

1 KAMALA D. HARRIS
 Attorney General of California
 2 SARA J. DRAKE
 Senior Assistant Attorney General
 3 NEIL D. HOUSTON
 Deputy Attorney General
 4 State Bar Number 168058
 1300 I Street, Suite 125
 5 P.O. Box 944255
 Sacramento, CA 94244-2550
 6 Telephone: (916) 322-5476
 Fax: (916) 327-2319
 7 E-mail: Neil.Houston@doj.ca.gov
Attorneys for the Bureau of Gambling Control

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CALIFORNIA GAMBLING CONTROL COMMISSION

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

13 **In the Matter of the Application for Initial**
 14 **Tribal-State Compact Key Employee**
 15 **Finding of Suitability Regarding:**

CGGC Case No. CGCC-2013-1121-D2
BGC Case No. BGC-HQ2013-00006SL

16 **EDWARD WILSON AUGUSTINE**



STATEMENT OF REASONS

17
 18
 19 **Respondent.**

22 **PARTIES**

- 23 1. Wayne J. Quint, Jr., submits this Statement of Reasons solely in his official capacity
 24 as the Chief of the California Department of Justice, Bureau of Gambling Control (Bureau).
 25 2. On or about July 11, 2012, Edward Wilson Augustine (Respondent) filed an
 26 Application For Finding of Suitability Tribal Key Employee (CGCC-TKE 01 (Rev. 10/07)), and a
 27 State Gaming Agency Tribal Key Employee Supplemental Background Investigation Information
 28

1 (DGC-TBL-001 (Rev. 09/07)) (collectively "Application") with the California Gambling Control
2 Commission (Commission) for a Finding of Suitability.¹

3 3. On or about March 21, 2013, the Bureau of Gambling Control (Bureau) issued its
4 recommendation that the Application be denied.

5 4. At its meeting on November 21, 2013, the Commission referred the issue of
6 Respondent's qualifications for a finding of suitability to an evidentiary hearing.

7 5. On or about November 27, 2013, pursuant to California Code of Regulations, title 4,
8 section 12050, subdivision (b), the Executive Director of the Commission set the matter for a
9 hearing under the Gambling Control Act before the Commissioners, to be conducted pursuant to
10 the provisions of Business and Professions Code sections 19870 and 19871, and California Code
11 of Regulations, title 4, section 12050, subdivision (b)(2).

12 JURISDICTION

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

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

17 7. The Tribal-State Compact Between the State of California and Robinson Rancheria
18 Band of Pomo Indians, section 6.5.6 at page 20, provides, in part:

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

25 ¹ Respondent is a member of the Robinson Rancheria Band of Pomo Indians, and is
26 employed at the Robinson Rancheria Resort & Casino, which is located at 1545 East Highway 20,
27 Nice, CA 95464. Because this gambling establishment is owned and operated by the Robinson
28 Rancheria Band of Pomo Indians pursuant to a tribal-state compact, Respondent's key employee
license is issued by the 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 Robinson Rancheria Band of Pomo Indians, § 6.5.6 at pp. 20-21.)

1 8. Business and Professions Code section 19823 provides:

2 (a) The responsibilities of the commission include, without
3 Limitation, all of the following:

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

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

15 (b) For the purposes of this section, "unqualified person" means
16 a person who is found to be unqualified pursuant to the criteria set forth
17 in Section 19857, and "disqualified person" means a person who is
18 found to be disqualified pursuant to the criteria set forth in Section
19 19859.

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

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

25 * * *

26 (b) For any cause deemed reasonable by the commission, deny
27 any application for a license, permit, or approval provided for in this
28 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 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.

1 10. Business and Professions Code section 19870 provides:

2 (a) The commission, after considering the recommendation of
3 the [Bureau] chief and any other testimony and written comments as
4 may be presented at the meeting, or as may have been submitted in
5 writing to the commission prior to the meeting, may either deny the
6 application or grant a license to an applicant who it determines to be
7 qualified to hold the license.

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

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

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

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

25 11. Business and Professions Code section 19871 provides:

26 (a) The commission meeting described in Section 19870 shall
27 be conducted in accordance with regulations of the commission and as
28 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
2 behalf, 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
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.

7
8 (b) Nothing in this section confers upon an applicant a right to
9 discovery of the department's^[2] 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.

10 **SPECIFIC STATUTORY AND REGULATORY PROVISIONS**

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

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

- 14 13. Business and Professions Code section 19805, subdivision (j), provides:

15 "Finding of Suitability" means a finding that a person meets the
16 qualification criteria described in subdivisions (a) and (b) of Section
17 19857, and that the person would not be disqualified from holding a
state gambling license on any of the grounds specified in Section
19859.

- 18 14. Business and Professions Code section 19857 provides in part:

19 No gambling license shall be issued unless, based on all the
20 information and documents submitted, the commission is satisfied that
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
controlled gambling or in the carrying on of the business and financial
arrangements incidental thereto.

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

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

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

4 * * *

5 (b) Failure of the applicant to provide information,
6 documentation, and assurances required by this chapter or requested by
7 the chief, or failure of the applicant to reveal any fact material to
8 qualification, or the supplying of information that is untrue or
9 misleading as to a material fact pertaining to the qualification criteria.

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

13 (d) Conviction of the applicant for any misdemeanor involving
14 dishonesty or moral turpitude within the 10-year period immediately
15 preceding the submission of the application, unless the applicant has
16 been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of
17 the Penal Code; provided, however, that the granting of relief pursuant
18 to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not
19 constitute a limitation on the discretion of the commission under
20 Section 19856 or affect the applicant's burden under Section 19857.

21 **FIRST CAUSE FOR DENIAL**

22 **(Misdemeanor Convictions Involving Moral Turpitude)**

23 16. The Applicant has a history of misdemeanor convictions involving moral turpitude.

24 The circumstances are as follows:

25 a. On August 16, 2011, the Applicant was convicted of violation of Vehicle Code
26 section 14601.2(a), driving when his driving privilege was suspended and revoked for driving
27 under the influence of an alcoholic beverage and a drug, and their combined influence, and when
28 he had knowledge of said suspension and revocation, a misdemeanor, in the case of *People of the
State of California v. Edward Wilson Augustine*. (Sup. Ct. Lake County, 2011, Case No.
CR926401.) This offense is a crime involving moral turpitude. This conviction occurred within
the 10-year period immediately preceding the date of the Application.

b. On January 28, 2008, the Applicant was convicted of violation of Penal Code section
273.5, domestic violence, charged as a misdemeanor, in the case of *People of the State of
California v. Edward Augustine*. (Sup. Ct. Lake County, 2008, Case No. CR910856.) This

1 offense is a crime involving moral turpitude. This conviction occurred within the 10-year period
2 immediately preceding the date of the Application.

3 On the basis of the above convictions, which are crimes of moral turpitude, and which
4 occurred within the 10-year period immediately preceding the date of the Application, the
5 Application is subject to mandatory denial pursuant to Business and Professions Code section
6 19859, subdivision (d).

7 **SECOND CAUSE FOR DENIAL**

8 **(Failure to Disclose)**

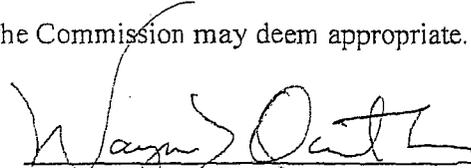
9 17. Respondent's Application is subject to denial pursuant to Business and Professions
10 Code section 19857, subdivisions (a) and (b), and/or section 19859, subdivision (b), in that
11 Respondent failed to disclose his 2008 and 2011 convictions which are identified in paragraph 16,
12 above.

13 **PRAAYER**

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

- 16 1. Deny an initial finding of suitability as a tribal key employee for Edward Wilson
17 Augustine; and
18 2. Take such other and further action as the Commission may deem appropriate.

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20 Dated: July 17TH, 2013


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

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