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10 **BEFORE THE**
11 **CALIFORNIA GAMBLING CONTROL COMMISSION**
12 **STATE OF CALIFORNIA**
13
14

15 **In the Matter of the Accusation Against:**

BGC Case No.: BGC-HQ2012-00006AL

16 **FERNANDO ALLAN LOPEZ, JR.**
17 

OAH No. _____

18
19 **Finding of Suitability Number**
BGC-TRKE-002328.

ACCUSATION

20
21 **Respondent.**
22

23 Complainant alleges as follows:

24 **PARTIES**

25 1. Wayne J. Quint (Complainant) brings this Accusation solely in his official capacity as
26 the Chief of the California Department of Justice, Bureau of Gambling Control (Bureau).

27 2. On or about March 22, 2012, the California Gambling Control Commission
28 (Commission) renewed Fernando Allan López, Jr.'s, (Respondent) Finding of Suitability, Bureau

1 number BGC-TRKE-002323. Respondent's Finding of Suitability will expire on December 28,
2 2013, unless renewed.¹

3 **JURISDICTION**

4 3. Business and Professions Code, section 19811 provides, in part:

5 (b) Jurisdiction, including jurisdiction over operation and concentration,
6 and supervision over gambling establishments in this state and over all
7 persons or things having to do with the operations of gambling establishments
8 is vested in the commission.

9 4. Business and Professions Code, section 19823 provides:

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

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

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

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

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

24 * * *

25 (b) For any cause deemed reasonable by the commission . . . limit,
26 condition, or restrict any license, permit, or approval, or impose any fine upon
27 any person licensed or approved. The commission may condition, restrict,
28 discipline, or take action against the license of an individual owner endorsed

24 ¹ Respondent is currently employed as a casino floor manager at the Gold Country Casino
25 & Hotel, located on the Berry Creek Rancheria, at 4020 Olive Highway, Oroville, California.
26 Because this gambling establishment is owned and operated by the Tyme Maidu Tribe - Berry
27 Creek Rancheria pursuant to a tribal-state compact, Respondent's key employee license, license
28 number 1343873, is issued by the Berry Creek Rancheria Tribal Gaming Commission and not the
Commission. In such instances, the Commission only makes a Finding of Suitability. (Tribal-
State Compact Between the State of California and the Tyme Maidu Tribe - Berry Creek
Rancheria, p. 11, § 6.)

1 on the license certificate of the gambling enterprise whether or not the
2 commission takes action against the license of the gambling enterprise.

3 * * *

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

6. Business and Professions Code section 19826 provides, in part:

7 The department^[2] shall have all of the following responsibilities:

8 * * *

9 (c) To investigate suspected violations of this chapter or laws of this
10 state relating to gambling

11 * * *

12 (e) To initiate, where appropriate, disciplinary actions as provided in
13 this chapter. In connection with any disciplinary action, the department may
14 seek restriction, limitation, suspension, or revocation of any license or
15 approval, or the imposition of any fine upon any person licensed or approved.

7. California Code of Regulations, title 4, section 12554 provides, in part:

16 (a) Upon the filing with the Commission of an accusation by the Bureau
17 recommending revocation, suspension, or other discipline of a holder of a
18 license, registration, permit, finding of suitability, or approval, the Commission
19 shall proceed under Chapter 5 (commencing with section 11500) of Part 1 of
20 Division 3 of Title 2 of the Government Code.

21 COST RECOVERY

22 8. Business and Professions Code section 19930 provides in part:

23 (d) In any case in which the administrative law judge recommends
24 that the commission revoke, suspend, or deny a license, the administrative
25 law judge may, upon presentation of suitable proof, order the licensee or
26 applicant for a license to pay the department the reasonable costs of the
27 investigation and prosecution of the case.

28 * * *

(f) For purposes of this section, "costs" include costs incurred for
any of the following:

27 ² "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
28 (h).)

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(1) The investigation of the case by the department.

(2) The preparation and prosecution of the case by the Office of the Attorney General.

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

9. Business and Professions Code section 19805, subdivision (j) provides:

“Finding of Suitability” means a finding that a person meets the qualification criteria described in subdivisions (a) and (b) of Section 19857, and that the person would not be disqualified from holding a state gambling license on any of the specified in Section 19859.

10. Business and Professions Code section 19857 provides in part:

No gambling license shall be issued unless, based on all 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 controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

11. Business and Professions Code section 19859 provides in part:

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

(a) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.^{3]}

* * *

(c) Conviction of a felony, including a conviction by a federal court or a court in another state for a crime that would constitute a felony if committed in California.

³ Hereinafter, “chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

1 12. California Code of Regulations, title 4, section 12568, subdivision (c), provides, in
2 part:

3 (c) A . . . finding of suitability . . . shall be subject to revocation by
4 the Commission on any of the following grounds:

5 (1) If the Commission finds the holder to have been convicted of a
6 felony or a crime of moral turpitude that would disqualify the holder
7 from licensure.

8 * * *

9 (3) If the Commission finds the holder no longer meets any
10 criterion for eligibility, qualification, suitability or continued operation,
11 including those set forth in Business and Professions code sections
12 19857, 19858, or 19880, as applicable, or

13 (4) If the Commission finds the holder currently meets any of the
14 criteria for mandatory denial of an application set forth in Business and
15 Professions Code sections 19859 or 19860.

16 **FIRST CAUSE FOR REVOCATION OF FINDING OF SUITABILITY**

17 13. Respondent's Finding of Suitability is subject to revocation pursuant to Business and
18 Professions Code sections 19805, 19857 and 19859, and California Code of Regulations, title 4,
19 section 12568, subdivision (c), in that on or February 8, 2012, Respondent was convicted of
20 violating Health and Safety Code section 11350, subdivision (a), possession of a controlled
21 substance, a felony, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County,
22 2012, No. CM034812).

23 **SECOND CAUSE FOR REVOCATION OF FINDING OF SUITABILITY**

24 14. Respondent's Finding of Suitability is subject to revocation pursuant to Business and
25 Professions Code sections 19805, 19857 and 19859, and California Code of Regulations, title 4,
26 section 12568, subdivision (c), in that the Respondent has demonstrated a lack of the requisite
27 good general character, honesty and integrity; and his prior activities, criminal record, habits, and
28 associations 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 controlled gambling. Respondent has engaged

1 in repeated illegal behavior since 2003, demonstrating a pattern and practice of an inherent
2 willingness to violate the law and a conscious disregard for the health safety and welfare of others.

3 Respondent's convictions include:

4 a. On or February 8, 2012, Respondent was convicted of violating Health and Safety
5 Code section 11350, subdivision (a), possession of a controlled substance, a felony, in the case of
6 *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2012, No. CM034812).

7 b. On or February 8, 2012, Respondent was convicted of violating Vehicle Code section
8 23152, subdivision (a), driving under the influence of drugs or alcohol, a misdemeanor, in the case
9 of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2012, No. CM034812).

10 c. On or about September 14, 2011, Respondent was convicted of violating Vehicle
11 Code section 12500, driving without a valid license, an infraction; Vehicle Code section 40508,
12 subdivision (b), failure to appear, a misdemeanor; and Penal Code section 1214.1, failure to
13 appear, a misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte
14 County, 2011, No. NT209961).

15 d. On or about November 19, 2009, Respondent was convicted of violating Vehicle
16 Code section 27315, subdivision (d), mandatory use of seat belts, an infraction, in the case of
17 *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2009, No. DT095304).

18 e. On or about March 25, 2005, Respondent was convicted of violating Vehicle Code
19 section 27315, subdivision (d), mandatory use of seat belts, an infraction; and Penal Code section
20 1465.8, a security surcharge/misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*,
21 (Super. Ct. Butte County, 2005, No. DT058951).

22 f. On or about January 29, 2004, Respondent was convicted of violating Vehicle Code
23 section 26708, subdivision (a), restricted view, an infraction; Vehicle Code section 14601.1,
24 subdivision (a), driving on a suspended or revoked license, an infraction; Vehicle Code section
25 16028, subdivision (a), failure to provide evidence of financial responsibility, an infraction; and
26 Penal Code section 1465.8, a security surcharge/misdemeanor, in the case of *People v. Fernando*
27 *Allan Lopez, Jr.*, (Super. Ct. Butte County, 2004, No.s DT050331 & DT050333).

28

1 g. On or about August 7, 2003, Respondent was convicted of violating Vehicle Code
2 section 22350, speeding, an infraction; and Vehicle Code section 40508, subdivision (a), failure to
3 appear, a misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte
4 County, 2003, No. DT046444).

5 h. On or about June 17, 2003, Respondent was convicted of violating Vehicle Code
6 section 22350, speeding, an infraction; and Vehicle Code section 40508, subdivision (b), failure to
7 appear, a misdemeanor, in the case of *People v. Fernando Allan Lopez, Jr.*, (Super. Ct. Butte
8 County, 2003, No. DT045292).

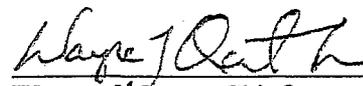
9 i. On or about March 3, 2003, Respondent was convicted of violating Vehicle Code
10 section 27007, improper use of sound amplification, an infraction; in the case of *People v.*
11 *Fernando Allan Lopez, Jr.*, (Super. Ct. Butte County, 2003, No. DT042803).

12 **PRAYER**

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

- 15 1. Revoking the Finding of Suitability issued by the Commission to Respondent;
16 2. Awarding Complainant the costs of investigation and costs of bringing this
17 Accusation before the Commission, pursuant to Business and Professions Code section 19930,
18 subdivisions (d) and (f), in a sum according to proof; and
19 3. Taking such other and further action as the Commission may deem appropriate.

20
21 Dated: November 20, 2012


22 WAYNE J. QUINT, Chief
23 Bureau of Gambling Control
24 Department of Justice
25 State of California
26 Complainant

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