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BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Tribal Key Employee Finding of Suitability
Regarding:

NICOLE MARIE BROOKS

Applicant.

CGCC Case No. CGCC-2023-0921-13Cii
BGC Case No. BGC-HQ2023-00009AL

DECISION AND ORDER

Hearing Date: September 27, 2024
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, via Zoom video conference, on September 27, 2024.

Applicant Nicole Brooks (Applicant) was present at the evidentiary hearing without representation.

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

During the evidentiary hearing, Presiding Officer Paras Modha (PO Modha), Attorney IV of the Commission, took official notice of the following documents: the Commission’s Notice and Agenda of Commission Hearing; the Commission’s Conclusion of Prehearing Conference letter; the Commission’s Notice of Hearing with attachments (A) Applicant’s Application for Finding of Suitability Tribal Key Employee, and (B) the Bureau’s Background Investigation Report; the Bureau’s Statement of Reasons; and Applicant’s signed Notice of Defense form.

During the evidentiary hearing, PO Modha accepted into evidence Exhibits 1-9, Bates Nos. BGC 001-283, offered by the Bureau and identified on the Bureau’s Exhibit Index, pursuant to a stipulation between the parties.

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FINDINGS OF FACT

Procedural History

1. On December 27, 2019, the Bureau received an Initial Application for Finding of Suitability Tribal Key Employee and a Tribal Key Employee Supplemental Background Investigation Information form (Supplemental) (collectively, Application) from Applicant to work as a Cage Operations Supervisor, a key employee position, at Yaamava' Resort and Casino at San Manuel (Casino).

2. On or about July 17, 2023, the Commission received a Level III Tribal Key Employee Background Investigation Report (Background Report) on Applicant from the Bureau. In the Background Report, the Bureau recommends the Commission deny the Application based on Applicant's criminal history and alleged provision of false or misleading information concerning two criminal convictions.

3. On September 21, 2023, the Commission voted to refer the consideration of the Application to a Gambling Control Act (Act) evidentiary hearing pursuant to CCR section 12054(a)(4).

4. On or about September 22, 2023, the Commission sent a letter to Applicant notifying her that the Commission referred consideration of her Application to an evidentiary hearing and included a blank Notice of Defense form.

5. On or about October 12, 2023, the Commission received a signed Notice of Defense form from Applicant requesting an evidentiary hearing on the consideration of her Application. On her Notice of Defense form, Applicant also requested that all notices and written communications for purposes of the evidentiary hearing be provided via e-mail instead of U.S. mail.

6. On June 6, 2024, the Commission sent a Notice of Hearing, via e-mail, to Applicant and DAG Waian informing them that the hearing would take place on September 27, 2024, at 10:00 a.m.

7. On August 12, 2024, the Bureau sent a Statement of Reasons to Applicant and the Commission by e-mail. The Statement of Reasons alleges two causes for denial of the

1 Application based on Applicant’s conduct leading to two convictions and her alleged provision of
2 untrue or misleading information to the Bureau concerning the convictions.

3 8. On August 15, 2024, the noticed Prehearing Conference was held before
4 PO Modha. Applicant attended on her own behalf. DAG Waian attended on behalf of the Bureau.

5 9. On August 15, 2024, the Commission sent a Conclusion of Prehearing Conference
6 letter to Applicant and DAG Waian.

7 10. The evidentiary hearing on the Application commenced on September 27, 2024. PO
8 Modha closed the administrative record and the matter was submitted for decision on September
9 27, 2024.

10 **Applicant’s Employment History in Controlled Gambling**

11 11. Applicant was hired as a Cashier at the Casino in November 2017 and was promoted
12 to Senior Cashier in October 2018. Applicant assumed key employee duties when she was
13 promoted to Cage Operations Supervisor in December 2019.

14 12. The San Manuel Band of Mission Indians Tribal Gaming Commission suspended
15 Applicant’s tribal gaming license on July 3, 2023, upon notification that the Bureau intended to
16 recommend denial of her Application.

17 13. There was no evidence presented of any derogatory information relating to
18 Applicant’s employment history in controlled gambling other than the suspension based on the
19 Bureau’s denial recommendation.

20 **Applicant’s Criminal History & Statements to Bureau**

21 14. On June 4, 2008, Applicant was convicted of violating California Health and Safety
22 Code section 11377, subdivision (a), unauthorized possession of a controlled substance, a
23 misdemeanor.

24 15. On October 16, 2008, Applicant was convicted of violating California Penal Code
25 section 496, subdivision (a), receiving stolen property, a misdemeanor.

26 16. Section 6 of the Application required Applicant to disclose all convictions, including
27 the approximate date, crime, and court location. Applicant fully disclosed both convictions on the
28 Application.

1 17. In the course of the Bureau’s background investigation, additional information was
2 requested from Applicant concerning the circumstances leading to the convictions. Applicant
3 provided several detailed written statements in response to the Bureau’s requests.

4 18. The Bureau also obtained copies of court records and police reports relating to
5 Applicant’s criminal history. Discrepancies between details in the police reports and Applicant’s
6 written statements resulted in the Bureau’s allegation that Applicant provided information that
7 was false or misleading.

8 19. Applicant provided at least three written statements to the Bureau describing the
9 events leading to her conviction for possession of a controlled substance. Applicant and her
10 former boyfriend, referred to herein by his initials, “D.D.,” were walking outside while D.D.
11 drank a beer. Police on bikes stopped D.D. and Applicant due to D.D. having an open container
12 of alcohol. Police and D.D. had a “scuffle” and D.D. dropped a bag of methamphetamine on the
13 ground and tried to kick it under a bush as he was taken to the ground by police officers. D.D.
14 was physically and emotionally abusive to Applicant and told her to claim the bag belonged to
15 Applicant because she had never been in trouble before. Applicant stated that D.D. told her that if
16 she did not say the bag was hers, she “would regret it” and “out of fear” she said the bag was hers.
17 The police report concerning the incident indicates that it was Applicant who dropped the bag and
18 not D.D.

19 20. In written statements to the Bureau describing the circumstances leading to
20 Applicant’s conviction for receipt of stolen property, she claimed that she was home cooking
21 dinner when D.D. arrived with a keyboard, which he admitted to stealing with a female friend.
22 Minutes later, police arrived and arrested Applicant and D.D. for commercial burglary. D.D. told
23 the judge at the sentencing that Applicant was not involved in the burglary and therefore that
24 charge was dropped and she was convicted of receiving stolen property instead. The police report
25 concerning the incident indicates that Applicant was present with D.D. when he stole the
26 keyboard.

27 21. Applicant’s written statements to the Bureau also provide a detailed summary of
28 physical and emotional abuse inflicted upon Applicant by D.D. Applicant also stated that other

1 than these two convictions that occurred while she was dating D.D, she had never been arrested
2 and has no other criminal history.

3 **Applicant's Testimony During the Evidentiary Hearing**

4 22. Applicant's testimony at the hearing concerning her criminal history was consistent
5 with her prior written statements to the Bureau.

6 23. Applicant's testimony provided additional information regarding the incident leading
7 to her conviction for possession of a controlled substance. Applicant explained that she and D.D.
8 were handcuffed and put in the back of a patrol car together and that is when he began to pressure
9 her to take the blame for possession of the substance in the thrown bag. Applicant felt pressured
10 due to the abuse inflicted upon her by D.D. Applicant then lied to officers that the bag was hers.
11 However, the police report stated that officers saw Applicant drop the bag.

12 24. Applicant testified that she told her public defender and the judge that the police report
13 was inaccurate and that the drugs were not hers, but she was still found guilty. Applicant testified
14 that she does not think she was wrongfully convicted because she lied to the police initially and
15 claimed the drugs were hers.

16 25. Regarding the conviction for receipt of stolen property, Applicant's testimony was
17 also consistent with her prior written statements and included some additional information.
18 Applicant testified that the police report was inaccurate in several respects, such as the stated
19 location of D.D. when police arrived and the representation that Applicant was identified by a
20 witness at the scene. Applicant testified that she was never in a line-up to be identified by a
21 witness. Applicant recalls D.D. being taken out of the patrol car for a witness to view and identify
22 him, but Applicant was never removed from the car for identification.

23 26. Applicant testified that she attempted to get a transcript from her court proceedings
24 because D.D. and another witness testified that she had not been involved in the theft. However,
25 due to the age of the case she was unable to obtain a transcript. Applicant testified that after
26 testimony by D.D. and another witness, the charge for commercial burglary was dropped.
27 Applicant testified that the judge explained to her that the remaining charge for receipt of stolen
28 property would not be dropped because Applicant was aware that D.D. stole the keyboard and did

1 not call the police. Applicant testified that the police arrived within fifteen minutes of D.D.
2 bringing the keyboard home and she did not have sufficient time to take any action.

3 **Evidence Concerning Applicant’s Suitability and Character**

4 27. Applicant testified that the incidents leading to her convictions occurred sixteen years
5 ago and she has not had any encounters with law enforcement since, not even a traffic ticket.
6 Applicant testified that she has been honest with the Bureau and the Casino concerning her
7 criminal history. Applicant acknowledged that there are discrepancies between the police reports
8 and her recollection of events but was adamant that she was telling the truth.

9 28. Additionally, in her written statements to the Bureau and during her testimony,
10 Applicant was very candid about the struggles she has faced throughout her life and her efforts to
11 overcome them. Applicant began working at Casino hoping to find a career and “something
12 more” for her life. Applicant started at the bottom and moved up quickly at Casino because of her
13 honesty and integrity and who she is as a person.

14 29. Applicant testified that she would not be the person she is today without those
15 negative experiences. Applicant testified that she cut people from her life who were negative
16 influences and could keep her from moving forward.

17 30. In a written statement to the Bureau, Applicant detailed her accomplishments at
18 Casino, including building relationships with various departments and department leaders and
19 successfully completing major projects in the areas of information technology, construction,
20 training, and cage operations.

21 31. Applicant’s former coworker and friend, Britany Avila, provided a written character
22 reference letter and testified at the hearing. Ms. Avila wrote that Applicant is honest and
23 trustworthy and goes above and beyond for friends and family. Ms. Avila testified that despite
24 Applicant suffering through abuse and multiple health issues, she continued to grow personally
25 and professionally. Applicant has always been completely honest about her past and is a huge
26 asset to Casino.

27 32. Applicant’s former coworker, Gloria Kemp, also provided a character reference letter
28 on her behalf. Ms. Kemp wrote that Applicant is honest and trustworthy and is willing to go

1 above and beyond what is expected. Ms. Kemp wrote that Applicant is respectful and gets along
2 with others. Ms. Kemp also wrote that Applicant was often given additional responsibilities at
3 Casino and assumed a leadership role while encouraging others on her team. According to Ms.
4 Kemp, Applicant devotes herself completely to her career at Casino.

5 33. Applicant’s former coworker, Nicole Evans, also provided a character reference letter
6 on her behalf. Ms. Evans wrote that Applicant is an asset to Casino because of her bright
7 personality, integrity, work ethic, and listening and conflict resolution skills.

8 34. Ms. Evans, Ms. Avila, and Ms. Kemp have all known Applicant for at least six years.
9 Their letters and testimony are persuasive that Applicant is a valued friend and employee at
10 Casino.

11 PERTINENT LEGAL AUTHORITIES

12 35. Every Gaming Employee shall obtain, and thereafter maintain current, a valid tribal
13 gaming license subject to biennial renewal. Tribal-State Compact between the State of California
14 and the San Manuel Band of Mission Indians section 6.4.3(a).

15 36. The Tribal Gaming Agency shall require the applicant also to file an application with
16 the State Gaming Agency¹, prior to issuance of a temporary or permanent tribal gaming license,
17 for a determination of suitability for licensure under the California Gambling Control Act.
18 Investigation and disposition of that application shall be governed entirely by State law, and the
19 State Gaming Agency shall determine whether the Applicant would be found suitable for
20 licensure in a gambling establishment subject to that State Gaming Agency’s jurisdiction. Tribal-
21 State Compact between the State of California and the San Manuel Band of Mission Indians
22 section 6.5.6.

23 37. “Finding of suitability” means a finding that a person meets the qualification criteria
24 described in subdivisions (a) and (b) of Section 19857, and that the person would not be
25 disqualified from holding a state gambling license on any of the grounds specified in Section

26 _____
27 ¹ “State Gaming Agency” is defined in the compact in Section 2.26 as “the entities authorized to
28 investigate, approve, regulate and license gaming pursuant to the Gambling Control Act (chapter 5
(commencing with section 19800) of division 8 of the California Business and Professions Code), or any
successor statutory scheme, and any entity or entities in which that authority may hereafter be vested.”

1 19859. Business and Professions Code section 19805(j).

2 38. The Act is an exercise of the police power of the state for the protection of the health,
3 safety, and welfare of the people of the State of California and shall be liberally construed to
4 effectuate those purposes. Business and Professions Code section 19971.

5 39. Public trust that permissible gambling will not endanger public health, safety, or
6 welfare requires that comprehensive measures be enacted to ensure that gambling is free from
7 criminal and corruptive elements, that it is conducted honestly and competitively, and that it is
8 conducted in suitable locations. Business and Professions Code section 19801(g).

9 40. The Commission has the responsibility of assuring that licenses, approvals, and
10 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
11 operations are conducted in a manner that is inimical to the public health, safety, or welfare.
12 Business and Professions Code section 19823(a)(1).

13 41. An “unqualified person” means a person who is found to be unqualified pursuant to
14 the criteria set forth in Section 19857, and “disqualified person” means a person who is found to
15 be disqualified pursuant to the criteria set forth in Section 19859. Business and Professions Code
16 section 19823(b).

17 42. The Commission has the power to deny any application for a license, permit, or
18 approval for any cause deemed reasonable by the Commission. Business and Professions Code
19 section 19824(b).

20 43. The Commission has the power to take actions deemed to be reasonable to ensure that
21 no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled
22 gambling activities. Business and Professions Code section 19824(d).

23 44. The burden of proving his or her qualifications to receive any license from the
24 Commission is on the applicant. Business and Professions Code section 19856(a) and CCR
25 section 12060(j).

26 45. No gambling license shall be issued unless, based on all of the information and
27 documents submitted, the Commission is satisfied that the applicant is a person of good character,
28 honesty, and integrity. Business and Professions Code section 19857(a).

1 46. 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 whose prior
3 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
4 public interest of this state, or to the effective regulation and control of controlled gambling, or
5 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
6 the conduct of controlled gambling or in the carrying on of the business and financial
7 arrangements incidental thereto. Business and Professions Code section 19857(b).

8 47. The Commission shall deny a license to any applicant who is disqualified for failure
9 of the applicant to provide information, documentation, and assurances required by this chapter
10 or requested by the chief, or failure of the applicant to reveal any fact material to qualification, or
11 the supplying of information that is untrue or misleading as to a material fact pertaining to the
12 qualification criteria. Business and Professions Code section 19859(b).

13 ASSESSMENT OF APPLICANT'S SUITBILITY FOR LICENSURE

14 48. Applicant has met her burden of proving that she is a person of good character,
15 honesty, and integrity. Applicant overcame many obstacles in her personal life to become
16 successful in her position at Casino. Applicant's character reference letters and her own testimony
17 indicate that she is a dedicated and trustworthy friend and employee.

18 49. Applicant has met her burden of providing that she is a person whose prior activities,
19 criminal record, if any, reputation, habits, and associations do not pose a threat to the public
20 interest of this state, or to the effective regulation and control of controlled gambling, or create or
21 enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the
22 conduct of controlled gambling or in the carrying on of the business and financial arrangements
23 incidental thereto. Applicant has no criminal history other than during a brief period sixteen years
24 ago when she was the victim of abuse by D.D. Applicant testified that she has no communication
25 with D.D. or others who negatively impacted her life.

26 50. Applicant has also met her burden of demonstrating that she is not disqualified for
27 licensure due to a failure to reveal any fact material to qualification, or the supplying of
28 information that is untrue or misleading as to a material fact pertaining to the qualification

1 criteria. Applicant fully disclosed her criminal history on the Application and provided several
2 detailed written explanations of the circumstances leading to those convictions. While
3 Applicant’s recollection does not exactly match with certain details in the police report,
4 Applicant’s testimony that she told the truth to the best of her memory is credible. Applicant’s
5 testimony that she was not with D.D. when he stole the keyboard and accepted the blame for
6 possession of drugs that belonged to D.D., was also credible.

7 51. All documentary and testimonial evidence submitted by the parties that is not specifically
8 addressed in this Decision and Order was considered but not used by the Commission in making its
9 determination on Applicant’s Application.

10 **ORDER**

11 1. Nicole Brooks’ Application for Finding of Suitability Tribal Key Employee is
12 APPROVED.

13 2. No costs are awarded.

14 3. Each side to pay its own attorneys’ fees.

15 This Order is effective on November 21, 2024.

16 Dated: 11/21/2024 Signature: 
17 38D0AB38C651466...
18 Paula LaBrie, Chair

19 Dated: 11/21/2024 Signature: 
20 928DBCE0554B423...
21 Stacey Luna Baxter, Commissioner

22 Dated: 11/21/2024 Signature: 
23 2B4CE9520F8845C...
24 Eric Heins, Commissioner

25 Dated: 11/21/2024 Signature: 
26 7722F4571120449...
27 William Liu, Commissioner

28 Dated: 11/21/2024 Signature: 
14B4AD3B90F8462...
Edward Yee, Commissioner