence) has worked with Respondent for the past four  
24 years, including being supervised by Respondent. Lawrence states that  
25 Respondent has a positive attitude, is approachable, honesty, trustworthy, and  
26 an upfront person.
- 27 d. Eva McCurry, Floor Supervisor at Graton stated that Respondent is a reliable,  
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1 honest, hardworking person and has been promoted twice since the casino  
2 opened.

3 e. Chris Mouton, (Mouton) is a former manager at Red Hawk and then began  
4 working at Graton. Mouton worked with Respondent at both casinos and  
5 believes that Respondent is honest and accountable for his actions.

6 f. JD Donovan (Donovan) is the President of Sonoma Pride, an organization that  
7 Respondent volunteers for. Donovan states that Respondent has been  
8 instrumental in the success of the organization's events over the last three  
9 years by managing the front gate at the annual Sonoma County Pride Parade  
10 and Festival, an event with thousands of attendees. Donovan states that the  
11 Board of Directors trusts Respondent unequivocally to receive and reconcile  
12 the cash from admission sales and manage the flow of people in and out of the  
13 event. Donovan states that Respondent is dedicated, honest, and has good  
14 character.

15 g. Michael Garcia (Garcia) Surveillance Agent at Thunder Valley Casino, states  
16 that he was one of Respondent's direct supervisors at Red Hawk from July  
17 2012 to August 2013. Garcia states that Respondent had good performance,  
18 attitude, and a great deal of integrity and character. Garcia also states that he  
19 felt Respondent was wrongfully terminated by Red Hawk and that during that  
20 time period, others were terminated on false accusations or investigations were  
21 fabricated as a basis to discipline or terminate people.

22 40. Respondent also admitted performance appraisals from Graton that indicate that he has  
23 generally exceeded or met the expectations of his managers at Graton, which resulted in him  
24 being promoted from a dealer to a supervisor.

25 41. There appears to be irregularities in the manner in which Respondent was terminated  
26 from Red Hawk. For instance, the Team Member Discipline Notice signed by Ms. Yashenko and  
27 Mr. Moore states that Respondent entered false ratings for his partner "on several occasions."  
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1 However, Ms. Yashenko, Ms. Barreuther, and Mr. Moore stated in their interviews that they did  
2 not know of any similar incidents occurring. Further, Both Ms. Yashenko and Mr. Moore told  
3 Agent Fichtner that Respondent was terminated after an investigation was completed, which was  
4 normal protocol at Red Hawk. However, the documentary evidence shows that Respondent was  
5 immediately terminated by Ms. Yashenko the same evening that Ms. Barreuther made the  
6 allegations and less than one hour after Ms. Yashenko expressed an interest in terminating some  
7 of the employees who resigned. Additionally, Red Hawk did not ask Ms. Barreuther and Mr.  
8 Moore to provide signed witness statements for approximately one week after the incident  
9 occurred. Further, there are inconsistencies in the 2013 and 2018 statements of the key witness to  
10 Respondent's alleged misconduct, Ms. Barreuther, makes inconsistent statements in her written  
11 statement and her interview with Agent Fichtner and her written statement appears to be  
12 incomplete. These irregularities decrease the weight that the Commission gives to the written  
13 statements and recorded interviews of Ms. Barreuther, Ms. Yashenko, and Mr. Moore.

14 42. Respondent's testimony was consistent with the sworn statement by Raul and in many  
15 respects, consistent with the 2013 statement of Ms. Barreuther. The key difference is that Ms.  
16 Barreuther made an assumption that Raul was never in the casino that evening, whereas  
17 Respondent and Raul claim that Raul was playing Baccarat when Respondent swiped his Players  
18 Card and later left the table.

19 43. There was no evidence to indicate that Ms. Barreuther knew who Raul was and could  
20 have reasonably verified that he was never on the property that evening. In fact, her statement that  
21 she called out "Raul" to see if anyone by that name was playing indicates that she did not know  
22 Raul well enough to verify his whereabouts that evening.

23 44. Further, the Bureau did not offer any evidence to show that Raul actually received any  
24 benefit from Respondent rating him on September 21. There was no evidence that Respondent  
25 issued any type of comp to Raul that evening or that Raul earned any type of perk for the extra  
26 time that he was rated as a result of Respondent's not properly closing him out as soon as he left  
27 the table.



1 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
2 equipment. Business and Professions Code section 19801(h).

3 3. A “finding of suitability” means a finding that a person meets the qualification criteria  
4 described in subdivisions (a) and (b) of Section 19857, and that the person would not be  
5 disqualified from holding a state gambling license on any of the grounds specified in Section  
6 19859. Business and Professions Code section 19805(j).

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

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

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

18 7. The Commission has the power to take actions deemed to be reasonable to ensure that  
19 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled  
20 gambling activities. Business and Professions Code section 19824(d).

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

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

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

2 11. 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 whose prior  
4 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the  
5 public interest of this state, or to the effective regulation and control of controlled gambling, or  
6 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in  
7 the conduct of controlled gambling or in the carrying on of the business and financial  
8 arrangements incidental thereto. Business and Professions Code section 19857(b).

9 12. The commission shall deny a license to any applicant who is disqualified for licensure.  
10 Business and Professions Code section 19859.

11 13. Every Gaming Employee shall obtain, and thereafter maintain current, a valid tribal  
12 gaming license, and except as provided in subdivision (b), shall obtain, and thereafter maintain  
13 current, a State Gaming Agency determination of suitability, which license and determination  
14 shall be subject to biennial renewal. Tribal State Compact between the State of California and the  
15 Federated Indians of Graton Rancheria section 6.4.3(a).

16 14. Investigation and disposition of applications for a determination of suitability shall be  
17 governed entirely by State law, and the State Gaming Agency shall determine whether the  
18 Applicant would be found suitable for licensure in a gambling establishment subject to the State  
19 Gaming Agency's jurisdiction. Tribal State Compact between the State of California and the  
20 Federated Indians of Graton Rancheria section 6.5.6(d).

21 15. Respondent has met his burden of proving that he is a person of good character,  
22 honesty, and integrity. As a result, Respondent is qualified to receive a finding of suitability under  
23 Business and Professions Code section 19857(a).

24 16. Respondent has met his burden of proving that he is a person whose prior activities,  
25 criminal record, if any, reputation, habits, and associations do not pose a threat to the public  
26 interest of this state, or to the effective regulation and control of controlled gambling, or create or  
27 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the  
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1 conduct of controlled gambling or in the carrying on of the business and financial arrangements  
2 incidental thereto. As a result, Respondent is qualified to receive a finding of suitability pursuant  
3 to Business and Professions Code section 19857(b).

4 17. Respondent has met his burden of proving that he is not disqualified from licensure  
5 pursuant to Business and Professions Code section 19859.

6  
7 NOTICE OF APPLICANT'S APPEAL RIGHTS

8 Respondent Charles Bain has the following appeal rights available under state law:

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

10 An applicant denied a license, permit, registration, or finding of suitability, or whose  
11 license, permit, registration, or finding of suitability has had conditions, restrictions,  
12 or limitations imposed upon it, may request reconsideration by the Commission  
13 within 30 calendar days of service of the decision, or before the effective date  
14 specified in the decision, whichever is later. The request shall be made in writing to  
15 the Commission, copied to the Bureau, and shall state the reasons for the request,  
16 which must be based upon either newly discovered evidence or legal authorities that  
17 could not reasonably have been presented before the Commission's issuance of the  
18 decision or at the hearing on the matter, or upon other good cause which the  
19 Commission may decide, in its sole discretion, merits reconsideration.

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

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

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

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

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1. Respondent Charles Bain's Application for a Finding of Suitability, Tribal Key Employee is GRANTED.

2. No costs are to be awarded.

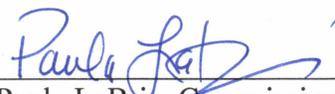
3. Each side to pay its own attorneys' fees.

This Order is effective on April 2, 2018.

Dated: 4/2/18

Signature:   
Jim Evans, Chairman

Dated: 4/2/18

Signature:   
Paula LaBrie, Commissioner

Dated: 4/2/18

Signature:   
Trang To, Commissioner