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

2014 JUL 22 AM 11:00  
CALIFORNIA GAMBLING  
CONTROL COMMISSION

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

CGGC Case No. CGCC-2013-1212-18C  
BGC Case No. BGC-HQ2014-00003SL

16 **RUSSELL AARON BUNCH**

**STATEMENT OF REASONS**

17 

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 August 14, 2012, Russell Aaron Bunch (Respondent) filed an  
26 Application For Finding of Suitability Tribal Key Employee (CGCC-TKE 01 (Rev. 08/06)), and a  
27 State Gaming Agency Tribal Key Employee Supplemental Background Investigation Information  
28

1 (DGC-TBL-001 (Rev. 08/06)) (collectively "Application") with the California Gambling Control  
2 Commission (Commission) for a Finding of Suitability.<sup>1</sup>

3 3. On or about September 5, 2013, the Bureau of Gambling Control (Bureau) issued its  
4 recommendation that the Application be denied.

5 4. At its meeting on December 12, 2013, the Commission referred the Application to an  
6 evidentiary hearing.

7 5. On or about December 19, 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 concentration,  
15 and supervision over gambling establishments in this state and over all  
16 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 Middletown 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  
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

24 <sup>1</sup> Respondent is a member of the Middletown Rancheria of Pomo Indians, and is  
25 employed as Casino Manager at the Twin Pine Casino & Hotel, which is located at 22223  
26 Highway 29, Middletown, CA 95461. Because this gambling establishment is owned and  
27 operated by the Middletown Rancheria Band of Pomo Indians pursuant to a tribal-state compact,  
28 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 Middletown Rancheria Band of Pomo  
Indians, § 6.5.6 at pp. 20-21.)

1 Agency's jurisdiction.

2 8. Business and Professions Code section 19823 provides:

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

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

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

16 (b) For the purposes of this section, "unqualified person" means  
17 a person who is found to be unqualified pursuant to the criteria set forth  
18 in Section 19857, and "disqualified person" means a person who is  
19 found to be disqualified pursuant to the criteria set forth in Section  
20 19859.

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

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

26 \* \* \*

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

36 \* \* \*

37 (d) Take actions deemed to be reasonable to ensure that no  
38 ineligible, unqualified, disqualified, or unsuitable persons are  
39 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  
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<sup>[2]</sup> 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  
27 controlled gambling or in the carrying on of the business and financial  
28 arrangements incidental thereto.

2 "Department" refers to the Department of Justice, Bureau of Gambling Control. (Bus. & 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 **(Felony Convictions)**

23 16. Respondent has a history of felony criminal convictions in the state of Florida. The  
24 circumstances are as follows:

25 a. On October 4, 2005, the Respondent was adjudicated guilty of possession of a  
26 controlled substance, Florida Statutes, section 893.13 (6)(a), a third degree felony, in the case of  
27 *State of Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2005, Case No. 05-001553).

28 b. On October 1, 2003, the Respondent was adjudicated guilty of possession of a  
controlled substance, Florida Statutes, section 893.13, a third degree felony, and of carrying a  
concealed weapon, Florida Statutes, section 790.01, a third degree felony, in the case of *State of*  
*Florida v. Russell Aaron Bunch* (Cir. Ct. Bay County, 2002, Case Nos. 02-1176 and 03-3919).

On the basis of these felony convictions, the Application is subject to mandatory denial  
pursuant to Business and Professions Code section 19859, subdivision (c).



1 Ct. Bay County, 2003, Case No. 03004478CTMA). Respondent also suffered the conviction that  
2 occurred in the state of California, on June 25, 2010, as more fully described in paragraph 17,  
3 above, and incorporated by this reference. The undisclosed convictions are material to the  
4 Application. The Respondent's failure to disclose these convictions, in violation of Business and  
5 Professions Code section 19857, subdivisions (a) and (b), and/or Business and Professions Code  
6 section 19859, subdivision (b), subjects his Application to denial.

7 P R A Y E R

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

- 10 1. Deny an initial finding of suitability as a tribal key employee for Russell Aaron  
11 Bunch; and  
12 2. Take such other and further action as the Commission may deem appropriate.

13  
14 Dated: July 18, 2013

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

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