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1 KAMALA D. HARRIS
Attorney General of California
2 SARA J. DRAKE
Senior Assistant Attorney General
3 RONALD L. DIEDRICH
Deputy Attorney General
4 State Bar No. 95146
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-1043
Fax: (916) 327-2319
7 E-mail: Ronald.Diedrich@doj.ca.gov
Attorneys for Complainant

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

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

CGCC Case No. CGCC-2016-1006-9A

BGC Case No. BGC-HQ2016-00010SL

16
17 **IL KOO LEE**
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 January 12, 2016, the Bureau received an Application for Finding of Suitability
26 Tribal Key Employee, dated December 28, 2015, and a Tribal Key Employee Supplemental
27 Background Investigation Information (collectively Application), submitted by Il Koo Lee
28

1 (Respondent), to hold a key employee position at the Running Creek Casino, which is owned and
2 operated by the Habematolel Pomo of Upper Lake (Tribe).¹

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

4 4. On or about July 20, 2016, the Bureau issued its recommendation that the Application
5 be approved; however, after further internal review, the Bureau now recommends that
6 Respondent's Application be denied.

7 5. At its October 6, 2016 meeting, the Commission referred the question of Applicant's
8 fitness for a Finding of Suitability to an evidentiary hearing. (Cal. Code. Regs., tit. 4, § 12054,
9 subd. (a)(2).²)

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

12 **FIRST CAUSE FOR DENIAL**

13 **(Misdemeanor Criminal Convictions)**

14 7. Respondent's Application is subject to denial in that he has suffered the following
15 misdemeanor criminal convictions:

16 a. On or about May 23, 2013, Respondent was convicted of violating Vehicle Code
17 section 23152, subdivision (b), driving under the influence of alcohol, in the case of *People of the*
18 *State of California v. Il Koo Lee* (Super. Ct. L.A. County, 2013, No. 3MP04160).

19 b. On or about January 21, 1998, Respondent was convicted of violating Vehicle Code
20 section 23152, subdivision(b), driving under the influence of alcohol, in the case of *People of the*
21 *State of California v. Il Koo Lee* (Super. Ct. L.A. County, 1998, No. 3MT13704).

22 (Bus. & Prof. Code, §§ 19854, 19856 & 19857, subs. (a) & (b).)

23
24 ¹ Respondent was granted a key employee license by the Habematolel Pomo of Upper
25 Lake Gaming Commission on January 8, 2016. The California Gambling Control Commission
26 does not issue a license to Respondent; but rather, makes a finding of suitability because this
gaming facility is owned and operated by the Tribe pursuant to a tribal-state compact. (Tribal-
State Compact Between the State of California and the Habematolel Pomo of Upper Lake, pp. 38-
42, § 6.5.6.)

27 ² The statutes and regulations applicable to this Statement of Reasons are quoted in
28 pertinent part in Appendix A.

1 SECOND CAUSE FOR DENIAL

2 (Failure to Disclose Criminal Convictions)

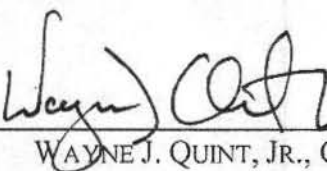
3 8. Respondent's Application is subject to denial in that Respondent, under penalty of
4 perjury, expressly denied in his Application having ever been convicted of a crime, despite
5 having suffered the two criminal convictions alleged in paragraph 7. (Tribal Key Employee
6 Supplemental Background Investigation Information, p. 6, § 9: Criminal History Information.)
7 (Bus. & Prof. Code, §§ 19854, 19856, 19857, subs. (a) & (b), & 19859, subd. (b).)

8 PRAYER

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

- 11 1. Denying the Application for Finding of Suitability Tribal Key Employee submitted
12 by Il Koo Lee; and
13 2. Taking such other and further action as the Commission may deem appropriate.

14
15 Dated: DECEMBER 2ND, 2016

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17 _____
18 WAYNE J. QUINT, JR., Chief
19 Bureau of Gambling Control
20 California Department of Justice
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1 **APPENDIX A – STATUTORY AND REGULATORY PROVISIONS**

2 **JURISDICTION**

- 3 1. Business and Professions Code section 19811, subdivision (b), provides:

4 Jurisdiction, including jurisdiction over operation and
5 concentration, and supervision over gambling establishments in this
6 state and over all persons or things having to do with the operation
7 of gambling establishments is vested in the commission.

- 8 2. Business and Professions Code section 19823 provides:

9 (a) The responsibilities of the commission include, without
10 limitation, all of the following:

11 (1) Assuring that licenses, approvals, and permits are
12 not issued to, or held by, unqualified or disqualified persons,
13 or by persons whose operations are conducted in a manner
14 that is inimical to the public health, safety, or welfare.

15 (2) Assuring that there is no material involvement,
16 directly or indirectly, with a licensed gambling operation, or
17 the ownership or management thereof, by unqualified or
18 disqualified persons, or by persons whose operations are
19 conducted in a manner that is inimical to the public health,
20 safety, or welfare.

21 (b) For the purposes of this section, "unqualified person"
22 means a person who is found to be unqualified pursuant to the
23 criteria set forth in Section 19857, and "disqualified person" means
24 a person who is found to be disqualified pursuant to the criteria set
25 forth in Section 19859.

- 26 3. Business and Professions Code section 19824 provides in part:

27 The commission shall have all powers necessary and proper to
28 enable it fully and effectually to carry out the policies and purposes
29 of this chapter, including, without limitation, the power to do all of
30 the following:

31 * * *

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

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
3 rights:

4 (A) To call and examine witnesses.

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

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

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

12 (E) To offer rebuttal evidence.

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

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

24 (b) Nothing in this section confers upon an applicant a right
25 to discovery of the department's³ investigative reports or to
26 require disclosure of any document or information the disclosure of
27 which is otherwise prohibited by any other provision of this
28 chapter.

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

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

1 Commission shall identify those issues for which it requires
2 additional information or consideration related to the
3 applicant's suitability.

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

5 (a) If the Executive Director determines it is appropriate, he
6 or she may set an application for consideration at a GCA hearing in
7 advance of a meeting pursuant to Section 12054. The Executive
8 Director shall give notice to the applicant, pursuant to paragraph (2)
9 subsection (c) of Section 12052, to the Office of the Attorney
10 General, and to the Bureau no later than 90 calendar days in
11 advance of the GCA hearing. The Executive Director's
12 determination will be based on information contained in the
13 Bureau's report or other appropriate sources including, without
14 limitation, a request from the Bureau or applicant as well as the
15 Commission's operational considerations. The Commission retains
16 the authority to refer the matter to an APA hearing pursuant to
17 subsection (a) of Section 12056 or hear the matter at a Section
18 12054 meeting if the Commission deems it appropriate.

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

17 (c) The presiding officer shall have no communication with
18 the Commission or Commission staff upon the merits, or upon
19 information or documents related to the application prior to the
20 evidentiary hearing. The Executive Director shall designate a
21 presiding officer which shall be:

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

22 (2) An Administrative Law Judge.

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

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

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

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

7 (3) Reports or statements of parties and witnesses, if
8 available; and

9 (4) All other written comments or writings containing
10 relevant evidence.

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

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

22 (A) Evidentiary issues;

23 (B) Witness and exhibit lists;

24 (C) Alterations in the Bureau recommendation;

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

27 (E) Other issues that may be deemed appropriate to
28 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.

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

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

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

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

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

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

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

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

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

1 permitted under State law for licensure in a gambling establishment
2 subject to the State Gaming Agency's jurisdiction.

3 * * *

4 (g) Upon completion of the necessary background
5 investigation or other verification of suitability, the State Gaming
6 Agency shall issue a notice to the Tribal Gaming Agency certifying
7 that the State has determined that the Applicant is suitable, or that
8 the Applicant is unsuitable, for licensure in a Gaming Operation
9 and, if unsuitable, stating the reasons therefore. Issuance of a
10 determination of suitability does not preclude the State Gaming
11 Agency from a subsequent determination based on newly
12 discovered information that a person or entity is unsuitable for the
13 purpose for which the person or entity is licensed. Upon receipt of
14 notice that the State Gaming Agency has determined that a person
15 or entity is or would be unsuitable for licensure, the Tribal Gaming
16 Agency shall deny that person or entity a license and promptly
17 revoke any tribal gaming license that has theretofore been issued to
18 that person or entity; provided that the Tribal Gaming Agency may,
19 in its discretion, reissue a tribal gaming license to the person or
20 entity following entry of a final judgment reversing the
21 determination of the State Gaming Agency in a proceeding in state
22 court conducted pursuant to section 1085 of the California Code of
23 Civil Procedure.

24 (h) Prior to denying an application for a determination of
25 suitability, or to issuing notice to the Tribal Gaming Agency that a
26 person or entity previously determined to be suitable had been
27 determined unsuitable for licensure, the State Gaming Agency shall
28 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.