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

14 In the Matter of the Application for a Finding of  
15 Suitability for:

Case Nos.: CGCC-2021-0624-12C  
BGC-HQ2021-00026SL

16 **Melvyn Douglas McGowan**  
17 [REDACTED]

**STATEMENT OF REASONS**

Hearing Date: January 25, 2022  
Hearing Time: 10:00 a.m.  
Hearing Place: 2399 Gateway Oaks, Ste. 100  
Sacramento, CA 95833

18  
19 Respondent.

**This hearing will be conducted by means of  
video conferencing on Zoom. The Zoom  
meeting code is 285 757 8614.**

22 Complainant alleges as follows:

23 **PARTIES**

24 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her  
25 official capacity as the Acting Director of the California Department of Justice, Bureau of  
26 Gambling Control (Bureau).  
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1 **BURDEN OF PROOF**

2 9. Respondent has the burden of proving that he is qualified to receive a tribal key  
3 employee license. (Bus. & Prof. Code, § 19856, subd. (a).)

4 **CAUSE FOR DENIAL**  
5 **(Providing Untrue or Misleading Information)**

6 10. Respondent's Application is subject to denial because he, under penalty of perjury,  
7 failed to disclose derogatory information on his Application regarding his prior employment  
8 history at Seven Mile Casino. On his Application, Respondent stated that his reason for leaving  
9 his employment at Seven Mile Casino was "job at new casino." The Bureau determined that  
10 Respondent was involuntarily terminated for violating company policy by creating a loud  
11 disruption and leaving a deck of cards unprotected during a live hand, while having a dispute with  
12 a player. On his Jamul TGA application, Respondent stated that his reason for leaving Seven  
13 Mile Casino was "accepted position at Jamul." On his Jamul employment application,  
14 Respondent wrote that his reason for leaving was "unhappy with work conditions," and his file  
15 contained no indication that he discussed with anybody that he was terminated.

16 11. After the Commission denied Respondent's withdrawal request, Respondent provided  
17 a statement from his supervisor that Respondent disclosed the termination from Seven Mile  
18 Casino during his interview process in January 2019. However, Respondent provided false and  
19 misleading statements on three previous separate written applications. Respondent's gambling  
20 employment history, as well as his explanations and statements provided to the Bureau, is  
21 important to the Bureau in determining whether to recommend that he be licensed and to the  
22 Commission in determining his suitability for licensure.  
23 (Bus. & Prof. Code, §§ 19856, 19857, subd. (a), 19859, subds. (a) & (b), 19866.)

24 **PRAYER**

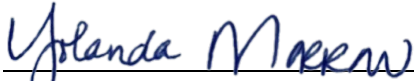
25 WHEREFORE, Complainant requests that a hearing be held on the matters alleged herein,  
26 and that following the hearing, the Commission issue a decision:

- 27 1. Denying Respondent's Application; and  
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2. Taking such other and further action as the Commission may deem appropriate.

Dated: December 6, 2021

  
\_\_\_\_\_  
Yolanda Morrow, Acting Director  
Bureau of Gambling Control  
California Department of Justice



1 individual owner endorsed on the license certificate of the gambling  
2 enterprise whether or not the commission takes action against the  
license of the gambling enterprise.

3 \* \* \*

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

6 4. Business and Professions Code section 19853, subdivision (a), provides in part:

7 The commission, by regulation or order, may require that the  
8 following persons register with the commission, apply for a finding of  
suitability as defined in subdivision (i) of 19805, or apply for a  
9 gambling license:

10 \* \* \*

11 (3) Any person who does business on the premises of a  
licensed gambling establishment.

12 5. Business and Professions Code, section 19854 provides, in part:

13 (a) Every key employee shall apply for and obtain a key  
14 employee license.

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

16  
17 6. Business and Professions Code section 19856 provides:

18 (a) Any person who the commission determines is qualified to  
19 receive a state license, having due consideration for the proper  
protection of the health, safety, and general welfare of the residents of  
20 the State of California and the declared policy of this state, may be  
issued a license. The burden of proving his or her qualifications to  
21 receive any license is on the applicant.

22 (b) An application to receive a license constitutes a request for a  
determination of the applicant's general character, integrity, and ability  
23 to participate in, engage in, or be associated with, controlled gambling.

24 (c) In reviewing an application for any license, the commission  
shall consider whether issuance of the license is inimical to public  
25 health, safety, or welfare, and whether issuance of the license will  
undermine public trust that the gambling operations with respect to  
26 which the license would be issued are free from criminal and dishonest  
elements and would be conducted honestly.

1 7. Business and Professions Code section 19857 provides:

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

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

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

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

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

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

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

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

25 9. Business and Professions Code section 19866 provides:

26 An applicant for licensing or for any approval or consent required  
27 by this chapter, shall make full and true disclosure of all information  
28 to the department and the commission as necessary to carry out the  
policies of this state relating to licensing, registration, and control of  
gambling.

10. Business and Professions Code section 19870 provides:

(a) The commission, after considering the recommendation of the  
chief<sup>5]</sup> 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 grant a license to an applicant who it determines to be qualified to  
hold the license.

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<sup>5</sup> "Chief" refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)

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

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

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

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

18 11. Business and Professions Code section 19871 provides:

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

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

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

25 (A) To call and examine witnesses.

26 (B) To introduce exhibits relevant to the issues  
27 of the case.

28 (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.

(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



1 are accustomed to rely in the conduct of serious affairs, regardless  
2 of the existence of any common law or statutory rule that might  
3 make improper the admission of that evidence over objection in a  
4 civil action.

5 (b) Nothing in this section confers upon an applicant a right to  
6 discovery of the department's<sup>[6]</sup> investigative reports or to require  
7 disclosure of any document or information the disclosure of which is  
8 otherwise prohibited by any other provision of this chapter.

9 **CALIFORNIA CODE OF REGULATIONS**

10 12. California Code of Regulations, title 4, section 12040, subdivision (a) provides, in  
11 part:

12 An application for an initial or renewal license:

13 (1) Will be denied if the Commission finds that the applicant  
14 has not satisfied the requirements of Business and Professions  
15 Code section 19857; or,

16 (2) Will be denied if the Commission finds that any of the  
17 provisions of Business and Professions Code section 19859 apply  
18 to the applicant.

19 13. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in  
20 part:

21 If the Commission elects to hold an evidentiary hearing, the  
22 hearing will be conducted as a GCA hearing under Section 12060,  
23 unless the Executive Director or the Commission determines the  
24 hearing should be conducted as an APA hearing under Section  
25 12058 . . . .

26 14. California Code of Regulations, title 4, section 12060, provides:

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

29 <sup>6</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.  
30 (h).)

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

6 (c) The presiding officer shall have no communication with the  
7 Commission or Commission staff upon the merits, or upon  
8 information or documents related to the application prior to the  
9 evidentiary hearing. The Executive Director shall designate a  
10 presiding officer which shall be:

- 11 (1) A member of the Commission's legal staff; or,
- 12 (2) An Administrative Law Judge.

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

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

- 22 (1) A list of potential witnesses with the general subject of  
23 the testimony of each witness;
- 24 (2) Copies of all documentary evidence intended to be  
25 introduced at the hearing and not previously provided;
- 26 (3) Reports or statements of parties and witnesses, if  
27 available; and
- 28 (4) All other written comments or writings containing  
relevant evidence.

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

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

- (A) Evidentiary issues;
- (B) Witness and exhibit lists;

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(C) Alterations in the Bureau recommendation;

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

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

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

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

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

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

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

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

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

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

6 15. California Code of Regulations, title 4, section 12120 provides, in part:

7 Applications for findings of suitability received pursuant to Tribal-  
8 State gaming compact section 6.5.6 and comparable sections of new or  
9 amended compacts for Tribal gaming employees in key employee  
10 positions, Tribal gaming resource suppliers and financial sources, will  
be processed as initial or renewal licenses consistent with Section  
12040.

11 **TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA AND THE**  
12 **JAMUL INDIAN VILLAGE OF CALIFORNIA**

13 16. The Tribal-State Compact Between the State of California and the Jamul Indian  
14 Village of California section 6.5.6 provides, in part:

15 (a) With respect to Gaming Employees, upon receipt of an  
16 Applicant's completed license application and a determination to issue  
17 either a temporary or regular license, the Tribal Gaming Agency shall  
18 transmit within twenty-one (21) days to the State Gaming Agency for  
a determination of suitability for licensure under the California  
Gambling Control Act a notice of intent to license the Applicant,  
together with all of the following:

19 (1) A copy of all tribal license application materials and  
20 information received by the Tribal Gaming Agency from the  
Applicant, which is not otherwise restricted from disclosure under  
21 applicable federal law or regulation.

22 (2) A complete set of fingerprint impressions, rolled by a  
certified fingerprint roller, which may be on a fingerprint card or  
23 transmitted electronically.

24 (3) A current photograph.

25 (4) Except to the extent waived by the State Gaming Agency,  
26 such releases of information, waivers, and other completed and  
executed forms as have been obtained by the Tribal Gaming  
Agency.

27 \* \* \*

1 (c) Investigation and disposition of applications for a  
2 determination of suitability shall be governed entirely by State law,  
3 and the State Gaming Agency shall determine whether the Applicant  
4 would be found suitable for licensure in a gambling establishment  
5 subject to the State Gaming Agency's jurisdiction. Additional  
6 information may be required by the State Gaming Agency to assist it  
7 in its background investigation, to the extent permitted under State law  
8 for licensure in a gambling establishment subject to the State Gaming  
9 Agency's jurisdiction.

10 \* \* \*

11 (e) Upon receipt of completed license or license renewal  
12 application information from the Tribal Gaming Agency, the State  
13 Gaming Agency may conduct a background investigation pursuant to  
14 state law to determine whether the Applicant is suitable to be licensed  
15 for association with Class III Gaming operations. While the Tribal  
16 Gaming Agency shall ordinarily be the primary source of application  
17 information, the State Gaming Agency is authorized to directly seek  
18 application information from the Applicant. The Tribal Gaming  
19 Agency shall provide to the State Gaming Agency reports of the  
20 background investigations conducted by the Tribal Gaming Agency  
21 and the NIGC and related applications, if any, for Gaming Employees,  
22 Gaming Resource Suppliers, and Financial Sources. If further  
23 investigation is required to supplement the investigation conducted by  
24 the Tribal Gaming Agency, the Applicant will be required to pay the  
25 application fee charged by the State Gaming Agency pursuant to  
26 California Business and Professions Code section 19951, subdivision  
27 (a), but any deposit requested by the State Gaming Agency pursuant to  
28 section 19867 of that Code shall take into account reports of the  
background investigation already conducted by the Tribal Gaming  
Agency and the NIGC, if any. Failure to provide information  
reasonably required by the State Gaming Agency to complete its  
investigation under State law or failure to pay the application fee or  
deposit can constitute grounds for denial of the application by the State  
Gaming Agency. The State Gaming Agency and Tribal Gaming  
Agency shall cooperate in sharing as much background information as  
possible, both to maximize investigative efficiency and thoroughness,  
and to minimize investigative costs.

21 (f) Upon completion of the necessary background investigation  
22 or other verification of suitability, the State Gaming Agency shall  
23 issue a notice to the Tribal Gaming Agency certifying that the State  
24 has determined that the Applicant is suitable, or that the Applicant is  
25 unsuitable, for licensure in a Gaming Operation and, if unsuitable,  
26 stating the reasons therefore. Issuance of a determination of suitability  
27 does not preclude the State Gaming Agency from a 51 subsequent  
28 determination based on newly discovered information that a person or  
entity is unsuitable for the purpose for which the person or entity is  
licensed. Upon receipt of notice that the State Gaming Agency has  
determined that a person or entity is or would be unsuitable for  
licensure, the Tribal Gaming Agency shall deny that person or entity a  
license and promptly, and in no event more than thirty (30) days from  
the issuance of the State Gaming Agency notification, revoke any  
tribal gaming license that has theretofore been issued to that person or

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entity; provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person or entity following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court between the Applicant and the State Agency conducted pursuant to section 1085 of the California Code of Civil Procedure.

(g) Prior to denying an application for a determination of suitability, or to issuing notice to the Tribal Gaming Agency that a person or entity previously determined to be suitable had been determined unsuitable for licensure, the State Gaming Agency shall notify the Tribal Gaming Agency and afford the Tribe an opportunity to be heard. If the State Gaming Agency denies an application for a determination of suitability, or issues notice that a person or entity previously determined suitable has been determined unsuitable for licensure, the State Gaming Agency shall provide that person or entity with written notice of all appeal rights available under state law.