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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 **SHIN LEE**  
17   
18 

19 Respondent.

Case Nos.: CGCC-2022-0310-7Cii  
BGC-HQ2022-00005SL

**STATEMENT OF REASONS**

Hearing Date: December 8-9, 2022  
Hearing Time: 9:00 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.**

22  
23 Complainant alleges as follows:

24 **PARTIES**

25 1. Yolanda Morrow (Complainant) brings this Statement of Reasons solely in her official  
26 capacity as the Director of the California Department of Justice, Bureau of Gambling Control  
27 (Bureau).  
28

1           2. Shin Lee (Respondent) has been employed by the Hard Rock Hotel & Casino  
2 Sacramento at Fire Mountain (Casino) since October 2019, as a Dual Rate Dealer under a license  
3 issued by the Enterprise Rancheria Gaming Commission (ERGC). At the Casino, the position of  
4 Dual Rate Dealer is partially a supervisory position. On February 3, 2022, the ERGC revoked this  
5 license based upon notification that the California Gambling Control Commission (Commission)  
6 intends to deny Respondent’s application for a determination of suitability.

7   **THE APPLICATION AND THIS PROCEEDING**

8           3. On December 24, 2019, the Bureau received an initial Application for Finding of  
9 Suitability Tribal Key Employee (BGC-TKE-001 (Rev. 03/2015)), accompanied by a  
10 supplemental background investigation information form (BGC-TBL-061 (Rev. 03/2015)). On  
11 March 11, 2021, the Bureau received a renewal Application for Finding of Suitability Tribal Key  
12 Employee (BGC-TKE-001 (Rev. 03/2015)). These applications and the supplemental information  
13 form are collectively referred to herein as the Application. The purpose of the Application is to  
14 allow for Respondent’s employment as a key employee at the Hard Rock Hotel & Casino  
15 Sacramento at Fire Mountain.<sup>1</sup> The Application for a finding of suitability is identified by the  
16 Bureau as TRKE-021666.

17           4. On or about September 16, 2021, the Bureau submitted to the Commission a Tribal  
18 Key Employee Background Investigation Report (Bureau Report) in which the Bureau  
19 recommended that Respondent’s Application be granted subject to a condition relating to the entry  
20 of a civil money judgment against Respondent that remains unsatisfied.

21           5. On September 19, 2021, representatives of the Bureau met with Respondent by  
22 telephone and informed Respondent generally of the basis for the Bureau’s recommendation that  
23 the Application be granted with a condition concerning the unsatisfied money judgment.

24           6. On October 28, 2021, the Commission contacted the Bureau with questions  
25 concerning the Bureau Report. On November 4, 2021, the Commission continued its then-pending  
26

27 \_\_\_\_\_  
28 <sup>1</sup> The Hard Rock Hotel & Casino Sacramento at Fire Mountain is operated by the Enterprise Rancheria of Maidu Indians of California.

1 consideration of the Application to a date to be determined, and, on November 23, 2021, the  
2 Commission scheduled consideration of the Application for January 6, 2022.

3 7. On January 6, 2022, the Commission took no action on the Application and advised  
4 Respondent of same. On or about February 9, 2022, the Bureau provided the Commission with an  
5 addendum (Addendum) to the Bureau Report. The Addendum recommended denial of the  
6 Application due to discrepancies between Respondent's responses to the Bureau's initial requests  
7 for information and the responses Respondent provided to the Bureau's subsequent request for  
8 information made on the basis of the Commission's October 28, 2021 questions as alleged in  
9 paragraph 6, above.

10 8. On February 1, 2022, representatives of the Bureau met by telephone with the  
11 chairman and two commissioners of the ERGC and informed them generally of the basis for the  
12 Bureau's recommendation that the Application be denied. On February 4, 2022, representatives of  
13 the Bureau met with Respondent and the foregoing members of the ERGC and informed them  
14 generally of the basis for the Bureau's recommendation of denial. On February 4, 2022, the  
15 ERGC informed the Bureau that it had revoked Respondent's tribal gaming license.

16 9. On February 24, 2022, the Commission rescheduled consideration of the Application  
17 for March 10, 2022. On March 10, 2022, the Commission referred consideration of Respondent's  
18 Application to an evidentiary hearing to be held pursuant to California Code of Regulations, title  
19 4, Division 18, Chapter 1, section 12054(a)(2).<sup>2</sup>

20 10. On or about April 7, 2022, Respondent timely submitted a Notice of Defense.

21 **BURDEN OF PROOF**

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

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<sup>2</sup> The statutes and regulations applicable to this Statement of Reasons are quoted in  
pertinent part in Appendix A.

1 **FIRST CAUSE FOR DENIAL**

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

3 12. The Bureau Report and Addendum establish that Respondent provided contradictory  
4 and misleading information concerning the circumstances of a civil judgment against him and in  
5 favor of the Sacramento Municipal Utility District (SMUD) on June 11, 2008, in the initial amount  
6 of \$298,083.89,<sup>3</sup> arising from liability for electrical power taken by unlawful diversion via a  
7 bypassed electrical meter at a residence that was being used for the indoor cultivation of  
8 marijuana. This judgment was renewed on May 17, 2018, and remained unsatisfied in the amount  
9 of \$449,871.48 as of that date.

10 13. Respondent's failure to provide full and truthful responses to the Bureau's requests for  
11 information concerning the matters alleged in paragraph 12, above, shows that Respondent is not a  
12 person of good character, honesty, and integrity within the meaning of Business and Professions  
13 Code section 19857, subdivision (a), and is therefore not qualified for licensure. The Application  
14 is therefore subject to discretionary denial under Business and Professions Code section 19857.  
15 (Bus. & Prof. Code, §§ 19856, subs. (a) & (b), 19857, subd. (a); Cal. Code Regs., tit. 4, §12040  
16 (a).)

17 **SECOND CAUSE FOR DENIAL**

18 **(Disqualified for Licensure)**

19 14. The Bureau Report and Addendum establish that Respondent provided contradictory  
20 and misleading information concerning the circumstances of the civil judgment alleged in  
21 paragraph 12, above.

22 15. Respondent's failure to provide full and truthful responses to the Bureau's requests for  
23 information concerning the circumstances of the as-yet unsatisfied civil money judgment  
24 constitutes a failure to provide information, documentation, and assurances required by the  
25 Gambling Control Act or requested by the Chief and, further, constitute a failure to reveal facts

26 \_\_\_\_\_  
27 <sup>3</sup> This judgment was reduced, nunc pro tunc, to \$225,631.58 on April 18, 2018, upon the  
28 motion of the Sacramento Municipal Utility District to correct a prior clerical error. On May 17,  
2018, the Judgment was renewed in the amount of \$225,631.58, plus post-judgment interest in the  
amount of \$224,209.90, for a total renewed judgment of \$449,871.48.


1 material to qualification, or the supplying of information that is untrue or misleading to a material  
2 fact pertaining to the qualification criteria. For these reasons, the Application is subject to  
3 mandatory denial under Business and Professions Code section 19859, subdivision (b).  
4 (Bus. & Prof. Code, § 19859, subs. (a) & (b); Cal. Code Regs., tit. 4, §12040 (a).)

5 **PRAYER**

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

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

10  
11 Dated: October 21, 2022

  
\_\_\_\_\_  
Yolanda Morrow, 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, directly  
13 or indirectly, with a licensed gambling operation, or the  
14 ownership or management thereof, by unqualified or  
15 disqualified persons, or by persons whose operations are  
conducted in a manner that is inimical to the public health,  
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  
18 in Section 19857, and “disqualified person” means a person who is  
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  
22 this chapter,<sup>[4]</sup> including, without limitation, the power to do all of the  
following:

23 \* \* \*

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

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

1 endorsed on the license certificate of the gambling enterprise whether  
2 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  
9 suitability as defined in subdivision (i) of 19805, or apply for a  
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 employee  
14 license.

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

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  
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  
25 shall consider whether issuance of the license is inimical to public  
26 health, safety, or welfare, and whether issuance of the license will  
undermine public trust that the gambling operations with respect to  
27 which the license would be issued are free from criminal and dishonest  
28 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 by  
22 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 to  
28 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

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



1 grant a license to an applicant who it determines to be qualified to hold  
2 the license.

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

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

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

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

20 11. Business and Professions Code section 19871 provides:

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

24 (1) Oral evidence shall be taken only upon oath or  
25 affirmation.

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

27 (A) To call and examine witnesses.

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

(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.

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

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

### 13 CALIFORNIA CODE OF REGULATIONS

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

16 An application for an initial or renewal license:

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

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

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

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

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

31 If the Commission elects to hold an evidentiary hearing, the hearing  
32 will be conducted as a GCA hearing under Section 12060, unless the  
33 Executive Director or the Commission determines the hearing should  
34 be conducted as an APA hearing under Section  
35 12058 . . . .

36 \_\_\_\_\_  
37 <sup>6</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd.  
38 (h).)

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

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

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

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

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

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

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

- 23 (1) A list of potential witnesses with the general subject of the  
24 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.

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

3 (1) In advance of the GCA hearing, upon a motion of a party  
4 or by order of the presiding officer, the presiding officer may  
5 conduct a pre-hearing conference, either in person, via  
6 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:

7 (A) Evidentiary issues;

8 (B) Witness and exhibit lists;

9 (C) Alterations in the Bureau recommendation;

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

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

13 (2) The GCA hearing need not be conducted according to  
14 technical rules of evidence. Any relevant evidence may be  
15 considered, and is sufficient in itself to support findings if it is the  
16 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.

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

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

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

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

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

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

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

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

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

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

20 Applications for findings of suitability received pursuant to Tribal-  
21 State gaming compact section 6.5.6 and comparable sections of new or  
22 amended compacts for Tribal gaming employees in key employee  
23 positions, Tribal gaming resource suppliers and financial sources, will  
24 be processed as initial or renewal licenses consistent with Section  
25 12040.

26 **SECRETARIAL PROCEDURES FOR THE ESTOM YMEKA MAIDU**

27 **TRIBE OF THE ENTERPRISE RANCHERIA**

28 17. The Secretarial Procedures for the Estom Ymeka Maidu Tribe of the Enterprise  
Rancheria, section 6.4.3, provides:

(a) Every Gaming Employee shall obtain, and thereafter maintain  
current, a valid tribal gaming license, and except as provided in subdivision  
(b), shall obtain, and thereafter maintain current, a State Gaming Agency  
determination of suitability, which license and determination shall be  
subject to biennial renewal; provided that in accordance with section 6.4.9,  
those persons may be employed on a temporary or conditional basis  
pending completion of the licensing process and the State Gaming Agency  
determination of suitability.

(b) A Gaming Employee who is required to obtain and maintain  
current a valid tribal gaming license under subdivision (a) is not required to

1 obtain or maintain a State Gaming Agency determination of suitability if  
2 any of the following applies:

3 (1) The employee is subject to the licensing requirement of  
4 subdivision (a) solely because he or she is a person who conducts,  
5 operates, maintains, repairs, or assists in Gaming Activities,  
6 provided that this exception shall not apply if he or she supervises  
7 Gaming Activities or persons who conduct, operate, maintain,  
8 repair, assist, account for or supervise any such Gaming Activity,  
9 *and* is empowered to make discretionary decisions affecting the  
10 conduct of the Gaming Activities.

11 (2) The employee is subject to the licensing requirement of  
12 subdivision (a) solely because he or she is a person whose  
13 employment duties require or authorize access to areas of the  
14 Gaming Facility that are not open to the public, provided that this  
15 exception shall not apply if he or she supervises Gaming Activities  
16 or persons who conduct, operate, maintain, repair, assist, account  
17 for or supervise any such Gaming Activity, *and* is empowered to  
18 make discretionary decisions affecting the conduct of the Gaming  
19 Activities.

20 (3) The State Gaming Agency, in consultation with the  
21 Tribal Gaming Agency, exempts the Gaming Employee from the  
22 requirement to obtain or maintain current a State Gaming Agency  
23 determination of suitability.

24 (c) Notwithstanding subdivision (b), where the State Gaming Agency  
25 determines it is reasonably necessary, the State Gaming Agency is  
26 authorized to review the tribal license application, and all materials and  
27 information received by the Tribal Gaming Agency in connection  
28 therewith, for any person whom the Tribal Gaming Agency has licensed, or  
proposes to license, as a Gaming Employee. If the State Gaming Agency  
determines that the person would be unsuitable for issuance of a license or  
permit for a similar level of employment in a gambling establishment  
subject to the jurisdiction of the State, it shall notify the Tribal Gaming  
Agency of its determination and the reasons supporting its determination.  
The Tribal Gaming Agency shall thereafter conduct a hearing, in  
accordance with section 6.5.5, to reconsider issuance of the tribal gaming  
license and shall immediately notify the State Gaming Agency of its  
determination after the hearing, which shall be final unless made the  
subject of dispute resolution pursuant to section 13.0 within thirty (30) days  
of such notification.

(d) The Tribe shall 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  
whose determination of suitability has expired without renewal.

1 (e) At any time after five (5) years following the effective date of this  
2 these Secretarial Procedures, the Tribe may request that the Secretary  
3 consider adjusting the scope of coverage of subdivision (b) or (c).

4 (f) This section shall not apply to members of the Tribal Gaming  
5 Agency.

6 (g) (1) Notwithstanding subdivisions (a) and (b), the Tribe  
7 may employ or retain in its employ a person whose application  
8 for a determination of suitability, or for a renewal of such a  
9 determination, has been denied by the State Gaming Agency, if  
10 the person is an enrolled member of the Tribe, as defined in  
11 subdivision (g)(2), and if (A) the person holds a valid and current  
12 license issued by the Tribal Gaming Agency that must be  
13 renewed at least biennially; (B) the denial of the application by  
14 the State Gaming Agency is based solely on activities, conduct,  
15 or associations that occurred ten or more years prior to the filing  
16 of the person's initial application to the State Gaming Agency for  
17 a determination of suitability; and (C) the person is not an  
18 employee or agent of any other gaming operation.

19 (2) For purposes of this subdivision, "enrolled member"  
20 means a person who is identified on the official role of  
21 membership in the Tribe pursuant to article III, section 5 of the  
22 Tribe's Constitution.

23 18. The Secretarial Procedures for the Estom Ymeka Maidu Tribe of the  
24 Enterprise Rancheria, section 6.5.1., provides, in part:

25 (a) Any Applicant's application for a tribal gaming license may be  
26 denied, and any license issued may be revoked, if the Tribal Gaming  
27 Agency determines that the application is incomplete or deficient, or if the  
28 Applicant is determined to be unsuitable or otherwise unqualified for a  
tribal gaming license.

(b) Pending consideration of revocation, the Tribal Gaming Agency  
may suspend a tribal gaming license in accordance with section 6.5.5.

(c) All rights to notice and hearing shall be governed by tribal law  
and comport with federal procedural due process by, at a minimum,  
providing the employee with notice reasonably calculated to apprise the  
employee of the pendency of the determination, access to the materials  
upon which the charge is based, and an opportunity to be heard. The  
Applicant shall be notified in writing of the hearing and given notice of  
any intent to suspend or revoke the tribal gaming license.

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(d) Notwithstanding anything to the contrary herein, upon receipt of notice that the State Gaming Agency has determined that a person would be unsuitable for licensure in a gambling establishment subject to the jurisdiction of the State Gaming Agency, the Tribal Gaming Agency shall deny that person a tribal gaming license and promptly, and in no event more than thirty (30) days from the State Gaming Agency notification, revoke any tribal gaming license that has theretofore been issued to that person; provided that the Tribal Gaming Agency may, in its discretion, reissue a tribal gaming license to the person following entry of a final judgment reversing the determination of the State Gaming Agency in a proceeding in state court conducted pursuant to section 1085 of the California Code of Civil Procedure.