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

13  
 14 **In the Matter of the Application for a Tribal**  
**Key Employee Finding of Suitability**  
 15 **Regarding:**

CGGC Case No. CGCC-2016-1006-9B  
 BGC Case No. BGC-HQ2016-00009SL

16  
 17 **HUE VANG**  
 18 

**STATEMENT OF REASONS**

19  
 20 **Respondent.**

21  
 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 February 16, 2016, the Bureau received an Application for Finding of  
 26 Suitability Tribal Key Employee, dated December 23, 2015, and a Tribal Key Employee  
 27 Supplemental Background Investigation Information (collectively Application) submitted by Hue  
 28 Vang (Respondent), to hold a key employee position at the Chukchansi Gold Resort and Casino,

1 in Coarsegold, California, which is owned and operated by the Picayune Rancheria of the  
2 Chukchansi Indians (Tribe).<sup>1</sup>

3 3. Respondent is not a member of the Tribe.

4 4. On or about July 18, 2016, the Bureau issued a Tribal Key Employee Background  
5 Investigation Report in which it recommended to the California Gambling Control Commission  
6 (Commission) that the Application be approved. However, after further internal review, the  
7 Bureau now recommends that Respondent's Application be denied.

8 5. At its October 6, 2016 meeting, the Commission referred the question of  
9 Respondent's suitability for a finding of suitability to an evidentiary hearing. (Cal. Code. Regs.,  
10 tit. 4, § 12054, subd. (a)(2).<sup>2</sup>)

11 6. On or about October 17, 2016, Respondent submitted a Notice of Defense, dated  
12 October 13, 2016.

13 **FIRST CAUSE FOR DENIAL**

14 **(Criminal Conviction)**

15 7. Respondent's Application is subject to denial in that, on or about August 24, 1999,  
16 Applicant was convicted of violating Penal Code section 245, subdivision(a)(1), assault by means  
17 of force likely to produce great bodily injury or with a deadly weapon, a felony and a crime of  
18 moral turpitude, in the case of *People of the State of California v. Hue Vang* (Super. Ct. Merced  
19 County, 1999, No. 23707).

20 8. On or about November 19, 2002, Respondent successfully petitioned the Merced  
21 County Superior Court to have his 1999 felony conviction set aside pursuant to Penal Code,  
22 section 12034. However, at that time, the court denied his petition, without prejudice, to have

23  
24 <sup>1</sup> Applicant was issued a key employee license by the Tribe on December 22, 2015. The  
25 California Gambling Control Commission does not issue a key employee license to Respondent.  
26 Rather, the Commission makes a finding of suitability because the Chukchansi Gold Resort and  
27 Casino is owned and operated by the Tribe pursuant to a tribal-state compact. (Tribal-State  
28 Compact Between the State of California and the Picayune Rancheria of the Chukchansi Indians,  
pp. 19-21, § 6.5.6.)

<sup>2</sup> The statutes and regulations applicable to this Statement of Particulars are quoted in  
pertinent part in Appendix A.

1 that felony conviction reduced to a misdemeanor pursuant to Penal Code, section 17, subdivision  
2 (b).

3 9. On or about January 15, 2004, Respondent successfully petitioned the Merced County  
4 Superior Court to reduce his 1999 felony conviction to a misdemeanor pursuant to Penal Code,  
5 section 17, subdivision (b), and again have it set aside pursuant to Penal Code, section 1203.4.  
6 (Bus. & Prof. Code, §§ 19854, 19856, 19857, subs. (a) & (b), & 19859, subs. (c) & (d).)

7 **SECOND CAUSE FOR DENIAL**

8 **(Failure to Disclose Criminal Conviction)**

9 10. Respondent's Application is subject to denial in that, Respondent in his Application  
10 expressly denied, under penalty of perjury, having ever been convicted of a crime, despite the  
11 question unambiguously directing, in pertinent part, to "Include any convictions reduced or  
12 expunged, . . ." (Tribal Key Employee Supplemental Background Investigation Information, p. 6,  
13 § 9: Criminal History Information.).

14 (Bus. & Prof. Code, §§ 19854, 19856, 19857, subs. (a) & (b), & 19859, subd. (b).)

15 **THIRD CAUSE FOR DENIAL**

16 **(Dishonest Response to the Bureau)**

17 11. Respondent's Application is subject to denial in that, on or about May 2, 2016,  
18 Respondent sent a written response to the Bureau's inquiry regarding the circumstances that led  
19 to his 1999 felony conviction. Respondent's description of those circumstances was untrue and  
20 misleading. Such dishonestly included, but was not limited to, Respondent's statement that he  
21 did not strike his victim with a pool cue. Respondent was convicted of striking his victim in the  
22 head at least twice with a pool cue in a dispute over a \$12 debt.

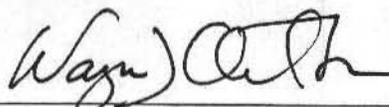
23 (Bus. & Prof. Code, §§ 19854, 19856, 19857, subs. (a) & (b), & 19859, subd. (b).)

PRAYER

WHEREFORE, Bureau Chief Wayne J. Quint, Jr., requests that following the hearing to be held on the matters herein alleged, the Commission issue a decision:

1. Denying the Application for Finding of Suitability Tribal Key Employee submitted by Hue Vang; and
2. Taking such other and further action as the Commission may deem appropriate.

Dated: DECEMBER 2<sup>ND</sup>, 2016



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



1 \* \* \*

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

4 4. Business and Professions Code section 19854, subdivisions (a) & (b), provide:

5 (a) Every key employee shall apply for and obtain a key  
6 employee license.

7 (b) No person may be issued a key employee license unless  
8 the person would qualify for a state gambling license.

9 5. Business and Professions Code section 19870 provides:

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

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

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

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

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

25 6. Business and Professions Code section 19871 provides:

26 (a) The commission meeting described in Section 19870  
27 shall be conducted in accordance with regulations of the  
28 commission and as follows:

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

1 affirmation.

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

3 (A) To call and examine witnesses.

4 (B) To introduce exhibits relevant to the issues of  
5 the case.

6 (C) To cross-examine opposing witnesses on any  
7 matters relevant to the issues, even though the matter was  
8 not covered on direct examination.

9 (D) To impeach any witness, regardless of which  
10 party first called the witness to testify.

11 (E) To offer rebuttal evidence.

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

15 (4) The meeting need not be conducted according to  
16 technical rules relating to evidence and witnesses. Any  
17 relevant evidence may be considered, and is sufficient in itself  
18 to support a finding, if it is the sort of evidence on which  
19 responsible persons are accustomed to rely in the conduct of  
20 serious affairs, regardless of the existence of any common law  
21 or statutory rule that might make improper the admission of  
22 that evidence over objection in a civil action.

23 (b) Nothing in this section confers upon an applicant a right  
24 to discovery of the department's<sup>3</sup> investigative reports or to  
25 require disclosure of any document or information the disclosure of  
26 which is otherwise prohibited by any other provision of this  
27 chapter.

28 7. California Code of Regulations, title 4, section 12054, subdivision (a)(2) provides:

(a) At a non-evidentiary hearing meeting, the Commission  
may take, but is not limited to taking, one of the following actions:

\* \* \*

(2) Elect to hold an evidentiary hearing in accordance  
with Section 12056 and, when for a renewal application, issue  
an interim renewal license pursuant to Section 12035. The  
Commission shall identify those issues for which it requires

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

1 additional information or consideration related to the  
2 applicant's suitability.

3 8. California Code of Regulations, title 4, section 12060, provides:

4 (a) If the Executive Director determines it is appropriate, he  
5 or she may set an application for consideration at a GCA hearing in  
6 advance of a meeting pursuant to Section 12054. The Executive  
7 Director shall give notice to the applicant, pursuant to paragraph (2)  
8 subsection (c) of Section 12052, to the Office of the Attorney  
9 General, and to the Bureau no later than 90 calendar days in  
10 advance of the GCA hearing. The Executive Director's  
11 determination will be based on information contained in the  
12 Bureau's report or other appropriate sources including, without  
13 limitation, a request from the Bureau or applicant as well as the  
14 Commission's operational considerations. The Commission retains  
15 the authority to refer the matter to an APA hearing pursuant to  
16 subsection (a) of Section 12056 or hear the matter at a Section  
17 12054 meeting if the Commission deems it appropriate.

18 (b) When the Commission has elected to hold a GCA  
19 hearing, the Executive Director shall give notice to the applicant,  
20 pursuant to paragraph (2) subsection (c) of Section 12052, to the  
21 Office of the Attorney General, and to the Bureau no later than 60  
22 calendar days in advance of the GCA hearing.

23 (c) The presiding officer shall have no communication with  
24 the Commission or Commission staff upon the merits, or upon  
25 information or documents related to the application prior to the  
26 evidentiary hearing. The Executive Director shall designate a  
27 presiding officer which shall be:

28 (1) A member of the Commission's legal staff; or,

(2) An Administrative Law Judge.

(d) The applicant or the complainant, or the applicant and the  
complainant, may request a continuance in writing to the Executive  
Director stating the reason for the continuance and any proposed  
future hearing dates. The Executive Director or Commission may  
approve the request.

(e) The complainant shall provide to the applicant, at least 45  
calendar days prior to the GCA hearing, and the applicant shall  
provide to the complainant, at least 30 calendar days prior to the  
GCA hearing, the following items:

1 (1) A list of potential witnesses with the general subject  
2 of the testimony of each witness;

3 (2) Copies of all documentary evidence intended to be  
4 introduced at the hearing and not previously provided;

5 (3) Reports or statements of parties and witnesses, if  
6 available; and

7 (4) All other written comments or writings containing  
8 relevant evidence.

9 (f) A presiding officer shall rule on the admissibility of  
10 evidence and on any objections raised except for objections raised  
11 under subsection (g). A ruling by the presiding officer shall be  
12 final.

13 (1) In advance of the GCA hearing, upon a motion of a  
14 party or by order of the presiding officer, the presiding officer  
15 may conduct a pre-hearing conference, either in person, via  
16 teleconference, or by email exchange, subject to the presiding  
17 officer's availability and shall issue a pre-hearing order if  
18 appropriate or requested by either party. The pre-hearing  
19 conference and order may address the following:

20 (A) Evidentiary issues;

21 (B) Witness and exhibit lists;

22 (C) Alterations in the Bureau recommendation;

23 (D) Stipulation for undisputed facts including the  
24 admission of the Bureau's report; and

25 (E) Other issues that may be deemed appropriate  
26 to promote the orderly and prompt conduct of the  
27 hearing.

28 (2) The GCA hearing need not be conducted according  
to technical rules of evidence. Any relevant evidence may be  
considered, and is sufficient in itself to support findings if it is  
the sort of evidence on which reasonable 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.

(g) The Commission may, at any time upon a showing of  
prejudice by the objecting party:

1 (1) Prohibit the testimony of any witness or the  
2 introduction of any documentary evidence that has not been  
disclosed pursuant to subsection (e); or

3 (2) Continue any meeting or hearing as necessary to  
4 mitigate any prejudice.

5 (h) The complainant shall present all facts and information in  
6 the Bureau report, if any, and the results of the Bureau's  
background investigation, and the basis for any recommendation, if  
7 the Bureau filed one with the Commission according to Business  
and Professions Code section 19868, to enable the Commission to  
8 make an informed decision on whether the applicant has met his,  
her, or its burden of proof. The complainant may but is not  
9 required to recommend or seek any particular outcome during the  
10 evidentiary hearing, unless it so chooses.

11 (i) The burden of proof is on the applicant at all times to  
12 prove his, her, or its qualifications to receive any license or other  
approval under the Act.

13 (j) The applicant may choose to represent himself, herself,  
14 or itself, or may retain an attorney or lay representative.

15 (k) Except as otherwise provided in subsection (g), the  
16 complainant and applicant shall have the right to call and examine  
witnesses under oath; to introduce relevant exhibits and  
17 documentary evidence; to cross-examine opposing witnesses on any  
relevant matter, even if the matter was not covered in direct  
18 examination; to impeach any witness, regardless of which party  
first called the witness to testify; and to offer rebuttal evidence. If  
19 the applicant does not testify on his, her or its own behalf, the  
applicant may be called and examined, under oath, as if under  
20 cross-examination.

21 (l) Oral evidence shall be taken upon oath or affirmation,  
22 which may be administered by the Executive Director, a member of  
the Commission, or the presiding officer, if an Administrative Law  
23 Judge.

24 (m) At the conclusion of the evidentiary hearing, the  
25 members of the Commission shall take the matter under  
submission, may discuss the matter in a closed session meeting, and  
26 may schedule future closed session meetings for deliberation.



1 12. Penal Code section 17, provides in part:

2 \* \* \*

3 (b) When a crime is punishable, in the discretion of the court,  
4 either by imprisonment in the state prison or imprisonment in a  
5 county jail under the provisions of subdivision (h) of Section 1170,  
6 or by fine or imprisonment in the county jail, it is a misdemeanor  
7 for all purposes under the following circumstances:

8 (1) After a judgment imposing a punishment other than  
9 imprisonment in the state prison or imprisonment in a county  
10 jail under the provisions of subdivision (h) of Section 1170.

11 (2) When the court, upon committing the defendant to  
12 the Division of Juvenile Justice, designates the offense to be a  
13 misdemeanor.

14 (3) When the court grants probation to a defendant  
15 without imposition of sentence and at the time of granting  
16 probation, or on application of the defendant or probation  
17 officer thereafter, the court declares the offense to be a  
18 misdemeanor.

19 (4) When the prosecuting attorney files in a court having  
20 jurisdiction over misdemeanor offenses a complaint  
21 specifying that the offense is a misdemeanor, unless the  
22 defendant at the time of his or her arraignment or plea objects  
23 to the offense being made a misdemeanor, in which event the  
24 complaint shall be amended to charge the felony and the case  
25 shall proceed on the felony complaint.

26 (5) When, at or before the preliminary examination or  
27 prior to filing an order pursuant to Section 872, the magistrate  
28 determines that the offense is a misdemeanor, in which event  
the case shall proceed as if the defendant had been arraigned  
on a misdemeanor complaint.

13. Penal Code section 1203.4 provides in part:

24 (a) (1) In any case in which a defendant has fulfilled the  
25 conditions of probation for the entire period of probation, or has  
26 been discharged prior to the termination of the period of probation,  
27 or in any other case in which a court, in its discretion and the  
28 interests of justice, determines that a defendant should be granted  
the relief available under this section, the defendant shall, at any  
time after the termination of the period of probation, if he or she is

1 not then serving a sentence for any offense, on probation for any  
2 offense, or charged with the commission of any offense, be  
3 permitted by the court to withdraw his or her plea of guilty or plea  
4 of nolo contendere and enter a plea of not guilty; or, if he or she has  
5 been convicted after a plea of not guilty, the court shall set aside the  
6 verdict of guilty; and, in either case, the court shall thereupon  
7 dismiss the accusations or information against the defendant and  
8 except as noted below, he or she shall thereafter be released from  
9 all penalties and disabilities resulting from the offense of which he  
10 or she has been convicted, except as provided in Section 13555 of  
11 the Vehicle Code. The probationer shall be informed, in his or her  
12 probation papers, of this right and privilege and his or her right, if  
13 any, to petition for a certificate of rehabilitation and pardon. The  
14 probationer may make the application and change of plea in person  
15 or by attorney, or by the probation officer authorized in writing.  
16 However, in any subsequent prosecution of the defendant for any  
17 other offense, the prior conviction may be pleaded and proved and  
18 shall have the same effect as if probation had not been granted or  
19 the accusation or information dismissed. The order shall state, and  
20 the probationer shall be informed, that the order does not relieve  
21 him or her of the obligation to disclose the conviction in response to  
22 any direct question contained in any questionnaire or application for  
23 public office, for licensure by any state or local agency, or for  
24 contracting with the California State Lottery Commission.

15 (2) Dismissal of an accusation or information pursuant  
16 to this section does not permit a person to own, possess, or  
17 have in his or her custody or control any firearm or prevent  
18 his or her conviction under Chapter 2 (commencing with  
19 Section 29800) of Division 9 of Title 4 of Part 6.

19 (3) Dismissal of an accusation or information  
20 underlying a conviction pursuant to this section does not  
21 permit a person prohibited from holding public office as a  
22 result of that conviction to hold public office.

22 (4) This subdivision shall apply to all applications for  
23 relief under this section which are filed on or after November  
24 23, 1970.

24 14. The Tribal-State Compact Between the State of California and the Picayune  
25 Rancheria of the Chukchansi Indians, pp. 19-21, § 6.5.6, provides:

26 (a) Upon receipt of a completed license application and a  
27 determination by the Tribal Gaming Agency that it intends to issue  
28 the earlier of a temporary or permanent license, the Tribal Gaming  
Agency shall transmit to the State Gaming Agency a notice of intent

1 to license the applicant, together with all of the following: (i) a copy  
2 of all tribal license application materials and information received by  
3 the Tribal Gaming Agency from the applicant; (ii) an original set of  
4 fingerprint cards; (iii) a current photograph; and (iv) except to the  
5 extent waived by the State Gaming Agency, such releases of  
6 information, waivers, and other completed and executed forms as  
7 have been obtained by the Tribal Gaming Agency. Except for an  
8 applicant for licensing as a non-key Gaming Employee, as defined by  
9 agreement between the Tribal Gaming Agency and the State Gaming  
10 Agency, the Tribal Gaming Agency shall require the applicant also to  
11 file an application with the State Gaming Agency, prior to issuance of  
12 a temporary or permanent tribal gaming license, for a determination  
13 of suitability for licensure under the California Gambling Control  
14 Act. Investigation and disposition of that application shall be  
15 governed entirely by state law, and the State Gaming Agency shall  
16 determine whether the applicant would be found suitable for licensure  
17 in a gambling establishment subject to that Agency's jurisdiction.  
18 Additional information may be required by the State Gaming Agency  
19 to assist it in its back ground investigation, provided that such State  
20 Gaming Agency requirement shall be no greater than that which may  
21 be required of applicants for a State gaming license in connection  
22 with nontribal gaming activities and at a similar level of participation  
23 or employment. A determination of suitability is valid for the term of  
24 the tribal license held by the applicant, and the Tribal Gaming  
25 Agency shall require a licensee to apply for renewal of a  
26 determination of suitability at such time as the licensee applies for  
27 renewal of a tribal gaming license. The State Gaming Agency and  
28 the Tribal Gaming Agency (together with tribal gaming agencies  
under other gaming compacts) shall cooperate in developing standard  
licensing forms for tribal gaming license applicants, on a statewide  
basis, that reduce or eliminate duplicative or excessive paperwork,  
which forms and' procedures shall take into account the Tribe's  
requirements under IGRA and the expense thereof.

(b) Background Investigations of Applicants. Upon receipt of  
completed license application information from the Tribal Gaming  
Agency, the State Gaming Agency may conduct a background  
investigation pursuant to state law to determine whether the applicant  
would be suitable to be licensed for association with a gambling  
establishment subject to the jurisdiction of the State Gaming Agency.  
If further investigation is required to supplement the investigation  
conducted by the Tribal Gaming Agency, the applicant will be  
required to pay the statutory application fee charged by the State  
Gaming Agency pursuant to California Business and Professions  
Code section 19941(a), but any deposit requested by the State  
Gaming Agency pursuant to section 19855 of that Code shall take  
into account reports of the background investigation already  
conducted by the Tribal Gaming Agency and the NIGC, if any.

1 Failure to pay the application fee or deposit may be grounds for  
2 denial of the application by the State Gaming Agency. The State  
3 Gaming Agency and Tribal Gaming Agency shall cooperate in  
4 sharing as much background information as possible, both to  
5 maximize investigative efficiency and thoroughness, and to minimize  
6 investigative costs. Upon completion of the necessary background  
7 investigation or other verification of suitability, the State Gaming  
8 Agency shall issue a notice to the Tribal Gaming Agency certifying  
9 that the State has determined that the applicant would be suitable, or  
10 that the applicant would be unsuitable, for licensure in a gambling  
11 establishment subject to the jurisdiction of the State Gaming Agency  
12 and, if unsuitable, stating the reasons therefor.

13 (c) The Tribe shall monthly provide the State Gaming Agency  
14 with the name, badge identification number, and job descriptions of  
15 all non-key Gaming Employees.

16 (d) Prior to denying an application for a determination of  
17 suitability, the State Gaming Agency shall notify the Tribal Gaming  
18 Agency and afford the Tribe an opportunity to be heard. If the State  
19 Gaming Agency denies an application for a determination of  
20 suitability, that Agency shall provide the applicant with written notice  
21 of all appeal rights available under state law.  
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