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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:
16 **JONATHEN DAVID FRANKSON**
17 [Redacted]
18 [Redacted]
19 Respondent.

Case Nos.: CGCC-2021-0708-11G
BGC-HQ2021-00031SL

STATEMENT OF REASONS

Hearing Date: March 4, 2022
Hearing Time: 10:00 a.m.
Hearing Place: 2399 Gateway Oaks, Ste. 100
Sacramento, CA 95833

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

23 Complainant alleges as follows:

24 **PARTIES**

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

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

4 **THE APPLICATION AND THIS PROCEEDING**

5 3. On July 5, 2016, the Bureau received an undated renewal¹ Application for Finding of
6 Suitability Tribal Key Employee form, accompanied by a Supplemental Background
7 Investigation Information form that Respondent 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 Respondent on July 18, 2021. The latter, combined with the Supplemental Background
10 Investigation Information form received on July 5, 2016, is referred to herein as the Application.
11 The purpose of the Application is to allow for Respondent's continuing employment as a tribal
12 key employee at the Wanaaha Casino.²

13 4. 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 Respondent's Application be denied on the basis of Respondent's criminal history.

16 5. On July 8, 2021, the Commission referred consideration of Respondent's Application
17 to an evidentiary hearing to be held pursuant to California Code of Regulations, title 4, Division
18 18, Chapter 1, section 12054(a)(2).³

19 6. On or about July 28, 2021, Respondent timely submitted a Notice of Defense.

20 **BURDEN OF PROOF**

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

23
24 ¹ The renewal application was erroneously submitted by the Bishop Paiute Tribal Gaming
Authority on behalf of Respondent.

25 ² Because the Bishop Paiute tribe owns and operates this gaming facility pursuant to a
26 tribal-state class III gaming compact, the California Gambling Control Commission
(Commission) is required to make a finding of Respondent's suitability. (Tribal-State Compact
27 Between the State of California and the Bishop Paiute Tribe (Dec. 9, 1999), pp. 19-21, § 6.5.6.)

28 ³ The statutes and regulations applicable to this Statement of Reasons are quoted in
pertinent part in Appendix A.

1 **CAUSE FOR DENIAL**

2 **(Failure to Establish Qualification for Licensure)**

3 8. The Bureau Report establishes that Respondent was convicted of four misdemeanor
4 criminal offenses and one felony offense between the dates of March 30, 1995, and March 19,
5 2012. As indicated below, Respondent's felony conviction was subsequently reduced to a
6 misdemeanor, and it, as well as several of Respondent's other misdemeanor convictions were
7 subsequently set aside and dismissed under Penal Code section 1203.4. In summary, the
8 convictions consist of the following:

9 A) March 30, 1995 (Vehicle Code section 23152 (Drunk Driving),
10 misdemeanor), Inyo County Superior Court Case No. ICMB-CRM-1995-64408-2.

11 Certified court records show that Respondent was convicted on March 30, 1995, and
12 subsequently petitioned for relief under Penal Code section 1203.4. The court set aside
13 and dismissed this conviction on June 29, 2015. (See Bureau Report, Attachment 5.)

14 B) July 7, 2005 (Penal Code section 273.5 (A) (inflict corporal injury on
15 spouse), misdemeanor), Inyo County Superior Court Case No. ICMB-CRF-2005-38310.2.

16 Certified court records show that this charge arose from a violation committed on
17 February 13, 2005, and that Respondent was convicted on a no contest plea on July 7,
18 2005, and subsequently petitioned for relief under Penal Code section 1203.4. The court
19 denied Respondent's petition for relief on June 29, 2015. (See Bureau Report Attachment
20 6.)

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

23 2. Certified court records show that this charge arose from a violation committed on July
24 3, 2005, and that Respondent was convicted on a no contest plea on July 7, 2005, and
25 subsequently petitioned for relief under Penal Code section 1203.4. The court denied
26 Respondent's petition for relief on June 29, 2015. (See Bureau Report Attachment 7.)

27 D) August 9, 2007 (Penal Code section 273.5 (A) (inflict corporal injury on
28 spouse-cohabitant), felony), Inyo County Superior Court Case No. ICSI-CRF-2007-

1 44279-2. Certified court records show that Respondent was convicted on a plea on
2 September 18, 2007, and subsequently petitioned for relief under Penal Code section
3 1203.4. The court reduced this conviction to a misdemeanor under Penal Code section 17
4 and set aside and dismissed the misdemeanor on June 29, 2015. (See Bureau Report,
5 Attachment 8.)

6 E) March 19, 2012 (Penal Code section 243 (E)(1) (Battery:
7 Cohabitant/Spouse), misdemeanor), Inyo County Superior Court Case No. ICMB-CRM-
8 2011-52999-2. Certified court records show that Respondent was convicted on a no
9 contest plea on March 19, 2012, and subsequently petitioned for relief under Penal Code
10 section 1203.4. The court set aside and dismissed this conviction on June 29, 2015. (See
11 Bureau Report, Attachment 9.)

12 9. The certified court records identified above also show that two of the violations
13 took place in violation of criminal protective orders that were at the time in place as a result of
14 prior violations, and that Respondent was also found to be in violation of terms of probation
15 imposed in connection with prior violations.

16 10. Respondent's criminal record shows that Respondent is not a person of good
17 character, honesty, and integrity within the meaning of Business and Professions Code section
18 19857, subdivision (a), and is therefore not qualified for licensure. The Application is subject to
19 discretionary denial under Business and Professions Code section 19857. For the same reasons,
20 Respondent is disqualified from licensure and subject to mandatory denial under Business and
21 Professions Code section 19859, subdivision (a).
22 (Bus. & Prof. Code, §§ 19856, 19857, subd. (a), 19859, subd. (a); Cal. Code Regs., tit. 4, §12040
23 (a).)

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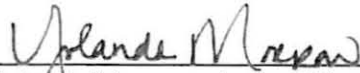
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PRAYER

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

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

Dated: January 18, 2022



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

1 APPENDIX A

2 BUSINESS AND PROFESSIONS CODE

- 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 of
gambling establishments is vested in the commission.

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

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

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

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

16 (b) For the purposes of this section, "unqualified person" means a
17 person who is found to be unqualified pursuant to the criteria set forth
in Section 19857, and "disqualified person" means a person who is
18 found to be disqualified pursuant to the criteria set forth in Section
19859.

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

20 The commission shall have all powers necessary and proper to
21 enable it fully and effectually to carry out the policies and purposes of
this chapter,⁴ including, without limitation, the power to do all of the
22 following:

23 * * *

24 (b) For any cause deemed reasonable by the commission, deny
25 any application for a license, permit, or approval provided for in this
chapter or regulations adopted pursuant to this chapter, limit,
26 condition, or restrict any license, permit, or approval, or impose any
fine upon any person licensed or approved. The commission may
27 condition, restrict, discipline, or take action against the license of an

28 ⁴ "Chapter" refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

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
20 protection of the health, safety, and general welfare of the residents of
the State of California and the declared policy of this state, may be
21 issued a license. The burden of proving his or her qualifications to
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
25 shall consider whether issuance of the license is inimical to public
health, safety, or welfare, and whether issuance of the license will
26 undermine public trust that the gambling operations with respect to
which the license would be issued are free from criminal and dishonest
27 elements and would be conducted honestly.
28

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
the applicant is all of the following:

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

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

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

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

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

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

16 9. Business and Professions Code section 19866 provides:

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

21 10. Business and Professions Code section 19870 provides:

22 (a) The commission, after considering the recommendation of the
23 chief⁵ and any other testimony and written comments as may be
24 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
25 hold the license.

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

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

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

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

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

14 11. Business and Professions Code section 19871 provides:

15 (a) The commission meeting described in Section 19870 shall be
16 conducted in accordance with regulations of the commission and as
17 follows:

18 (1) Oral evidence shall be taken only upon oath or
19 affirmation.

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

21 (A) To call and examine witnesses.

22 (B) To introduce exhibits relevant to the issues
23 of the case.

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

27 (D) To impeach any witness, regardless of
28 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
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 (b) Nothing in this section confers upon an applicant a right to
2 discovery of the department's⁶ investigative reports or to require
3 disclosure of any document or information the disclosure of which is
4 otherwise prohibited by any other provision of this chapter.

4 **CALIFORNIA CODE OF REGULATIONS**

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

7 An application for an initial or renewal license:

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

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

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

13 Elect to hold or retract an evidentiary hearing in accordance with
14 Section 12056 and, for a renewal application, issue an interim renewal
15 license pursuant to Section 12035. The Commission will identify
16 those issues for which it requires additional information or
17 consideration related to the applicant's suitability.

17 14. California Code of Regulations, title 4, section 12056, subdivision (a) provides, in
18 part:

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

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

23 (a) If the Executive Director determines it is appropriate, he or
24 she may set an application for consideration at a GCA hearing in
25 advance of a meeting pursuant to Section 12054. The Executive
26 Director shall give notice to the applicant, pursuant to paragraph (2)
27 subsection (c) of Section 12052, to the Office of the Attorney General,
28 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

28 ⁶ "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.
(h).)

1 sources including, without limitation, a request from the Bureau or
2 applicant as well as the Commission's operational considerations. The
3 Commission retains the authority to refer the matter to an APA
4 hearing pursuant to subsection (a) of Section 12056 or hear the matter
5 at a Section 12054 meeting if the Commission deems it appropriate.

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

11 (c) The presiding officer shall have no communication with the
12 Commission or Commission staff upon the merits, or upon
13 information or documents related to the application prior to the
14 evidentiary hearing. The Executive Director shall designate a
15 presiding officer which shall be:

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

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

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

- 27 (1) A list of potential witnesses with the general subject of
28 the testimony of each witness;
- (2) Copies of all documentary evidence intended to be
introduced at the hearing and not previously provided;
- (3) Reports or statements of parties and witnesses, if
available; and
- (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

1 appropriate or requested by either party. The pre-hearing
2 conference and order may address the following:

3 (A) Evidentiary issues;

4 (B) Witness and exhibit lists;

5 (C) Alterations in the Bureau recommendation;

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

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

9 (2) The GCA hearing need not be conducted according to
10 technical rules of evidence. Any relevant evidence may be
11 considered, and is sufficient in itself to support findings if it is the
12 sort of evidence on which reasonable persons are accustomed to
13 rely in the conduct of serious affairs, regardless of the existence of
14 any common law or statutory rule that might make improper the
15 admission of that evidence over objection in a civil action.

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

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

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

23 (h) The complainant shall present all facts and information in the
24 Bureau report, if any, and the results of the Bureau's background
25 investigation, and the basis for any recommendation, if the Bureau
26 filed one with the Commission according to Business and Professions
27 Code section 19868, to enable the Commission to make an informed
28 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

1 any witness, regardless of which party first called the witness to
2 testify; and to offer rebuttal evidence. If the applicant does not testify
3 on his, her or its own behalf, the applicant may be called and
4 examined, under oath, as if under cross-examination.

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

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

12 16. California Code of Regulations, title 4, section 12120 provides, in part:

13 Applications for findings of suitability received pursuant to Tribal-
14 State gaming compact section 6.5.6 and comparable sections of new or
15 amended compacts for Tribal gaming employees in key employee
16 positions, Tribal gaming resource suppliers and financial sources, will
17 be processed as initial or renewal licenses consistent with Section
18 12040.

19 **TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA**

20 **AND THE BISHOP PAIUTE TRIBE**

21 17. The Tribal-State Compact Between the State of California and the Bishop Paiute
22 Tribe section 6.4.4 provides, in part:

23 Gaming Employees. (a) Every Gaming Employee shall obtain and
24 thereafter maintain current, a valid tribal gaming license, which shall
25 be subject to biennial renewal; provided that in accordance with
26 Section 6.4.9, those persons may be employed on a temporary or
27 conditional basis pending completion of the licensing process.

28 (b) Except as provided in subdivisions (c) and (d), the Tribe will
not employ or continue to employ, any person whose application to
the State Gaming Agency for a determination of suitability, or for a
renewal of such a determination, has been denied or has expired
without renewal.

* * *

(d) Notwithstanding subdivision (a), the Tribe may employ or
retain in its employ a person whose application for a determination of
suitability, or for a renewal of such a determination, has been denied
by the State Gaming Agency, if the person is an enrolled member of
the Tribe, as defined in this subdivision, and if (i) the person holds a
valid and current license issued by the Tribal Gaming Agency that
must be renewed at least biennially; (ii) the denial of the application

1 by the State Gaming Agency is based solely on activities, conduct, or
2 associations that antedate the filing of the person's initial application
3 to the State Gaming Agency for a determination of suitability; and (iii)
4 the person is not an employee or agent of any other gaming operation.
5 For purposes of this subdivision "enrolled member" means a person
6 who is either (a) certified by the Tribe as having been a member of the
7 Tribe for at least five (5) years, or (b) a holder of confirmation of
8 membership issued by the Bureau of Indian Affairs.

(e) Nothing herein shall be construed to relieve any person of the
obligation to apply for a renewal of a determination of suitability as
required by Section 6.5.6.

18. The Tribal-State Compact Between the State of California and the
Bishop Paiute Tribe section 6.5.6 provides, in part:

(a) Upon receipt of a completed license application and a
determination by the Tribal Gaming Agency that it intends to issue the
earlier of a temporary or permanent license, the Tribal Gaming
Agency shall transmit to the State Gaming Agency a notice of intent to
license the applicant, together with all of the following: (i) a copy of
all tribal license application materials and information received by the
Tribal Gaming Agency from the applicant; (ii) an original set of
fingerprint cards; (iii) a current photograph; and (iv) except to the
extent waived by the State Gaming Agency, such releases of
information, waivers, and other completed and executed forms as have
been obtained by the Tribal Gaming Agency. Except for an applicant
for licensing as a non-key Gaming Employee, as defined by agreement
between the Tribal Gaming Agency and the State Gaming Agency, the
Tribal Gaming Agency shall require the applicant also to file an
application with the State Gaming Agency, prior to the issuance of a
temporary or permanent tribal gaming license, for a determination of
suitability for licensure under the California Gambling Control Act.
Investigation and disposition of that application shall be governed
entirely by state law, and the State Gaming Agency shall determine
whether the applicant would be found suitable for licensure in a
gambling establishment subject to that Agency's jurisdiction.
Additional information may be required by the State Gaming Agency
to assist in its background investigation, provided that such State
Gaming Agency requirement shall be no greater than that which may
be required of applicants for a State gaming license in connection with
nontribal gaming activities at a similar level of participation or
employment.

(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

1 would be suitable to be licensed for association with a gambling
2 establishment subject to the jurisdiction of the State Gaming Agency.
3 If further investigation is required to supplement the investigation
4 conducted by the Tribal Gaming Agency, the applicant will be
5 required to pay the statutory application fee charged by the State
6 Gaming Agency pursuant to California Business and Professions Code
7 section 19941 (a), but any deposit requested by the State Gaming
8 Agency pursuant to section 19855 of that code shall take into account
9 reports of the background investigation already conducted by the
10 Tribal Gaming Agency and the NIGC, if any. Failure to pay the
11 application fee or deposit may be grounds for denial of the application
12 by the State Gaming Agency. The State Gaming Agency and Tribal
13 Gaming Agency shall cooperate in sharing as much background
14 information as possible, both to maximize investigative efficiency and
15 thoroughness, and to minimize investigative costs. Upon completion
16 of the necessary background investigation or other verification of
17 suitability, the State Gaming shall issue a notice to the Tribal Gaming
18 Agency certifying that the State has determined that the applicant
19 would be suitable, or that the applicant would be unsuitable, for
20 licensure in a gambling establishment subject to the jurisdiction of the
21 State Gaming Agency and, if unsuitable, stating the reasons therefor.

22 * * *

23 (d) Prior to denying an application for a determination of
24 suitability, the State Gaming Agency shall notify the Tribal Gaming
25 Agency and afford the Tribe an opportunity to be heard. If the State
26 Gaming Agency denies an application for a determination of
27 suitability, that Agency shall provide the applicant with written notice
28 of all appeal rights available under state law.