

COPY

REMOVED BY
CGCC LEGAL DIVISION

2013 SEP -3 PM 1: 23

1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 TIMOTHY M. MUSCAT
Deputy Attorney General
4 State Bar No. 148944
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5184
Fax: (916) 323-2319
7 E-mail: Timothy.Muscat@doj.ca.gov
Attorneys for Complainant

8
9 BEFORE THE
10 CALIFORNIA GAMBLING CONTROL COMMISSION
11 STATE OF CALIFORNIA
12

13 CGCC Case No. 2013-0110-1

14 **In the Matter of the Statement of Reasons**
15 **for Denial of Tribal Key Employee**
16 **Application Regarding:**

STATEMENT OF REASONS

16 **DIANE SALCIDO**
17 

Hearing Date: October 15, 2013, 10:00 am,
through October 17, 2013

18 Respondent.
19
20

21 Complainant alleges as follows:

22 **PARTIES**

23 1. Wayne J. Quint (Complainant) brings this Statement of Reasons for the denial of
24 suitability solely in his official capacity as the California Department of Justice, Bureau of
25 Gambling Control (Bureau) Chief.

26 2. Diane Salcido (Respondent) is employed with the Security Department for the Morongo
27 Tribal Gaming Agency (TGA). On September 22, 2011, Respondent submitted an Application
28

1 for Finding of Suitability Tribal Key Employee to the California Gambling Control Commission
2 (Commission).¹

3 3. At its January 10, 2013 meeting, the Commission acted to preliminarily deny the
4 application for a finding of suitability and had the matter referred to an evidentiary hearing.

5 4. On May 24, 2013, the Executive Director of the Commission set the matter for an
6 evidentiary hearing before the Commission pursuant to Business and Professions Code section
7 19870 and 19871, and California Code of Regulations, section 12050, subdivisions (b)(2).

8 **JURISDICTION**

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

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

14 6. Business and Professions Code section 19823 provides:

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

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

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

28 ¹ Respondent is currently employed with the Security Department at the Morongo Casino
Resort and Spa, which is located at 49500 Seminole Drive in Cabazon, California. Because this
gambling establishment is owned and operated by the Morongo Band of Mission Indians pursuant
to a tribal-state compact, Respondent's tribal key employee license is issued by the TGA 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 Morongo Band of Mission
Indians, p. 11, § 6.)

1 (b) For the purposes of this section, "unqualified person"
2 means a person who is found to be unqualified pursuant to the
3 criteria set forth in Section 19857, and "disqualified person" means
4 a person who is found to be disqualified pursuant to the criteria set
5 forth in Section 19859.

6
7
8
9 7. Business and Professions Code section 19876 provides in part:

10 (a) Subject to the power of the commission to deny, revoke,
11 suspend, condition, or limit any license, as provided in this chapter²,
12 a license shall be renewed biennially.

13
14
15
16
17
18
19 8. Business and Professions Code section 19824 provides in part:

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

24 * * *

25 (b) For any cause deemed reasonable by the commission, deny
26 any application for a license, permit, or approval provided for in this
27 chapter or regulations adopted pursuant to this chapter, limit,
28 condition, or restrict any license, permit, or approval, or impose any
fine upon any person licensed or approved. The commission may
condition, restrict, discipline, or take action against the license of an
individual owner endorsed on the license certificate of the gambling
enterprise whether or not the commission takes action against the
license of the gambling enterprise.

* * *

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

9. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of
the chief 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

² "Chapter" refers to the "Gambling Control Act." (Bus. & Prof. Code, § 19800 et seq.)

1 grant a license to an applicant who it determines to be qualified to hold
2 the license.

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

7 (c) When an application is denied, the commission shall prepare
8 and file a detailed statement of its reasons for the denial.

9 (d) All proceedings at a meeting of the commission relating to a
10 license application shall be recorded stenographically or by audio or
11 video recording.

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

20 10. Business and Professions Code section 19871 provides:

21 (a) The commission meeting described in Section 19870 shall be
22 conducted in accordance with regulations of the commission and as
23 follows:

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

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

26 (A) To call and examine witnesses.

27 (B) To introduce exhibits relevant to the issues of the
28 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

(4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons 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.

(b) Nothing in this section confers upon an applicant a right to discovery of the department's³ investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

11. Business and Professions Code section 19984, subdivision (b), provides in part:

The commission shall establish reasonable criteria for, and require the licensure and registration of, any person or entity that provides proposition player services to gambling establishments pursuant to this section, including owners, supervisors, and players. . . . The commission may impose licensing requirements, disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state

SPECIFIC STATUTORY AND REGULATORY PROVISIONS

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

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

13. Business and Professions Code section 19854, subdivision (b) provides in part:

No person may be issued a key employee license unless the person would qualify for a state gambling license.

14. Business and Professions Code section 19857 provides:

³ "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & Prof. Code, § 19805, subd. (h).)

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

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

5 (b) A person whose prior activities, criminal record, if any,
6 reputation, habits, and associations do not pose a threat to the public
7 interest of this state, or to the effective regulation and control of
8 controlled gambling, or create or enhance the dangers of unsuitable,
9 unfair, or illegal practices, methods, and activities in the conduct of
10 controlled gambling or in the carrying on of the business and financial
11 arrangements incidental thereto.

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

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

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

17 (a) Failure of the applicant to clearly establish eligibility and
18 qualifications in accordance with this chapter.

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

24 * * *

25 (d) Conviction of the applicant for any misdemeanor involving
26 dishonesty or moral turpitude within the 10-year period proceeding the
27 submission of the application, unless the applicant has been granted
28 relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal
Code; provided, however, that granting of relief pursuant to Section
1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a
limitation on the discretion of the commission under Section 19856 or
affect the applicant's burden under Section 19857.

16. Business and Professions Code section 19866 provides:

An applicant for licensing or for any approval or consent required
by this chapter, shall make full and true disclosure of all information to
the department and the commission as necessary to carry out the

1 policies of this state relating to licensing, registration, and control of
2 gambling.

3 **DENIAL OF LICENSE APPLICATION**

4 **(Business and Professions Code Section 19857, subdivision (a) —**
5 **Good Character, Honesty, and Integrity)**
6

7
8 17. Respondent is not suitable to be licensed as a tribal key employee pursuant to Business
9 and Professions Code sections 19857, subdivision (a), because Respondent is not “[a] person of
10 good character, honesty, and integrity.” (Bus. & Prof. Code, § 19857, subd. (a).) Respondent has
11 engaged in the following pattern and practice of disregarding the law:
12

13 (A) Four Criminal Convictions: From June 27, 2001 to September 22, 2009, Respondent
14 was convicted of four misdemeanor offenses.

15 (1) On or about June 27, 2001, Respondent was convicted of violating Vehicle Code
16 section 23152 (a), driving under the influence (DUI) of alcohol/drugs.

17 (2) On or about June 27, 2001, Respondent was convicted of violating Vehicle Code
18 section 23512 (b), DUI of alcohol/0.08 percent or higher.

19 (3) On or about January 12, 2007, Respondent was convicted of violating Vehicle
20 Code section 14601.1 (a), driving while license is suspended.
21

22 (4) On or about September 22, 2009, Respondent was convicted of violating Penal
23 Code section 853.7, failure to appear after a written promise.

24 (B) Five Bench Warrants: In addition to the above four misdemeanor convictions, from
25 August 27, 2003 to September 22, 2009, Respondent repeatedly failed to appear in court, which
26 resulted in the following five bench warrants.

27 (1) Failure to appear for an arraignment on December 1, 2003.
28

- 1 (2) Failure to appear for a probation violation hearing on January 3, 2007.
- 2 (3) Failure to appear for a trial readiness conference on January 3, 2007.
- 3 (4) Failure to appear for a probation violation hearing on April 20, 2007.
- 4
- 5 (5) Failure to appear in court on October 10, 2008.

6 (C) Two Probation Revocations: In regard to the above criminal convictions, Respondent
7 repeatedly violated the terms of her probation and she had her probation revoked on the following
8 two occasions.

9 (1) Respondent's probation was first revoked on December 1, 2003 when she failed
10 to appear for an arraignment.

11 (2) Respondent's probation was revoked on April 20, 2007 when she failed to appear
12 for a probation violation hearing.

13 (D) Two Failures to Pay: Respondent has two outstanding failures to pay (FTP).

14 (1) The first FTP was issued by the Riverside Superior Court on August 17, 2010.
15 Respondent still owes a balance of approximately \$488.00 on this FTP.

16 (2) The second FTP was issued by the Riverside Superior Court on May 27, 2011.
17 Respondent still owes a balance of approximately \$220.00 on this FTP.

18 (E) Failures to Timely File Tax Returns with the Franchise Tax Board: Respondent did not
19 file her 2001 state tax return with the Franchise Tax Board until July 15, 2012, and she currently
20 owes \$2,028.02 for the 2001 tax year. Respondent did not file her 2003 state tax return with the
21 Franchise Tax Board until July 15, 2012, and she currently owes \$660.90 for the 2003 tax year.
22 Respondent did not file her 2004 and 2006 state tax returns with the Franchise Tax Board until
23 July 30, 2012. Respondent did not file her 2008 state tax return with the Franchise Tax Board,
24 and she currently owes \$681.67 for the 2008 tax year. Respondent did not file her 2009 state tax
25 return with the Franchise Tax Board until July 27, 2012. Respondent did not file her 2011 state
26 return with the Franchise Tax Board until July 27, 2012. Respondent did not file her 2011 state
27

1 tax return with the Franchise Tax Board until June 15, 2012, and she currently owes \$626.36 for
2 the 2011 tax year.

3 (F) Judgment: Respondent had one small claims judgment against her in the Superior
4 Court of California, County of Riverside. That judgment was filed on July 24, 2006, for an
5 amount of \$807, plus costs of \$75.00, for writing a check with insufficient funds.

6
7 **PRAYER**

8 WHEREFORE, Complainant requests that following the hearing to be held on the matters
9 herein alleged, the Commission issues a decision:

- 10 1. Denying Respondent's application for finding of suitability tribal key employee, and
11 2. Taking such other and further action as the Commission may deem appropriate.

12
13 Dated: August 30, 2013



Wayne J. Quint, Chief
Bureau of Gambling Control
California Department of Justice
Complainant