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BEFORE THE  
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for a Finding  
of Suitability for:  
  
JONATHEN DAVID FRANKSON  
  
Applicant.

BGC Case No. BGC-HQ2021-00031SL  
CGCC Case No.: CGCC-2021-0708-11G

**DECISION AND ORDER**

Hearing Date: March 4, 2022  
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871, and title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, and held via Zoom video conference, on March 4, 2022.<sup>1</sup>

Neil Houston, Deputy Attorney General, State of California (DAG Houston), represented complainant Yolanda Morrow, Acting Director of the Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Jonathen David Frankson (Frankson) attended on his own behalf without representation.

During the evidentiary hearing, Presiding Officer, Kate Patterson (Presiding Officer) took official notice of Frankson’s signed Notice of Defense, the Notice of Agenda, the Commission’s Conclusion of Prehearing Conference letter, the Commission’s Notice of Hearing with attachments, including Frankson’s Application, the Bureau’s background investigation report.

The Presiding Officer accepted into evidence Bureau’s Exhibits 1 through Exhibit 16 and Frankson’s Exhibits A and B.<sup>2</sup>

The record was closed and the matter was submitted for decision on March 4, 2022.

<sup>1</sup> The statutory provisions cited herein are found in the Gambling Control Act (Act). (Bus. & Prof. Code, div. 8, ch. 5, § 19800 et seq.) Undesignated statutory references are to the Business and Professions Code.

<sup>2</sup> Exhibits 1 through 15 are marked with Bates numbers Complainant 001-328. The Bureau’s Exhibit 16 and Applicant’s Exhibits A and B are not numbered.

FINDINGS OF FACT

1  
2 1. Frankson has been employed by the Wanaaha Casino (formerly Paiute Palace Casino)  
3 since April 2009. He assumed key employee duties in March 2016 and is currently employed as a  
4 Security Manager.

5 2. On July 5, 2016, the Bureau received an undated renewal Application for Finding of  
6 Suitability Tribal Key Employee form, accompanied by a Supplemental Background  
7 Investigation Information form that Frankson signed on June 20, 2016. On July 25, 2021, the  
8 Bureau received an initial Application for Finding of Suitability Tribal Key Employee signed by  
9 Frankson on July 18, 2021. The latter, combined with the Supplemental Background Investigation  
10 Information form received on July 5, 2016, is referred to herein as the Application. The purpose  
11 of the Application is to allow for Frankson’s continued employment as a tribal key employee at  
12 the Wanaaha Casino.<sup>3</sup>

13 3. On or about May 4, 2021, the Bureau submitted to the Commission a Tribal Key  
14 Employee Background Investigation Report (Bureau Report) in which the Bureau recommended  
15 that Frankson’s Application be denied on the basis of his criminal history.

16 4. On July 8, 2021, pursuant to CCR 12054, subdivision (a)(2), the Commission voted to  
17 refer consideration of Frankson’s Application to an evidentiary hearing to be conducted before  
18 the Commission pursuant to CCR section 12060.

19 5. On or about July 28, 2021, Frankson timely submitted a Notice of Defense.

20 6. On November 10, 2021, the Commission sent a Notice of Hearing, via e-  
21 mail, to Frankson and DAG Houston. The hearing was set for March 4, 2022, and a prehearing  
22 conference was set for January 21, 2022.

23 7. On or about January 18, 2022, the Bureau filed a Statement of Reasons with the  
24 Commission and sent it to Frankson via certified mail. In the Statement of Reasons, the Bureau  
25 requests that the Commission deny Frankson’s Application on the basis of his criminal history.

26  
27 <sup>3</sup> Because the Bishop Paiute Tribe owns and operates this gaming facility pursuant to a  
28 tribal-state class III gaming compact, the California Gambling Control Commission  
(Commission) is required to make a finding of Frankson’s suitability. (Tribal-State Compact  
Between the State of California and the Bishop Paiute Tribe (Dec. 9, 1999), pp. 19-21, § 6.5.6.)

1           8. On or about January 21, 2022, the parties participated in the noticed prehearing  
2 conference with the Presiding Officer.

3           9. On or about January 21, 2022, the Commission sent a “Conclusion of Prehearing  
4 Conference” letter to the parties.

5           10. The Commission heard this matter via Zoom video conference on March 4, 2022.  
6 The Bureau was represented by DAG Houston. Frankson was also present and advocated on his  
7 own behalf.

8 **Frankson’s Employment History in Controlled Gambling**

9           11. Frankson is an enrolled Member of the Bishop Paiute Tribe and has been employed  
10 with the Wanaaha Casino since April 1, 2009. He started as a “Security Officer.” On March 1,  
11 2016, he was promoted to the position of a “Security Supervisor.” On February 6, 2021, he was  
12 promoted to the position of a “Security Manager.” Frankson has served in the security department  
13 of Wanaaha Casino for almost 13 years, and has worked his way up into a management position.

14 **Frankson’s Convictions**

15           12. Frankson’s criminal history is not disputed. The Bureau Report, Exhibits 9 through  
16 14, and Frankson’s testimony establishes that Frankson was convicted of four misdemeanor  
17 criminal offenses and one felony offense between the dates of March 30, 1995, and March 19,  
18 2012. As indicated below, Frankson’s felony conviction was subsequently reduced to a  
19 misdemeanor, and it, as well as several of his other misdemeanor convictions were subsequently  
20 set aside and dismissed under Penal Code section 1203.4. In summary, the evidence established  
21 that the convictions consist of the following:

22           a. March 30, 1995 (Vehicle Code section 23152 (Drunk Driving), misdemeanor), Inyo  
23 County Superior Court Case No. ICMB-CRM-1995-64408-2. Certified court records show that  
24 Frankson was convicted on March 30, 1995, and subsequently petitioned for relief under Penal  
25 Code section 1203.4. The court set aside and dismissed this conviction on June 29, 2015.

26           b. July 7, 2005 (Penal Code section 273.5 (A) (inflict corporal injury on  
27 spouse), misdemeanor), Inyo County Superior Court Case No. ICMB-CRF-2005-383I 0.2.

28

1 Certified court records show that this charge arose from a violation committed on  
2 February 13, 2005, and that Frankson was convicted on a no contest plea on July 7,  
3 2005, and subsequently petitioned for relief under Penal Code section 1203.4. The court  
4 denied Frankson's petition for relief on June 29, 2015.

5 c. July 7, 2005 (Penal Code section 273.5 (A) (inflict corporal injury on  
6 spouse), misdemeanor), Inyo County Superior Court Case No. ICMB-CRM-2005-39264-

7 2. Certified court records show that this charge arose from a violation committed on July  
8 3, 2005, and that Frankson was convicted on a no contest plea on July 7, 2005, and  
9 subsequently petitioned for relief under Penal Code section 1203.4. The court denied  
10 Frankson's petition for relief on June 29, 2015.

11 d. August 9, 2007 (Penal Code section 273.5 (A) (inflict corporal injury on  
12 spouse-cohabitant), felony), Inyo County Superior Court Case No. ICSI-CRF-2007- 44279-2.

13 Certified court records show that Frankson was convicted on a no contest plea on September 18,  
14 2007, and subsequently petitioned for relief under Penal Code section 1203.4. The court reduced  
15 this conviction to a misdemeanor under Penal Code section 17(b) and set aside and dismissed the  
16 misdemeanor on June 29, 2015.

17 e. March 19, 2012 (Penal Code section 243 (E)(1) (Battery: Cohabitant/Spouse),  
18 misdemeanor), Inyo County Superior Court Case No. ICMB-CRM-2011-52999-2. Certified court  
19 records show that Frankson was convicted on a no contest plea on March 19, 2012, and  
20 subsequently petitioned for relief under Penal Code section 1203.4. The court set aside and  
21 dismissed this conviction on June 29, 2015.

22 13. Exhibits 9 through 13 also establish that two of the convictions concern incidents that  
23 took place in violation of criminal protective orders that were in place at the time, and that  
24 Frankson was also found to be in violation of terms of probation imposed in connection with prior  
25 convictions.

26 14. Frankson's testimony regarding his criminal convictions was credible. He did not  
27 minimize his involvement in the events which led to his convictions and took responsibility for  
28

1 his actions.

2 **Frankson’s Personal History**

3 15. Frankson married his current spouse in 2014. He currently resides with his spouse and  
4 children. He has a good relationship with his prior wife. He has two children with his current wife  
5 and they have a strong relationship. He completed anger management classes and testified he  
6 learned to walk away from conflict.

7 16. Frankson served in the United States’ Army from 1987 to 1991. He received an  
8 honorable discharge. He testified he is an active member of the Bishop Paiute Tribe, he carries  
9 the eagle staff for pow-wows, which is an honor. He was a firefighter with the forest service. He  
10 is working on becoming a certified security guard.

11 **Frankson’s Letters of Reference**

12 17. Frankson submitted letters of reference from Gloriana M. Bailey and Pat  
13 Bengochia (Bengochia) in support of his Application. Both letters highlight Frankson’s work  
14 ethic and commitment to working in a controlled gambling environment. Bengochia’s letter  
15 acknowledges Frankson’s criminal history and recommends licensure due to rehabilitation.

16 **RELAVANT STATUTORY AND REGULATORY PROVISIONS**

17 1. Division 1.5 of the Business and Professions Code, the provisions of which govern the  
18 denial of licenses on various grounds, does not apply to licensure decisions made by the  
19 Commission under the Gambling Control Act. (Bus. & Prof. Code, § 476, subd. (a).)

20 2. Public trust that permissible gambling will not endanger public health, safety, or  
21 welfare requires that comprehensive measures be enacted to ensure that gambling is free from  
22 criminal and corruptive elements, that it is conducted honestly and competitively, and that it is  
23 conducted in suitable locations. (Bus. & Prof. Code, § 19801, subd. (g).)

24 3. Public trust and confidence can only be maintained by strict and comprehensive  
25 regulation of all persons, locations, practices, associations, and activities related to the operation  
26 of lawful gambling establishments and the manufacture and distribution of permissible gambling  
27 equipment. (Bus. & Prof. Code, § 19801, subd. (h).)

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1           4. The Commission has the responsibility of assuring that licenses, approvals, and  
2 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose  
3 operations are conducted in a manner that is inimical to the public health, safety, or welfare. (Bus.  
4 & Prof. Code, § 19823, subd. (a)(1).)

5           5. An “unqualified person” means a person who is found to be unqualified pursuant to  
6 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to  
7 be disqualified pursuant to the criteria set forth in Section 19859. (Bus. & Prof. Code, § 19823,  
8 subd. (b).)

9           6. The Commission has the power to deny any application for a license, permit, or  
10 approval for any cause deemed reasonable by the Commission. (Bus. & Prof. Code, § 19824,  
11 subd. (b).)

12           7. The Commission has the power to take actions deemed to be reasonable to ensure that  
13 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled  
14 gambling activities. (Bus. & Prof. Code, § 19824, subd. (d).)

15           8. The burden of proving his or his qualifications to receive any license from the  
16 Commission is on the applicant. (Bus. & Prof. Code, § 19856, subd. (a).)

17           9. An application to receive a license constitutes a request for a determination of the  
18 applicant’s general character, integrity, and ability to participate in, engage in, or be associated  
19 with, controlled gambling. (Bus. & Prof. Code, § 19856, subd. (b).)

20           10. In reviewing an application for any license, the commission shall consider whether  
21 issuance of the license is inimical to public health, safety, or welfare, and whether issuance of the  
22 license will undermine public trust that the gambling operations with respect to which the license  
23 would be issued are free from criminal and dishonest elements and would be conducted honestly.  
24 (Bus. & Prof. Code, § 19856, subd. (c).)

25           11. The burden of proof is always on the applicant to prove his, his, or its qualifications to  
26 receive any license or other approval under the Gambling Control Act. (Cal. Code Regs., tit. 4, §  
27 12060, subd. (i).)

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1 12. No gambling license shall be issued unless, based on all of the information and  
2 documents submitted, the commission is satisfied that the applicant is a person of good character,  
3 honesty, and integrity. (Bus. & Prof. Code, § 19857, subd. (a).)

4 13. No gambling license shall be issued unless, based on all of the information and  
5 documents submitted, the commission is satisfied that the applicant is a person whose prior  
6 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the  
7 public interest of this state, or to the effective regulation and control of controlled gambling, or  
8 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in  
9 the conduct of controlled gambling or in the carrying on of the business and financial  
10 arrangements incidental thereto. (Bus. & Prof. Code, § 19857, subd. (b).)

11 14. No gambling license shall be issued unless, based on all of the information and  
12 documents submitted, the commission is satisfied that the applicant is a person that is in all other  
13 respects qualified to be licensed as provided in this chapter. (Bus. & Prof. Code, § 19857, subd.  
14 (c).)

15 15. An application will be denied if the Commission finds that the applicant has not  
16 satisfied the requirements of Business and Professions Code section 19857. (Cal. Code Regs., tit.  
17 4, § 12040, subd. (a)(1).)

#### 18 LEGAL CONCLUSIONS

19 1. All evidence submitted in support of and against licensure has been considered. The  
20 Bureau believes Frankson's criminal record shows that he is not a person of good character,  
21 honesty, and integrity within the meaning of Business and Professions Code section 19857,  
22 subdivision (a), and is therefore not qualified for licensure. (Finding 7.)

23 2. However, a substantial amount of time has passed since Frankson's last conviction.  
24 (Finding 12.) Over ten years have passed since Frankson last suffered a conviction, and his last  
25 conviction was expunged. (*Id.*) The two convictions that are not expunged occurred in 2005. (*Id.*)  
26 None of his convictions involve dishonesty or deceit. (*Id.*) Frankson took the procedural steps  
27 necessary to ensure that none of his convictions disqualify him (Bus. & Prof. Code, § 19823,  
28

1 subd. (b)) from obtaining a finding of suitability from the Commission. (*Id.*)

2 3. At the administrative hearing, Frankson did not minimize his involvement in the  
3 events which led to his convictions and took responsibility for his actions. (Finding 14.)

4 4. After evaluating the totality of the evidence presented, including Frankson’s long  
5 history of employment in controlled gambling, the promotions he has garnered, the rehabilitation  
6 shown by not having any criminal history since the October 2011 incident that led to his last  
7 conviction in 2012, his candor in disclosing the convictions, and his acknowledgement that his  
8 past conduct that led to his convictions was wrong favors our exercise of discretion to approve his  
9 Application within the meaning of Business and Professions Code section 19857, subdivision (a).  
10 (Findings 11, 15, 16, & 17.)

11 5. Overall, Frankson is not an “unqualified person” pursuant to the criteria set forth in  
12 section 19857, and is not a “disqualified person” pursuant to the criteria set forth in section  
13 19859. (Findings 11, 12, 14-17.)

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**ORDER**

- 1. Frankson’s Application for Finding of Suitability Tribal Key Employee is APPROVED.
- 2. No costs are awarded.
- 3. Each side to pay its own attorneys’ fees.

This Order is effective on May 12, 2022.

Dated: 5/12/2022 Signature:   
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 Paula LaBrie, Chair

Dated: 5/12/2022 Signature:   
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 Cathleen Galgiani, Commissioner

Dated: 5/12/2022 Signature:   
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 Eric Heins, Commissioner

Dated: 5/12/2022 Signature:   
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 William Liu, Commissioner

Dated: 5/12/2022 Signature:   
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 Edward Yee, Commissioner