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1 KAMALA D. HARRIS
2 Attorney General of California
3 SARA J. DRAKE
4 Senior Assistant Attorney General
RONALD L. DIEDRICH
5 Deputy Attorney General
State Bar No. 95146
1300 I Street, Suite 125
P.O. Box 944255
6 Sacramento, CA 94244-2550
Telephone: (916) 322-1043
Fax: (916) 327-2319
7 E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

9
10 BEFORE THE
11 CALIFORNIA GAMBLING CONTROL COMMISSION
12 STATE OF CALIFORNIA
13
14

15 In the Matter of the Statement of Issues
16 Against:

17 WILLIAM ROBERT HAYWARD
[REDACTED]

20 Respondent.

BGC Case No.: BGC-HQ2012-00009AL

OAH No. _____

19 STATEMENT OF ISSUES

23 Complainant alleges as follows:

24 PARTIES

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

1 2. On or about April 15, 2012, William Robert Hayward (Respondent) submitted an
2 Application for Finding of Suitability, Tribal Key Employee, and a Supplemental Background
3 Investigation form (collectively application) to the California Gambling Control Commission
4 (Commission).¹

5 3. At its June 14, 2012 meeting the Commission denied Respondent's application.

6 4. At that June 14, 2012 Commission meeting, Respondent requested an evidentiary
7 hearing to appeal the Commission's denial of his application.

JURISDICTION

9 5. Business and Professions Code, section 19811 provides, in part:

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

14 6. Business and Professions Code, section 19823 provides:

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

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

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

26 (b) For the purposes of this section, "unqualified person" means a
27 person who is found to be unqualified pursuant to the criteria set forth in

28

¹ Respondent is currently employed as the Assistant General Manager at the Win-River Casino, located on the Redding Rancheria at 2100 Redding Rancheria Road, Redding California. Because this gambling establishment is owned and operated by the Redding Rancheria pursuant to a tribal-state compact, Respondent's tribal key employee license, license number TRKE-012114, is issued by the Redding Rancheria Tribal Gaming Agency and not the Commission. In such instances, the Commission only makes a Finding of Suitability. (Tribal-State Compact Between the State of California and Redding Rancheria, p. 11, § 6.)

1 Section 19857, and a "disqualified person" means a person who is found to
2 be disqualified pursuant to the criteria set forth in Section 19859.

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

4 The commission shall have all powers necessary and proper to enable it
5 fully and effectually to carry out the policies and purposes of this chapter,
6 including, without limitation, the power to do all of the following:
7 * * *

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

11 8. Business and Professions Code section 19876 provides, in part:

12 (a) Subject to the power of the commission to deny, revoke, suspend,
13 condition, or limit any license, as provided in this chapter^[2], a license shall
14 be renewed biennially.

15 9. The Tribal-State Compact Between the State of California and Redding Rancheria,
16 page 19, section 6.5.6, provides, in part:

17 Except for an applicant for licensing as a non-key Gaming
18 Employee, as defined by agreement between the [Redding Rancheria]
19 Tribal Gaming Agency and the State Gaming Agency [Commission], the
20 Tribal Gaming Agency shall require the applicant also file an application
21 with the State Gaming Agency, ... for a determination of suitability for
22 licensure under the California Gambling Control Act. Investigation and
23 disposition of that application shall be governed entirely by state law,
24 and the State Gaming Agency shall determine whether the applicant
25 would be found suitable for licensure in a gambling establishment
26 subject to that Agency's jurisdiction.

27 COST RECOVERY

28 10. Business and Professions Code section 19930 provides in part:

29 (d) In any case in which the administrative law judge recommends
30 that the commission revoke, suspend, or deny a license, the administrative
31 law judge may, upon presentation of suitable proof, order the licensee or

27 ² Hereinafter, "chapter" refers to Business and Professions Code, division 8, chapter 5,
28 (commencing with section 19800), also known as the Gambling Control Act.

1 applicant for a license to pay the department the reasonable costs of the
2 investigation and prosecution of the case.

* * *

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

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

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

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

9 11. Business and Professions Code section 19856, subdivision (a) provides, in part:

10 The burden of proving his or her qualifications to receive any license
11 is on the applicant.

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

13 "Finding of Suitability" means a finding that a person meets the
14 qualification criteria described in subdivisions (a) and (b) of Section
15 19857, and that the person would not be disqualified from holding a state
16 gambling license on any of the grounds specified in Section 19859.

17 13. Business and Professions Code section 19857 provides, in part:

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

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

22 (b) A person whose prior activities, criminal record, if any,
23 reputation, habits, and associations do not pose a threat to the public
24 interest of this state, or to the effective regulation and control of
25 controlled gambling, or create or enhance the dangers of unsuitable,
26 unfair, or illegal practices, methods, and activities in the conduct of
27 controlled gambling or in the carrying on of the business and financial
28 arrangements incidental thereto.

29 14. Business and Professions Code section 19859 provides, in part:

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

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

(b) Failure of the applicant to provide information, documentation, and assurances required by this chapter or requested by the Chief^[3], or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

FIRST CAUSE FOR DENIAL OF FINDING OF SUITABILITY

(Criminal Convictions)

7 15. Respondent's application for a Finding of Suitability is subject to denial pursuant to
8 Business and Professions Code sections 19805, 19857 and 19859, subdivision (a), in that the
9 Respondent has demonstrated a lack of the requisite good general character, honesty and
10 integrity; and his prior activities, criminal record, habits, and associations pose a threat to the
11 public interest of this state, or to the effective regulation and control of controlled gambling, or
12 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
13 the conduct of controlled gambling. Respondent has engaged in repeated illegal behavior since
14 1987, demonstrating a pattern and practice of an inherent willingness to violate the law and a
15 conscious disregard for the health safety and welfare of others. Respondent's convictions
16 include:

17 a. On or about April 8, 2002, Respondent was convicted of violating Vehicle Code
18 section 23103, subdivision (a),⁴ reckless driving, a misdemeanor, and Vehicle Code section 31,
19 giving false information to a police officer, a misdemeanor, in the case of *People v. William*
20 *Robert Hayward* (Super. Ct. Shasta County, 2002, No. MCRDCRTR020000419).⁵

³ “Chief” refers to the Chief of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

⁴ Respondent was charged with violating Vehicle Code section 23152, subdivision (a), driving under the influence of an alcoholic beverage or drug. However, Respondent pled nolo contendre to Vehicle Code section 23103.5, which in effect resulted in the conviction of violating Vehicle Code section 23103, subdivision (a).

⁵ On or about October 16, 2008, pursuant to Penal Code section 1203.4, Respondent's conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta County, 2008, No. 02CTR419) Petition and Order for Expungement,. However, that expungement "shall not constitute a limitation on the discretion of the commission under Section 19856 of affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd. (d).)

1 b. On or about August 11, 1995, Respondent was convicted of violating Vehicle Code
2 sections 14601.2, subdivision (a), driving on a suspended license for driving under the influence,
3 a misdemeanor, and 22350, speeding, in the case of *People v. William Robert Hayward* (Super.
4 Ct. Butte County, 1995, No. CRTR950004777).⁶

5 c. On or about November 9, 1993, Respondent was convicted of violating Vehicle Code
6 section 14601.2, subdivision (a), driving on a suspended license for driving under the influence, a
7 misdemeanor, in the case of *People v. William Robert Hayward* (Super. Ct. Glenn County, 1993,
8 No. 548817).⁷

9 d. On or about March 30, 1992, Respondent was convicted of violating Vehicle Code
10 section 23152, subdivision (a), driving under the influence of an alcoholic beverage or drug, with
11 two prior convictions, a misdemeanor, in the case of *People v. William Robert Hayward* (Mun.
12 Ct. Shasta County, 1992, No. 92D0583).⁸

13 e. On or about May 25, 1990, Respondent was convicted of violating Vehicle Code
14 section 23152, subdivision (a), driving under the influence of an alcoholic beverage or drug, with
15 one prior conviction, a misdemeanor, in the case of *People v. William Robert Hayward* (Mun. Ct.
16 Shasta County, 1990, No. 90D1451).⁹

17 ⁶ On or about October 16, 2008, pursuant to Penal Code section 1203.4, Respondent's
18 conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
19 County, 2008, No. 950004777) Petition and Order for Expungement. However, that
20 expungement "shall not constitute a limitation on the discretion of the commission under Section
21 19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
22 (d).)

23 ⁷ On or about December 2, 2008, pursuant to Penal Code section 1203.4, Respondent's
24 conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Glenn
25 County, 2008, No. N54-8817) Petition and Order for Expungement. However, that expungement
26 "shall not constitute a limitation on the discretion of the commission under Section 19856 or
27 affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd. (d).)

28 ⁸ On or about October 16, 2008, pursuant to Penal Code section 1203.4, Respondent's
conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
County, 2008, No. 92CTR583) Petition and Order for Expungement. However, that
expungement "shall not constitute a limitation on the discretion of the commission under Section
19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
(d).)

⁹ On or about October 16, 2008, the Shasta County Superior court denied Respondent's
petition to have this conviction expunged pursuant to Penal Code section 1203.4, in the matter of
People v. Hayward William Robert (Super. Ct. Shasta County, 2008, No. 90CTR1451) Petition
(continued...)

1 f. On or about February 18, 1987, Respondent was convicted of violating Vehicle Code
2 section 23152, subdivision (a), driving under the influence of an alcoholic beverage or drug, a
3 misdemeanor, in the case of *People v. William Robert Hayward* (Super. Ct. Alameda County,
4 1987, No. 107506).

5 **SECOND CAUSE FOR DENIAL OF FINDING OF SUITABILITY**

6 **(Failure to Disclose)**

7 16. Respondent's application for a Finding of Suitability is subject to denial pursuant to
8 Business and Professions Code sections 19805, 19857, subdivision (a), and 19859, subdivision
9 (b), in that the Respondent failed to demonstrate he is a person of good character, honesty and
10 integrity, and failed to provide information, documentation, and assurances required by the
11 Gambling Control Act or requested by the Chief, or failed to reveal facts material to his
12 qualification, or the supplied information is untrue or misleading as to a material fact pertaining
13 to the qualification criteria. More specifically:

14 a. Respondent failed to disclose on his application that on or about April 8, 2002, he
15 was convicted of violating Vehicle Code section 31, giving false information to a police officer, a
16 misdemeanor, as well as a crime of dishonesty and moral turpitude, in the case of *People v.*
17 *William Robert Hayward* (Super. Ct. Shasta County, 2002, No. MCRDCRTR020000419).¹⁰

18 b. In explaining to the Bureau the facts surrounding the above-noted conviction,
19 Respondent provided false and misleading information, and omitted material information.

20 **PRAYER**

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

23

24 (...continued)
and Order for Expungement.

25 ¹⁰ On or about October 16, 2008, pursuant to Penal Code section 1203.4, Respondent's
conviction was expunged in the matter of *People v. Hayward William Robert* (Super. Ct. Shasta
County, 2008, No. 02CTR419) Petition and Order for Expungement. However, that
expungement "shall not constitute a limitation on the discretion of the commission under Section
19856 or affect the applicant's burden under section 19857." (Bus. & Prof. Code, § 19859, subd.
(d.).

- 1 1. Denying Respondent's application for a Finding of Suitability as a tribal key
 - 2 employee;
 - 3 2. Awarding Complainant the costs of investigation and costs of bringing this Statement
 - 4 of Issues before the Commission, pursuant to Business and Professions Code section 19930,
 - 5 subdivisions (d) and (f), in a sum according to proof; and
 - 6 3. Taking such other and further action as the Commission may deem appropriate.

Dated: March 8, 2013

Wayne) Out Jr

WAYNE J. QUINT JR., Chief
Bureau of Gambling Control
Department of Justice
State of California
Complainant