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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

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

HECTOR ANDRADE

Respondent.

BGC Case No. BGC-HQ2020-00031SL
CGCC Case No. CGCC-2020-1015-7A

DECISION AND ORDER

Hearing Date: May 21, 2021
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, and held via Zoom video conference, on May 21, 2021.

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

Applicant Hector Andrade (Andrade) appeared on his own behalf.

During the evidentiary hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing with Andrade’s Application for Tribal-State Compact Key Employee Finding of Suitability and the Bureau’s Initial Background Investigation Report, the Bureau’s Statement of Reasons, Andrade’s signed Notice of Defense, and the Commission’s Conclusion of Prehearing Conference letter.

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

- (1) Statement to Respondent; Statement of Reasons; copies of Bus. & Prof. Code §§ 19870 & 19871; copy of Cal. Code Regs., tit. 4, § 12060, Bates Nos. BGC0001-0021;

- 1 (2) June 15, 2017 (Redacted) Initial Application for Finding of Suitability
2 Tribal Key Employee – Hector Andrade, Bates Nos. BGC0022-0025;
- 3 (3) May 7, 2019 (Redacted) Renewal Application for Finding of Suitability
4 Tribal Key Employee – Hector Andrade, Bates Nos. BGC0026-0028;
- 5 (4) Supplemental Background Investigation Information – Hector Andrade,
6 Bates Nos. BGC0029-0035;
- 7 (5) (Redacted) Tribal Key Employee Background Investigation Report, Bates
8 Nos. BGC0036-0048;
- 9 (6) August 28, 2020 Notification of Scheduled Commission Meeting, Bates
10 Nos. BGC0049-0054;
- 11 (7) September 11, 2020 CGCC Letter to Hector Andrade, Bates Nos.
12 BGC0055-0056;
- 13 (8) October 2, 2020 notification of Scheduled Commission Meeting, Bates
14 Nos. BGC0057-0062;
- 15 (9) October 16, 2020 Referral of Initial Key Employee Finding of Suitability
16 to an Evidentiary Hearing for Hector Andrade, Bates Nos. BGC0063-0065;
- 17 (10) (Redacted) October 30, 2020 Signed Notice of Defense, Bates Nos.
18 BGC0066-0068;
- 19 (11) Certified License History – Hector Andrade, Bates Nos BGC0069-0071;
- 20 (12) (Redacted) April 26, 2018 – Additional Information and/or Documentation
21 Required, Bates Nos. BGC0072-0080;
- 22 (13) (Redacted) June 20, 2019 – Additional Information and/or Documentation
23 Required, Bates Nos. BGC0081-0084;
- 24 (14) February 27, 2020 – Recommendation for Denial of Application, Bates
25 Nos. BGC0085-0087;
- 26 (15) August 4, 2020 Letter enclosing copy of Investigation Report, Bates Nos.
27 BGC0088-0089;
- 28

1 (16) (Redacted) August 2020 Email Correspondence from Hector Andrade,
2 Bates Nos. BGC0090-0091; and

3 (17) (Redacted) Prior Employer's Employment and Termination Verification,
4 Bates Nos. BGC0092-0098.

5 During the evidentiary hearing, Presiding Officer Jason Pope also accepted into evidence
6 the following exhibit offered by Andrade:

7 (A) Three letters of reference from: (1) Emmanuel Robles; (2) Soua Sally
8 Xiong; and (3) Sokkha Touch.

9 The record was closed and the matter was submitted on May 21, 2021.

10 FINDINGS OF FACT

11 **Procedural History**

12 1. On or about June 15, 2017, the Bureau received an Application for Finding of
13 Suitability Tribal Key Employee and Tribal Key Employee Supplemental Background
14 Investigation Form (Supplemental) (collectively, Application) from Andrade to work as a dual
15 rate dealer/floor supervisor (a key employee position) for Graton Resort & Casino (Graton),
16 which is owned and operated by the Federated Indians of Graton Rancheria.

17 2. On or about July 31, 2020, the Commission received a Level III Tribal Key Employee
18 Background Investigation Report on Andrade from the Bureau. In this report, the Bureau
19 recommends that the Commission deny Andrade's Application.

20 3. At its meeting on October 15, 2020, the Commission referred consideration of
21 Andrade's Application to GCA evidentiary hearing to be held pursuant to CCR section 12060.

22 4. On or about November 4, 2020, the Bureau received from Andrade a signed notice of
23 defense requesting an evidentiary hearing on the consideration of his Application.

24 5. On or about January 15, 2021, the Commission sent a Notice of Hearing, via
25 electronic mail, to Andrade and Deputy Attorney General Ronald Giusso (DAG Giusso). The
26 hearing was set for May 21, 2021.

27 6. On or about March 24, 2021, the Bureau sent a Statement of Reasons to Andrade via
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1 certified mail. In the Statement of Reasons, the Bureau requests that the Commission deny
2 Andrade's Application. The Commission received the Bureau's Statement of Reasons on or about
3 March 25, 2021.

4 7. On or about April 1, 2021, the noticed Prehearing Conference was held before
5 Presiding Officer Jason Pope, Attorney III of the Commission. DAG Giusso attended on behalf of
6 the Bureau. Andrade appeared on his own behalf.

7 8. On or about April 1, 2021, the Commission sent a Conclusion of Prehearing
8 Conference letter, via e-mail, to Andrade and DAG Giusso.

9 9. The Commission heard this matter via Zoom video conference on May 21, 2021. The
10 Bureau was represented by DAG Waian. Andrade appeared on his own behalf.

11 **Work History in Controlled Gambling**

12 10. On his Supplemental, Andrade disclosed that he worked as a gaming server for the
13 101 Casino from May 2013 to December 2013. Andrade listed his reason for leaving employment
14 with the 101 Casino as "unfair treatment, disorganized."

15 11. As part of its background investigation, the Bureau verified Andrade's employment
16 with the 101 Casino. According to an Employment Verification form from Parkwest Casino
17 Sonoma (which took over the 101 Casino), signed on May 3, 2018, the reason for Andrade's
18 separation was "involuntary" as a result of "violation of the company policy/Rule."

19 12. In response to a Bureau inquiry after the Bureau's background investigation revealed
20 that Andrade had been terminated from the 101 Casino, on May 4, 2018, Andrade sent an email
21 stating that he resigned from the 101 Casino in December 2013 because of loss of guests and
22 business. Andrade states that he made less money on tips due to slow business.

23 13. In a second email to the Bureau, on May 4, 2018, Andrade wrote that due to a
24 situation that occurred at work, he spoke to his main supervisor and resigned from employment
25 with the 101 Casino over the phone.

26 14. On May 8, 2018, Parkwest Casino Sonoma submitted an email to the Bureau
27 providing that it "is not in possession of any substantiating document signed by Mr. Andrade
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1 showing that he was terminated, or that he [sic] aware of his termination.”

2 15. On May 9, 2018, Andrade wrote another email to the Bureau repeating that he had
3 resigned from his employment at the 101 Casino. Andrade stated: “It was one of those situations
4 where I had accumulated to [sic] many points and was on my last warning. I worked night shifts
5 and then got switched over to morning shifts which made it difficult for me to wake up on time.
6 On my last leg I woke to my car broken into and I called that morning that I wasn’t going to
7 show. So yet in a way I was in the process for termination but I decided to quit instead. So no
8 final paper work or anything was done or signed.”

9 16. On June 12, 2019, Parkwest Casino Sonoma informed the Bureau that “Mr. Andrade
10 violated The 101 Casino’s no harassment policy by making an unwelcome advance to a co-
11 worker.” Parkwest Casino Sonoma also stated that Andrade was informed that he was being
12 terminated.

13 17. On June 13, 2019, the Bureau received an email from Parkwest Casino Sonoma
14 stating “it is the 101 Casino’s position that Mr. Andrade was informed [of his termination].”
15 (Emphasis in original). The 101 Casino’s position “is based on the Change of Relationship form
16 being prepared and the lack of a resignation notice.”

17 18. In another email from Parkwest Casino Sonoma on June 13, 2019, it states “Mr.
18 Andrade’s employment file contains a form entitled ‘Change in Relationship’ that states he was
19 terminated. The form is unsigned, which is why the 101 Casino’s previous response was that
20 there were no documents substantiating Mr. Andrade’s termination, or that he was aware of the
21 termination. There are also no documents, signed or unsigned, in Mr. Andrade’s file that would
22 indicate he resigned.”

23 19. After the Bureau informed Andrade that it was aware of a harassment complaint
24 against him during his employment at the 101 Casino, Andrade sent a final email to the Bureau
25 on June 24, 2019. In this email, Andrade disclosed the details of the incident leading to the
26 harassment complaint. Andrade apologized for not being completely honest from the beginning
27 and explained that he was scared about “what could happen to me and losing my job.” Andrade
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1 stated that the reasons he provided for leaving employment at the 101 Casino were not lies.
2 Andrade stated that after the harassment complaint, the 101 Casino sent him home while
3 conducting an investigation. Andrade's supervisor called him and told him to come back to work
4 to sign some papers. Andrade asked his supervisor if they would continue the investigation if he
5 quit at that moment. Andrade's supervisor told him that they would no longer investigate.
6 Andrade told his supervisor that he quit. Andrade stated that he learned a lot from this experience
7 and to always tell the truth. Andrade concluded by apologizing for not being truthful.

8 20. During the evidentiary hearing, Andrade testified that his June 24, 2019 email to the
9 Bureau was accurate. Andrade admitted that he did not think he would get the job if he told the
10 truth about the harassment complaint. Andrade testified that he failed to disclose the harassment
11 complaint out of fear for losing his job and health care benefits at Graton. He admitted that it was
12 not accurate to say he left 101 Casino due to "unfair treatment/disorganized," although he states
13 that did happen. In support of this statement, Andrade testified that he was asked to do things
14 outside of his job description, including opening the bar and serving drinks. Andrade admitted
15 that his statement that he had resigned from the 101 Casino due to slow business was just an
16 excuse and not the truth, although he stated that business did go down at the 101 Casino after
17 Graton opened. Andrade also admitted that his prior statement that he had accumulated too many
18 points and was on his last warning were not the reasons why he resigned.

19 21. Regarding his resignation, Andrade testified that he quit over the phone. Andrade
20 testified that he picked up his final paycheck and tips a few days later but did not sign any
21 documents providing either that he resigned or was involuntarily terminated.

22 22. Andrade has been working for Graton since June 2, 2015, and assumed key employee
23 duties on May 27, 2017. Andrade testified that was moved into a non-key position as a full-time
24 table games dealer in August 2020. There was no evidence presented that Andrade has had any
25 derogatory employment-related issues while working for Graton.

26 **Letters of Reference**

27 23. Andrade submitted three letters of reference in support of his Application.
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1 (a) Emmanuel Robles (Robles) is a Table Games Supervisor at Graton. Robles states
2 that he has known Andrade for three years and seen him grow from a dealer to
3 full-time supervisor and become a great person within the company. Robles states
4 that Andrade works overtime and helps those who want to learn more within the
5 company. Robles describes Andrade as someone with a positive attitude, morals,
6 and drive to make the company better. He states that Andrade has become a valued
7 friend outside the company. Robles acknowledges that he does not know
8 Andrade's past, but that based on his current actions and character that Andrade
9 should be allowed to continue working at Graton.

10 (b) Soua Sally Xiong (Xiong) is a Table Games Pit Manager at Graton. Xiong states
11 that she has worked closely with Andrade over the past five years. Xiong
12 acknowledges that she does not know Andrade's past, but states that he is a person
13 of good moral character who cares about the people around him and makes sure he
14 always strives to do the right thing in all situations. Xiong describes Andrade,
15 among other things, as honest, kind, careful, considerate, dedicated, and well
16 regarded among his team members as person of high integrity.

17 (c) Sokkha Touch (Touch) is a Tables Games Supervisor at Graton. Touch has known
18 Andrade for six years and states that they met in dealer school. Touch states that
19 Andrade is determined, an excellent addition to Graton, and has shown growth
20 from being promoted from dealer to job coach, to dual rate supervisor, to full-time
21 supervisor. Touch states that Andrade should be able to keep his gaming license.

22 **Assessment of Andrade's Suitability for Licensure**

23 24. Andrade submitted three strong letters of reference from co-workers and supervisors at
24 Graton. The letters were individualized and candid. The content of the letters, and the lack of any
25 derogatory employment-related issues while working at Graton, is persuasive that Andrade has
26 demonstrated many positive attributes in his six years at Graton, including being hardworking,
27 helpful, considerate, dedicated, and honest. These characteristics reflect positively on Andrade's
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1 character, honesty, and integrity.

2 25. Andrade was honest and forthright in his June 24, 2019 email to the Bureau and while
3 testifying during the evidentiary hearing. Andrade provided relevant and detailed testimony
4 regarding the harassment complaint and admitted that he was not honest on his Application and in
5 earlier emails to the Bureau about the real reason he left the 101 Casino. Andrade's honest and
6 candid testimony reflects positively on his character, honesty, and integrity.

7 26. Andrade did not dispute his role in the harassment incident and testified that he
8 learned from it. Andrade's testimony regarding the harassment incident is persuasive that the
9 incident resulted from the exercise of poor judgment and did not reflect an intent to engage in
10 improper workplace behavior. As a result, and given the lack of any evidence presented of any
11 results or report of the investigation, the actual harassment incident does not reflect negatively on
12 Andrade's character or integrity.

13 27. However, there is one important issue that has a negative impact on Andrade's
14 qualifications to receive a finding of suitability. On the Application, and in subsequent written
15 responses to the Bureau during its investigation, Andrade provided misleading information, and
16 omitted the complete, accurate, and honest reason he left the 101 Casino. The fact that the
17 harassment incident itself does not reflect negatively on Andrade's character or integrity does not
18 excuse Andrade's repeated failures to reveal the harassment complaint as the real reason he left
19 the 101 Casino.

20 *Providing Misleading Information and Failing to Disclose the Real Reason for Leaving the 101*
21 *Casino*

22 28. Applications for licensure and findings of suitability by the Commission are submitted
23 on forms furnished by the Bureau. An applicant shall make full and true disclosure of all
24 information to the Bureau and Commission as necessary to carry out the policies of this state
25 relating to licensing, findings of suitability, and the control of gambling.

26 29. An application consists of two parts. The first part includes instructions, applicant
27 information, and job title/description. The application's instructions provide that the applicant
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1 “must provide truthful information in all your responses in this application.” The application also
2 includes a declaration, to be signed by the applicant under the penalty of perjury, that the
3 information contained therein is true, accurate, and complete. Andrade signed the declaration on
4 May 3, 2017.

5 30. The second part of an application is the supplemental. The first page of the
6 supplemental informs the applicant that they “must provide truthful information in all your
7 responses in this form” and that “any misrepresentation or failure to disclose information required
8 on this form may constitute sufficient cause for denial or revocation.” The last section of the
9 supplemental is another declaration, to be signed by the applicant under the penalty of perjury,
10 that all of the information contained therein is true, accurate, and complete. Andrade signed this
11 declaration in his Supplemental on May 3, 2017.

12 31. All of the information requested on the application and supplemental has been
13 considered through the legislative and regulatory processes and determined necessary in order for
14 the Commission to discharge its duties properly. An applicant is neither expected, nor permitted,
15 to determine the importance of the information requested, and instead is required to provide full,
16 accurate, and complete information as requested.

17 32. The Bureau relies, in large part, on the applicant’s disclosures while conducting a
18 background investigation. The failure to honestly and accurately disclose complete information
19 on an application subverts the Bureau’s efforts to conduct a thorough and complete investigation.

20 33. Both the substance of an applicant’s disclosures, and the truthfulness and
21 thoroughness of an applicant’s disclosures, are considered by the Bureau in making a
22 recommendation as to the applicant’s suitability, and by the Commission in making a
23 determination whether to approve or deny an application.

24 34. Section (4) of the supplemental requires the applicant to provide employment history
25 for the past ten years. Andrade disclosed on his Supplemental that he worked for the 101 Casino
26 from May 2013 to December 2013 as a gaming server. He listed his reason for leaving as “unfair
27 treatment, disorganized.” This disclosure was incomplete, misleading, and not fully truthful.
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1 During the evidentiary hearing, Andrade admitted it was not accurate to say that “unfair
2 treatment/disorganized” was the reason he left the 101 Casino. Further, Andrade did not disclose
3 the existence of a harassment complaint against him or that the harassment complaint was the real
4 reason he left the 101 Casino.

5 35. In subsequent written responses to the Bureau, Andrade stated that he left the 101
6 Casino because he was making less money on tips due to slow business and that he had
7 accumulated too many points and was on his final warning, which prompted him to preemptively
8 resign instead. Andrade later admitted that these were just excuses and not the truth. These
9 disclosures were also misleading and not completely truthful because the real reason Andrade left
10 the 101 Casino was a harassment complaint against him.

11 36. In his final written statement to the Bureau, and while testifying during the evidentiary
12 hearing, Andrade finally disclosed and provided details regarding the incident leading to the
13 harassment complaint and admitted that the harassment complaint was the real reason why he left
14 the 101 Casino. Andrade also admitted that he did not disclose the harassment complaint because
15 he was scared about “what could happen to me and losing my job.” These disclosures were made
16 only after the Bureau commenced its background investigation and informed Andrade that it was
17 aware of a harassment complaint against him during his employment at the 101 Casino.

18 37. Andrade’s statement that he resigned, as opposed to having been terminated, appears
19 credible and supported by the evidence. Andrade testified that he resigned during a telephonic
20 conversation with his supervisor on the same day he was sent home because of the workplace
21 harassment incident. Andrade further testified that he did not sign any paperwork and only went
22 back to the 101 Casino to collect his final paycheck and tips. Initially, Parkwest Casino Sonoma
23 acknowledged in an email to the Bureau that it “is not in possession of any substantiating
24 document signed by Mr. Andrade showing that he was terminated, or that he [sic] aware of his
25 termination.” Parkwest Casino Sonoma later backtracked and sent an email to the Bureau stating
26 “it is the 101 Casino’s position that Mr. Andrade was informed [of his termination].” (Emphasis
27 in original). The 101 Casino’s position “is based on the Change of Relationship form being
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1 prepared and the lack of a resignation notice.” Parkwest Casino Sonoma’s second written
2 statement fails to convince. First, the existence of a Change of Relationship form prepared by the
3 101 Casino, which does not contain Andrade’s signature, is hardly evidence that he was
4 terminated, let alone that he was informed that he was terminated. Second, the lack of a
5 resignation notice is only evidence that Andrade did not resign in writing, and does not prove that
6 he was terminated. Rather, the lack of a resignation notice makes sense given Andrade’s
7 statements and testimony that he resigned over the phone. The lack of any termination notice
8 given to Andrade or signed by him further supports Andrade’s testimony that he resigned.
9 Parkwest Casino Sonoma’s statement that he was informed of his termination is especially
10 unsupported and unproven.

11 38. The reason for leaving a prior employment, particularly one in controlled gambling, is
12 material to an applicant’s qualification to receive a finding of suitability and is something the
13 Bureau investigates and the Commission considers in determining an applicant’s suitability. The
14 fact that the Commission might later determine that the existence of a workplace harassment
15 complaint is not itself cause for denying his application does not excuse his failure to disclose it
16 and having provided misleading and untrue information about it. An applicant is required to make
17 truthful, accurate, and complete disclosure of all information asked on the application because
18 that information is material and necessary for the Commission to carry out the policies of the
19 Gambling Control Act.

20 39. Andrade did not provide any information that would excuse his failure to disclose the
21 harassment complaint on his Application or in subsequent responses to the Bureau. Andrade also
22 intentionally provided several misleading and untrue statements about the real reason he left the
23 101 Casino to improve his chances at obtaining a finding of suitability from the Commission.

24 40. As the Bureau and Commission assess the substance, truthfulness, and
25 thoroughness of an applicant’s disclosures, an applicant who fails to disclose pertinent and
26 required information on an application or who provides misleading and untrue information does
27 not get to decide that the information was not required because the disclosures, if properly made,
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1 would not have revealed any fact that would result in denial of the application. Since each
2 question on an application is material, an unexcused failure to disclose truthful, accurate, and
3 complete information or providing misleading and untrue information on an application and in
4 written responses to the Bureau is highly probative of an applicant's qualifications to receive a
5 finding of suitability.

6 49. All documentary and testimonial evidence submitted by the parties that is not
7 specifically addressed in this Decision and Order was considered but not used by the Commission
8 in making its determination on Andrade's Application for Finding of Suitability Tribal Key
9 Employee.

10 50. The matter was submitted for Commission consideration on May 21, 2021.

11 LEGAL CONCLUSIONS

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

16 52. 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
20 Federated Indians of Graton Rancheria section 6.5.6(d).

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

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

28

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

5 56. 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 57. An “unqualified person” means a person who is found to be unqualified pursuant to
10 the criteria set forth in Section 19857, and “disqualified person” means a person found to be
11 disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
12 section 19823(b).

13 58. The Commission has the power to limit, condition, or restrict any license, permit, or
14 approval for any cause deemed reasonable by the Commission. Business and Professions Code
15 section 19824(b).

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

19 60. The burden of proof is always on the applicant to prove his, her, or its qualifications to
20 receive any license or other approval under the Gambling Control Act. CCR section 12060(i).

21 61. The Commission shall deny a license to any applicant who is disqualified for the
22 failure of the applicant to provide information, documentation, and assurances required by this
23 chapter or requested by the chief, or failure of the applicant to reveal any fact material to
24 qualification, or the supplying of information that is untrue or misleading as to a material fact
25 pertaining to the qualification criteria. Business and Professions Code section 19859(b).

26 62. Applications for a state license or other commission action shall be submitted to the
27 department on forms furnished by the department. Business and Professions Code section
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1 19864(a).

2 63. The department shall furnish to the applicant supplemental forms, which the applicant
3 completes and files with the department. These supplemental forms shall require, but shall not be
4 limited to requiring, complete information and details with respect to the applicant's personal
5 history, habits, character, criminal record, business activities, financial affairs, and business
6 associates, covering at least a 10-year period immediately preceding the date of filing of the
7 application. Business and Professions Code section 19865.

8 64. An applicant for licensing or for any approval or consent required by this chapter,
9 shall make full and true disclosure of all information to the department and the commission as
10 necessary to carry out the policies of this state relating to licensing, registration, and control of
11 gambling. Business and Professions Code section 19866.

12 65. The Gambling Control Act is an exercise of the police power of the state for the
13 protection of health, safety, and welfare of the people of the State of California, and shall be
14 liberally construed to effectuate those purposes. Business and Professions Code section 19971.

15 66. Andrade failed to reveal facts material to qualification for licensure by failing to
16 disclose on his Application and in several written responses to the Bureau that a harassment
17 complaint was the real reason why he left the 101 Casino. By disclosing on his Application that
18 his reason for leaving the 101 Casino was "unfair treatment/disorganized," and by disclosing in
19 subsequent written statements to the Bureau that his reasons for leaving the 101 Casino were slow
20 business and the accumulation of too many points leading to the possibility of termination,
21 Andrade supplied information that was untrue and misleading as to the real reason why he left the
22 101 Casino. As a result, Andrade is disqualified from receiving a finding of suitability pursuant to
23 Business and Professions Code section 19859(b).

24 NOTICE OF APPLICANT'S APPEAL RIGHTS

25 Andrade has the following appeal rights available under state law:

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

27 (a) After the Commission issues a decision following a GCA hearing conducted
28 pursuant to Section 12060, an applicant denied a license, permit, registration, or
finding of suitability, or whose license, permit, registration, or finding of

1 suitability has had conditions, restrictions, or limitations imposed upon it, may
2 request reconsideration by the Commission. A request for reconsideration must
3 be:

4 (1) Made in writing to the Commission, copied to the Complainant. The
5 Bureau may provide a written response to the Commission within 10 calendar days
6 of receipt of the request; and

7 (2) Received by the Commission and Complainant within 30 calendar days of
8 service of the decision, or before the effective date specified in the decision,
9 whichever is earlier.

10 (b) A request for reconsideration must state the reasons for the request, which
11 must be based upon either:

12 (1) Newly discovered evidence or legal authorities that could not reasonably
13 have been presented before the Commission's issuance of the decision or at the
14 hearing on the matter; or,

15 (2) Other good cause which the Commission may decide, in its sole discretion,
16 merits reconsideration.

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

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

25 CCR section 12066, subsection (c) provides:

26 A decision of the Commission denying an application or imposing conditions on
27 license shall be subject to judicial review as provided in Business and Professions
28 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.

ORDER

1
2 1. Hector Andrade's Application for Finding of Suitability Tribal Key Employee is
3 DENIED.

4 2. No costs are awarded.

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

6 This Order is effective on August 19, 2021.

7
8 Dated: 7/20/21

Signature: 


9 Paula LaBrie, Chair

10
11 Dated: 7/20/2021

Signature: 

12 Cathleen Galgiani, Commissioner

13
14 Dated: 7/20/2021

Signature: 

15 Eric Heins, Commissioner

16
17 Dated: 7/20/21

Signature: 

18 Edward Yee, Commissioner