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By CGCC Legal Division at 3:01 pm, Oct 25, 2024

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10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**

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

17 **RALPH CABADA, JR.**

18 TRKE-019483

Respondent.

Case Nos.: CGCC-2024-0125-10A

BGC-HQ2024-00002AL

STATEMENT OF REASONS

Hearing Date: December 13, 2024

Hearing Time: 9:00 a.m.

Hearing Place: 2399 Gateway Oaks, Ste. 100
Sacramento, CA 95833

**This hearing will be conducted by means of
video conferencing on Zoom. The Zoom
meeting code is 285 757 8614.**

23 Complainant alleges as follows:

24 **PARTIES**

25 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her
26 official capacity as the Director of the California Department of Justice, Bureau of Gambling
27 Control (Bureau).
28

1 2. Ralph Cabada, Jr. (Respondent) has been employed by Chukchansi Gold Resort and
2 Casino (Chukchansi Resort) from May 2015 to the present. He assumed key employee duties
3 (Security Sergeant) in March 2018. Respondent was previously employed by Chukchansi Resort
4 from October 2005 to May 2014 as a Security Officer.

5 **THE APPLICATION AND THIS PROCEEDING**

6 3. On March 26, 2018, the Bureau received Respondent's initial Application for Finding
7 of Suitability Tribal Key Employee (BGC-TKE-001 (Rev. 10/07) and a Tribal Key Employee
8 Supplemental Background Investigation Information (BGC-TBL-001 (Rev. 09/07) (collectively,
9 Application). The Application was occasioned by Respondent's employment as a Security
10 Sergeant at Chukchansi Resort.¹ Upon receipt of the Application, Respondent was issued a
11 temporary tribal key employee license under the record number TRKE-019483, which is
12 currently pending and will expire on August 2, 2025,² and the Bureau undertook a Tribal Key
13 Employee Background Investigation.

14 4. During its background investigation of the Respondent, the Bureau learned that
15 Respondent has five misdemeanor convictions and provided untrue and misleading information
16 regarding the circumstances surrounding one of the convictions. In addition, based on the
17 circumstances surrounding one of the convictions, the Bureau does not believe Respondent is a
18 person of good character, honesty, and integrity.

19 5. On December 8, 2023, Assistant Director Lisa Wardall, and Manager II Mysty Trejo
20 met with Respondent via telephone and informed him generally of the Bureau's recommendation
21 to deny the Application. On November 14, 2023, the Bureau notified the Tribal Gaming Agency,
22

23 ¹ At the time of his Application, Respondent was employed at the Chukchansi Gold
24 Resort and Casino. Because this gambling establishment is owned and operated by the Picayune
25 Rancheria of Chukchansi Indians of California, pursuant to a tribal-state compact, Respondent's
26 gaming license was issued by the Picayune Rancheria Tribal Gaming Commission (the Tribal
Gaming Agency). Accordingly, under these circumstances, the Commission is required to make
a determination of suitability "for licensure under the California Gambling Control Act." (Tribal-
State Compact Between the State of California and the Picayune Rancheria, § 6.5.6.)

27 ² This record number was issued with respect to Respondent's first Application for
28 Finding of Suitability Tribal Key Employee that was received on March 26, 2018, and now
subsumes Respondent's subsequent applications that were received on November 1, 2021, and
August 22, 2023.

1 to inform them of the general basis for the Bureau’s recommendation to deny the Application.
2 The Tribal Gaming Agency did not provide any additional information.

3 6. On December 11, 2023, the Bureau notified Respondent that it had completed its
4 background investigation in connection with the Application, and issued its Tribal Key Employee
5 Background Investigation Report Level III recommending that the Application be denied.

6 7. On January 11, 2024, the California Gambling Control Commission (Commission)
7 notified Respondent that his Application would be considered by the Commission at 10:00 a.m.,
8 on January 25, 2024. On that date, the Commission considered the Application and voted to refer
9 the Application to an evidentiary hearing pursuant to California Code of Regulations, title 4,
10 section 12054, subdivision (a)(4)³, and determined that the hearing would be a Gambling Control
11 Act hearing before the Commissioners. The Commission’s notification to Respondent included a
12 Notice of Defense, with instructions, which Respondent subsequently returned to the Commission
13 on or about February 26, 2024, checking boxes requesting both an evidentiary hearing and
14 waiving his right to a hearing evidentiary hearing. The Notice of Defense did include a request
15 that notices or written communications concerning the evidentiary hearing be provided to
16 Respondent via email.

17 8. On February 26, 2024, the Commission emailed Respondent to clarify the checking
18 of both boxes. Respondent responded he was requesting an evidentiary hearing.

19 9. On July 17, 2024, the Commission issued a Notice of Hearing (Notice) informing
20 Respondent that the evidentiary hearing would be conducted before the Commission on
21 December 13, 2024 at 9:00 a.m., using Zoom video conferencing (Zoom meeting code 285 757
22 8614). The Notice further provided that the evidentiary hearing would be preceded by a
23 mandatory prehearing conference on November 4, 2024, 2024 at 10:00 a.m., also using Zoom
24 videoconferencing and informing Respondent of the Zoom meeting code and password.

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28 ³ The statutes and regulations applicable to this Statement of Reasons are quoted in
pertinent part in Appendix A.

1 **BURDEN OF PROOF**

2 10. Respondent has the burden of proving that he is qualified to receive a tribal key
3 employee license. (Bus. & Prof. Code, § 19856, subd. (a).)

4 **FIRST CAUSE FOR DENIAL**

5 **(Ineligible for Licensure)**

6 11. Respondent's Application is subject to discretionary denial on the ground that
7 Respondent is ineligible for licensure because his prior conduct indicates that he is not a person of
8 good character, honesty, and integrity within the meaning of the Gambling Control Act, and that
9 his prior activities pose a threat to the public interest of this state, or to the effective regulation
10 and control of controlled gambling. Respondent has five misdemeanor convictions:

11 1) February 11, 2009 - Violation of Vehicle Code section 23152, subdivision (b),
12 driving under the influence with a blood alcohol level of 0.08 percent or higher (DUI), a
13 misdemeanor (Fresno County Sup. Court, Case No. M08930124).

14 2) December 10, 2010 - Violation of Penal Code section 240 (Assault), a misdemeanor
15 (Fresno County Sup. Ct., Case No. M10915932). This conviction was dismissed and set aside on
16 November 1, 2017 pursuant to Penal Code section 1203.4.

17 3) March 20, 2012 - Violation of Vehicle Code section 23152, subdivision (b), DUI with
18 a prior, and Vehicle Code section 14601.2, subdivision (a), driving while license suspended for
19 DUI, both misdemeanors (Fresno County Sup. Ct., Case No. M12910329).

20 4) October 22, 2012 - Violation of Vehicle Code section 14601.2, subdivision (a),
21 driving while license suspended for DUI, a misdemeanor (Fresno County Sup. Ct. Case No.
22 M12923993).

23 All of these convictions occurred within 10 years of the date of Respondent's Application,
24 but none of them are misdemeanors involving moral turpitude without a consideration of
25 aggravating circumstances. Accordingly, without more, these convictions do not constitute a
26 ground for mandatory denial pursuant to Business and Professions Code section 19859,
27 subdivision (d). While Respondent's assault conviction was dismissed and set aside pursuant to
28 Penal Code 1203.4, the granting of that relief does not constitute a limitation on the discretion of

1 the Commission under Business and Professions Code section 19856 or affect the Applicant's
2 burden under Business and Professions Code section 19857. Moreover, two of these convictions
3 (#3 and #4, above) constitute repeat offenses that may suggest a lack of respect for, or other
4 unwillingness to comply with the laws of this State. These convictions evidence a disregard for
5 the public health, safety, and welfare, and therefore pose a risk to the public interest of this state,
6 or to the effective regulation and control of controlled gambling.
7 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (d) [discretionary denial].)

8 **SECOND CAUSE FOR DENIAL**

9 **(Disqualified for Licensure)**

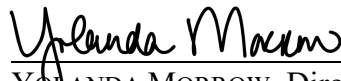
10 12. Respondent's Application is subject to mandatory denial on the ground that
11 Respondent is disqualified for licensure because he provided untrue and misleading information
12 regarding the circumstances of his December 10, 2010 conviction for violation of Penal Code
13 section 240 (Assault) (Fresno County Sup. Ct., Case No. M10915932).
14 (Bus. & Prof. Code, § 19859, subs. (a) & (b) [mandatory denial].)

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters alleged herein,
17 and that following the hearing, the Commission issue a decision:

- 18 1. Denying Respondent's Application; and
19 2. Taking such other and further action as the Commission may deem appropriate.

20
21 Dated: October 24, 2024

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23 _____
24 YOLANDA MORROW, Director
25 Bureau of Gambling Control
26 California Department of Justice
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APPENDIX A

BUSINESS AND PROFESSIONS CODE

1. Business and Professions Code section 19811, subdivision (b), provides:

Jurisdiction, including jurisdiction over operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operation of gambling establishments is vested in the commission.

2. Business and Professions Code section 19823 provides:

(a) The responsibilities of the commission include, without limitation, all of the following:

(1) Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons are conducted in a manner that is inimical to the public health, safety, or welfare.

(2) Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

(b) For the purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19857, and “disqualified person” means a person who is found to be disqualified pursuant to the criteria set forth in Section 19859.

3. Business and Professions Code section 19824 provides, in part:

The commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of this chapter,^[4] including, without limitation, the power to do all of the following:

* * *

(b) For any cause deemed reasonable by the commission, deny any application for a license, permit, or approval provided for in this chapter or regulations adopted pursuant to this chapter, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved. The commission may

⁴ “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 condition, restrict, discipline, or take action against the license of an
2 individual owner endorsed on the license certificate of the gambling
3 enterprise whether or not the commission takes action against the
4 license of the gambling enterprise.

5 * * *

6 (d) Take actions deemed to be reasonable to ensure that no
7 ineligible, unqualified, disqualified, or unsuitable persons are
8 associated with controlled gambling activities.

9 4. Business and Professions Code, section 19854 provides, in part:

10 (a) A person shall not be employed as a key employee unless that
11 person applies for and obtains a key employee license.

12 (b) A person shall not be issued a key employee license unless the
13 person would qualify for a state gambling license.

14 5. Business and Professions Code section 19856 provides:

15 (a) Any person who the commission determines is qualified to
16 receive a state license, having due consideration for the proper
17 protection of the health, safety, and general welfare of the residents of
18 the State of California and the declared policy of this state, may be
19 issued a license. The burden of proving his or her qualifications to
20 receive any license is on the applicant.

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

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

6. Business and Professions Code section 19857 provides:

No gambling license shall be issued unless, based on all of the
information and documents submitted, the commission is satisfied that
the applicant is all of the following:

(a) A person of good character, honesty, and integrity.

(b) A person whose prior activities, criminal record, if any,
reputation, habits, and associations do not pose a threat to the public
interest of this state, or to the effective regulation and control of
controlled gambling, or create or enhance the dangers of unsuitable,
unfair, or illegal practices, methods, and activities in the conduct of

1 controlled gambling, or in the carrying on of the business and financial
2 arrangements incidental thereto.

3 (c) A person that is in all other respects qualified to be licensed
4 as provided in this chapter.

5 7. Business and Professions Code section 19859 provides, in part:

6 The commission shall deny a license to any applicant who is
7 disqualified for any of the following reasons:

8 (a) Failure of the applicant to clearly establish eligibility and
9 qualification in accordance with this chapter.

10 (b) Failure of the applicant to provide information,
11 documentation, and assurances required by this chapter or requested
12 by the chief, or failure of the applicant to reveal any fact material to
13 qualification, or the supplying of information that is untrue or
14 misleading as to a material fact pertaining to the qualification criteria.

15 * * *

16 (d) Conviction of the applicant for any misdemeanor involving
17 moral turpitude within the 10-year period immediately preceding the
18 submission of the application, unless the applicant has been granted
19 relief pursuant to Section 1203.4 . . . of the Penal Code, provided,
20 however, that the granting of relief pursuant to Section 1204.4 . . . of
21 the Penal Code shall not constitute a limitation on the discretion of the
22 commission under Section 19856 or effect the applicant's burden
23 under Section 19857.

24 8. Business and Professions Code section 19866 provides:

25 An applicant for licensing or for any approval or consent required
26 by this chapter, shall make full and true disclosure of all information
27 to the department and the commission as necessary to carry out the
28 policies of this state relating to licensing, registration, and control of
gambling.

9. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of the
chief^{5]} and any other testimony and written comments as may be
presented at the meeting, or as may have been submitted in writing to
the commission prior to the meeting, may either deny the application
or grant a license to an applicant who it determines to be qualified to
hold the license, or refer the application to an evidentiary hearing.

(b) When the commission grants an application for a license or
approval, the commission may limit or place restrictions on the license
or approval as it may deem necessary in the public interest, consistent
with the policies described in this chapter.

⁵ "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

1 (c) If, during a meeting, the commission denies an application,
2 denies approval, or approves with limits, restrictions, or conditions,
3 the action shall be stayed for a period of 30 days after the meeting,
4 during which the applicant may request an evidentiary hearing. If the
5 applicant does not file a request for an evidentiary hearing within 30
6 days, the action of the commission taken at the meeting is final. If the
7 applicant waives the right to hearing and assents to the action of the
8 commission in writing, upon receipt of the waiver by the commission,
9 the action shall no longer be stayed. If the applicant files a timely
10 request for an evidentiary hearing, the action shall be vacated and the
11 application shall be reviewed de novo at the evidentiary hearing.

12 (d) When an application is denied after an evidentiary hearing,
13 the commission shall prepare and file a detailed statement of its
14 reasons for the denial.

15 (e) All proceedings relating to an application at a meeting of the
16 commission or at an evidentiary hearing shall be recorded
17 stenographically or by audio or video recording.

18 (f) A decision of the commission after an evidentiary hearing,
19 denying a license or approval, or imposing any condition or restriction
20 on the grant of a license or approval may be reviewed by petition
21 pursuant to Section 1085 of the Code of Civil Procedure. Section
22 1094.5 of the Code of Civil Procedure does not apply to any judicial
23 proceeding held to consider that petition, and the court may grant the
24 petition only if the court finds that the action of the commission was
25 arbitrary and capricious, or that the action exceeded the commission's
26 jurisdiction.

27 10. Business and Professions Code section 19871 provides:

28 (a) An evidentiary hearing described in Section 19870 shall be
conducted in accordance with regulations of the commission and as
follows:

(1) Oral evidence shall be taken only upon oath or
affirmation.

(2) Each party shall have all of the following rights:

(A) To call and examine witnesses.

(B) To introduce exhibits relevant to the issues
of the case.

(C) To cross-examine opposing witnesses on
any matters relevant to the issues, even though the
matter was not covered on direct examination.

(D) To impeach any witness, regardless of
which party first called the witness to testify.

(E) To offer rebuttal evidence.

1 (3) If the applicant does not testify in his or her own behalf,
2 he or she may be called and examined as if under cross-
examination.

3 (4) The meeting need not be conducted according to
4 technical rules relating to evidence and witnesses. Any relevant
5 evidence may be considered, and is sufficient in itself to support a
6 finding, if it is the sort of evidence on which responsible persons
7 are accustomed to rely in the conduct of serious affairs, regardless
of the existence of any common law or statutory rule that might
make improper the admission of that evidence over objection in a
civil action.

8 (b) Nothing in this section confers upon an applicant a right to
9 discovery of the department's^[6] investigative reports or to require
10 disclosure of any document or information the disclosure of which is
11 otherwise prohibited by any other provision of this chapter.

12 **TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA**
13 **AND THE PICAYUNE RANCHERIA**

14 11. The Tribal-State Compact Between the State of California and the Picayune
15 Rancheria section 6.5.6 (State Certification Process) provides, in part:

16 Except for an applicant for licensing as a non-key Gaming
17 Employee, as defined by agreement between the Tribal Gaming
18 Agency and the State Gaming Agency, the Tribal Gaming Agency
19 shell require the applicant also to file an application with the State
20 Gaming Agency, prior to issuance of a temporary or permanent tribal
21 gaming license, for a determination of suitability for licensure under
22 the California Gambling Control Act. Investigation and disposition of
23 that application shall be governed entirely by state law, and the State
24 Gaming Agency shall determine whether the applicant would be found
25 suitable for licensure in a gambling establishment subject to that
26 Agency's jurisdiction. Additional information may be required by the
27 State Gaming Agency to assist it in its background investigation,
provided that such State Gaming Agency requirement shall be no
greater than that which may be required of applicants for a State
gaming license in connection with nontribal gaming activities and at a
similar level of participation or employment. . . . If further
investigation is required to supplement the investigation conducted by
the Tribal Gaming Agency, the applicant will be required to pay the
statutory application fee charged by the State Gaming agency pursuant
to Business and Professions Code section 19941 (a). . . . Failure to
pay the application fee . . . may be grounds for denial of the
application by the State Gaming Agency. . . . Upon completion of the
necessary background investigation or other verification of suitability,
the State Gaming Agency shall issue a notice to the Tribal Gaming
Agency certifying that the State has determined that the applicant

28 (h.) ⁶ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.

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would be suitable, or that the applicant would be unsuitable, for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency and, if unsuitable, stating the reasons therefor. . . . Prior to denying an application for a determination of suitability, the State Gaming Agency shall notify the Tribal Gaming Agency and afford the Tribe an opportunity to be heard. If the State Gaming Agency denies an application for a determination of suitability, that Agency shall provide the applicant with written notice of all appeal rights available under state law.

Tribal-State Compact Between the State of California and the Picayune Rancheria, executed October 13, 1999, pp. 20-21.