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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for a Finding of Suitability for:

SHIN LEE,
A.K.A. Luc Chi Nim,
A.K.A. Tony Lee

Applicant.

CGCC Case No. CGCC-2022-0310-7Cii
BGC Case No. BGC-HQ2022-00005SL

DECISION AND ORDER

Hearing Date: December 8, 2022
Time: 9:00 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 December 8, 2022.¹

Neil Houston, Deputy Attorney General, State of California (DAG Houston), represented complainant Yolanda Morrow, Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Shin Lee, also known as Luc Chi Nim and Tony Lee (collectively, Lee) did not attend the hearing. No one attended the hearing on Lee’s behalf.

During the evidentiary hearing, Presiding Officer, Russell Johnson (Presiding Officer) took official notice of Lee’s signed Notice of Defense, the Notice of Agenda, the Commission’s Conclusion of Prehearing Conference letter, the Commission’s Notice of Hearing with attachments, including Lee’s Application, and the Bureau’s background investigation report and addendum.

The Presiding Officer accepted into evidence Bureau’s Exhibits 1 through Exhibit 9.²

¹ The statutory provisions cited herein are found in the Gambling Control Act (Act). (Bus. & Prof. Code, div. 8, ch. 5, § 19800 et seq.) Undesignated statutory references are to the Business and Professions Code.

² Exhibits 1 through 9 are marked with Bates numbers Complainant 001 - Complainant 404.

1 The record was closed and the matter was submitted for decision on December 8, 2022.

2 FINDINGS OF FACT AND LEGAL CONCLUSIONS

3 1. Lee has been employed by the Hard Rock Hotel & Casino Sacramento at Fire
4 Mountain (Casino) since October 2019, as a Dual Rate Dealer under a license issued by the
5 Enterprise Rancheria Gaming Commission (ERGC). At the Casino, the position of Dual Rate
6 Dealer is partially a supervisory position.

7 2. On December 24, 2019, the Bureau received an initial Application for Finding of
8 Suitability Tribal Key Employee, accompanied by a supplemental background investigation
9 information form (BGC-TBL-061 (Rev. 03/2015)). On March 11, 2021, the Bureau received a
10 renewal Application for Finding of Suitability Tribal Key Employee (BGC-TKE-001 (Rev.
11 03/2015)). These applications and the supplemental information form are collectively referred to
12 herein as the Application. The purpose of the Application is to allow for Lee's employment as a
13 key employee at the Casino.³ The Application for a finding of suitability is identified by the
14 Bureau as TRKE-021666.

15 3. On or about September 16, 2021, the Bureau submitted to the Commission a Tribal
16 Key Employee Background Investigation Report (Bureau Report) in which the Bureau
17 recommended that Lee's Application be granted subject to a condition relating to the entry of a
18 civil money judgment against Lee that remains unsatisfied.

19 4. On September 19, 2021, representatives of the Bureau met with Lee by telephone and
20 informed Lee generally of the basis for the Bureau's recommendation that the Application be
21 granted with a condition concerning the unsatisfied money judgment.

22 5. On October 28, 2021, Commission staff contacted the Bureau with questions
23 concerning the Bureau Report. On November 23, 2021, the Commission scheduled consideration
24 of the Application for January 6, 2022.

25 6. On January 6, 2022, the Commission took no action on the Application and advised
26 Lee of same. On or about February 9, 2022, the Bureau provided the Commission with an
27 addendum (Addendum) to the Bureau Report. The Addendum recommended denial of the

28 ³ The Casino is operated by the Estom Ymeka Maidu Tribe of the Enterprise Rancheria.

1 Application due to discrepancies between information Lee provided to the Bureau during the
2 course of its background investigation, and subsequently provided information in response to
3 Commission staff's October 28, 2021 questions as noted in paragraph 5, above.

4 7. On February 1, 2022, representatives of the Bureau met by telephone with the
5 chairman and two commissioners of the ERGC and informed them generally of the basis for the
6 Bureau's recommendation that the Application be denied. On February 4, 2022, representatives of
7 the Bureau met with Lee and the foregoing members of the ERGC and informed them
8 generally of the basis for the Bureau's recommendation of denial. On February 3, 2022, the
9 ERGC revoked Lee's license based upon notification that the Commission intends to deny Lee's
10 application for a determination of suitability. On February 4, 2022, the ERGC informed the
11 Bureau that it had revoked Lee's tribal gaming license.

12 8. On February 24, 2022, the Commission rescheduled consideration of the Application
13 for March 10, 2022. On March 10, 2022, the Commission referred consideration of Lee's
14 Application to an evidentiary hearing to be held pursuant to CCR, section 12054, subdivision
15 (a)(2).

16 9. On or about April 7, 2022, Lee timely submitted a Notice of Defense wherein he
17 requested an evidentiary hearing on his Application. On or about January 18, 2022, the Bureau
18 filed a Statement of Reasons with the Commission and sent it to Lee via certified mail. In the
19 Statement of Reasons, the Bureau requests that the Commission deny Lee's Application on the
20 basis of his failure to establish qualification(s) for licensure, and because he provided
21 contradictory and misleading information concerning the circumstances of the civil judgment
22 identified below.

23 10. On or about January 21, 2022, DAG Houston participated in the noticed prehearing
24 conference with the Presiding Officer. Lee did not attend the prehearing conference. On January
25 21, 2022, the Commission sent a "Conclusion of Prehearing Conference" letter to the parties.

26 11. The Bureau Report and Addendum establish that Lee provided contradictory and
27 misleading information concerning the circumstances of a civil judgment entered against him and
28 in favor of the Sacramento Municipal Utility District (SMUD) on June 11, 2008, in the initial

1 amount of \$298,083.89,⁴ arising from liability for electrical power taken by unlawful diversion
2 via a bypassed electrical meter at a residence that was being used for the indoor cultivation of
3 marijuana. This judgment (Judgment) was renewed on May 17, 2018, and remained unsatisfied in
4 the amount of \$449,871.48 as of that date.

5 12. During the background investigation, the Bureau obtained court documentation
6 showing that there was a marijuana growing operation located at a rental property owned by Lee,
7 and that SMUD's meter was bypassed so electricity was being diverted for use but was not being
8 metered. After reviewing the Bureau's Report, the Commission requested that Lee provide
9 additional information regarding this incident.

10 13. On November 15, 2021, Lee provided responses to the questions posed by the
11 Commission's staff. The statements Lee provided contradicted information Lee had previously
12 provided to the Bureau, and information obtained by the Bureau during the background
13 investigation, including in a police report related to the power theft at the home Lee rented. On
14 November 19, 2021, the Bureau informed the Commission's staff of Lee's responses and the
15 discrepancies. By failing to attend the noticed hearing, Lee failed to further address the
16 discrepancies identified by the Bureau. The discrepancies found by the Commission and
17 identified by the Bureau are as follows:

18 a) Lee stated that he did not know the person who rented the house prior to entering into a
19 tenant/landlord agreement; however, according to the police report, Lee told the officer
20 that Lee had met the tenant at Cache Creek Casino Resort when Lee worked there and the
21 tenant was a regular customer. Lee had not seen the tenant since leaving Cache Creek
22 Casino Resort and going to work at Phoenix Casino and Lounge. A coworker at Phoenix
23 Casino and Lounge (Lee's Coworker) was a friend of the tenant and suggested the tenant
24 for Lee's rental;

25 b) On September 25, 2020, in response to the Bureau's questions, Lee indicated that they

26 _____
27 ⁴ This judgment was reduced, nunc pro tunc, to \$225,631.58 on April 18, 2018, upon the
28 motion of the Sacramento Municipal Utility District to correct a prior clerical error. On May 17,
2018, the Judgment was renewed in the amount of \$225,631.58, plus post-judgment interest in the
amount of \$224,209.90, for a total renewed judgment of \$449,871.48.

1 were in a hurry to rent the house out and did not change the name on the utility accounts.
2 According to the police report, Lee told the officer that Lee offered to keep the utilities in
3 Lee's name if the renter paid a higher rent. The Bureau asked Lee to explain the
4 discrepancy between Lee's statement to the Bureau and the information identified in the
5 police report regarding changing the name on the utility accounts. Lee stated that the
6 tenant did not offer to leave their name on the utility accounts in exchange for higher rent.
7 Lee further stated they do not know how or where the Bureau obtained that information;
8 c) The Commission asked whether Lee was paying the SMUD bills during the time the
9 house was being rented and if so, whether Lee was being reimbursed. In response, Lee
10 stated that they were not paying the SMUD bills at the time the house was being rented.
11 However, according to the police report, Lee told the officer that Lee had not paid the
12 SMUD bill for a few months and the power was shut off. Lee's Coworker then told Lee
13 that the renter said the power had been shut off, so Lee went and paid \$900 the next day to
14 get the power turned back on;

15 d) When asked to explain why Lee was at the house to "check the mail," being that the
16 house was a rental property, they stated that they were at the house to collect late rent and
17 that was when they saw the police. According to the police report, Lee told the officer that
18 they were at the property to check the mail. When the officer asked if Lee got any mail,
19 Lee said no. The officer asked to see the mailbox key and Lee did not have it; and/or
20 e) Lee stated that the only time he went to visit the rental property was to collect late rent.
21 According to the police report, Lee told the officer that since moving out, Lee had driven
22 by three to four times to check on the property and to check the mail.

23 14. Lee's failure to provide full and truthful responses to the Bureau's requests for
24 information concerning the circumstances of the as-yet unsatisfied civil money Judgment, as
25 identified in the above paragraph, constitutes the supplying of information that is untrue or
26 misleading as to a material fact pertaining to the qualification criteria. For this reason, the
27 Application is subject to mandatory denial. (Bus. & Prof. Code, § 19859, subd. (b); Cal. Code
28 Regs., tit. 4, §12040, subd. (a).)

1 described in subdivisions (a) and (b) of Section 19857, and that the person would not be
2 disqualified from holding a state gambling license on any of the grounds specified in Section
3 19859. Business and Professions Code section 19805, subdivision (j).

4 8. The Commission has the power to deny any application for a license, permit, or
5 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code, § 19824,
6 subd. (b).)

7 9. The Commission has the power to take actions deemed to be reasonable to ensure that
8 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
9 gambling activities. (Bus. & Prof. Code, § 19824, subd. (d).)

10 10. The burden of proving his or his qualifications to receive any license from the
11 Commission is on the applicant. (Bus. & Prof. Code, § 19856, subd. (a); Cal. Code Regs., tit. 4, §
12 12060, subd. (i).)

13 11. An application will be denied if the applicant fails “to provide information,
14 documentation, and assurances required by this chapter or requested by the chief, or failure of the
15 applicant to reveal any fact material to qualification, or the supplying of information that is untrue
16 or misleading as to a material fact pertaining to the qualification criteria.” (Bus. & Prof. Code, §
17 19859, subd. (b).)

18 12. An applicant for licensing or for any approval or consent required by the Act,
19 “shall make full and true disclosure of all information to the department and the commission as
20 necessary to carry out the policies of this state relating to licensing, registration, and control of
21 gambling.” (Bus. & Prof. Code, § 19866.)

22 13. The Bureau relies, in large part, on the applicant’s disclosures while conducting a
23 background investigation. The failure to honestly and accurately disclose complete information in
24 response to the Bureau’s inquiries subverts the Bureau’s efforts to conduct a thorough and
25 complete investigation. (Bus. & Prof. Code, §§ 19826, subd. (a), 19866.)

26 14. Both the substance of an applicant’s disclosures, and the truthfulness and
27 thoroughness of an applicant’s disclosures, are considered by the Bureau in making a
28 recommendation as to the applicant’s suitability for licensure, and by the Commission in making

1 a determination whether to approve or deny a license application. (Bus. & Prof. Code, §§ 19824,
2 subd. (a) & (d), 19826, subd. (a), 19866.)

3 SECRETARIAL PROCEDURES FOR THE ESTOM YMEKA MAIDU TRIBE OF THE
4 ENTERPRISE RANCHERIA

5 1. The Secretarial Procedures for the Estom Ymeka Maidu Tribe of the Enterprise
6 Rancheria, section 6.4.3, provides, in part:

7 (a) Every Gaming Employee shall obtain, and thereafter maintain
8 current, a valid tribal gaming license, and except as provided in subdivision
9 (b), shall obtain, and thereafter maintain current, a State Gaming Agency
10 determination of suitability, which license and determination shall be
11 subject to biennial renewal; provided that in accordance with section 6.4.9,
12 those persons may be employed on a temporary or conditional basis
13 pending completion of the licensing process and the State Gaming Agency
14 determination of suitability.

12 * * *

13 (d) The Tribe shall not employ, or continue to employ, any person
14 whose application to the State Gaming Agency for a determination of
15 suitability or for a renewal of such a determination has been denied, or
16 whose determination of suitability has expired without renewal.

17 2. The Secretarial Procedures for the Estom Ymeka Maidu Tribe of the Enterprise
18 Rancheria, section 6.5.1., provides, in part:

19 (d) Notwithstanding anything to the contrary herein, upon receipt of
20 notice that the State Gaming Agency has determined that a person would
21 be unsuitable for licensure in a gambling establishment subject to the
22 jurisdiction of the State Gaming Agency, the Tribal Gaming Agency shall
23 deny that person a tribal gaming license and promptly, and in no event
24 more than thirty (30) days from the State Gaming Agency notification,
25 revoke any tribal gaming license that has theretofore been issued to that
26 person; provided that the Tribal Gaming Agency may, in its discretion,
27 reissue a tribal gaming license to the person following entry of a final
28 judgment reversing the determination of the State Gaming Agency in a
proceeding in state court conducted pursuant to section 1085 of the
California Code of Civil Procedure.

NOTICE OF APPLICANT’S APPEAL RIGHTS

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Lee has the following appeal rights available under state law:

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

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission. A request for reconsideration must be:

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

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

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

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

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

2. Business and Professions Code section 19870, subdivision (f), provides:

A decision of the commission after an evidentiary hearing, denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding held to consider that petition, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

3. CCR section 12066, subsection (c), provides, in part:

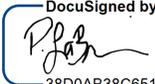
Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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ORDER

- 1. Lee’s Application for Finding of Suitability as a Tribal Key Employee is DENIED.
- 2. No costs are awarded.
- 3. Each side to pay its own attorneys’ fees.

This Order is effective on February 13, 2023.

Dated: 1/12/2023 Signature:  DocuSigned by:
38D0AB38C651466...
Paula LaBrie, Chair

Dated: 1/12/2023 Signature:  DocuSigned by:
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Cathleen Galgiani, Commissioner

Dated: 1/12/2023 Signature:  DocuSigned by:
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Eric Heins, Commissioner

Dated: 1/12/2023 Signature:  DocuSigned by:
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William Liu, Commissioner

Dated: 1/12/2023 Signature:  DocuSigned by:
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Edward Yee, Commissioner