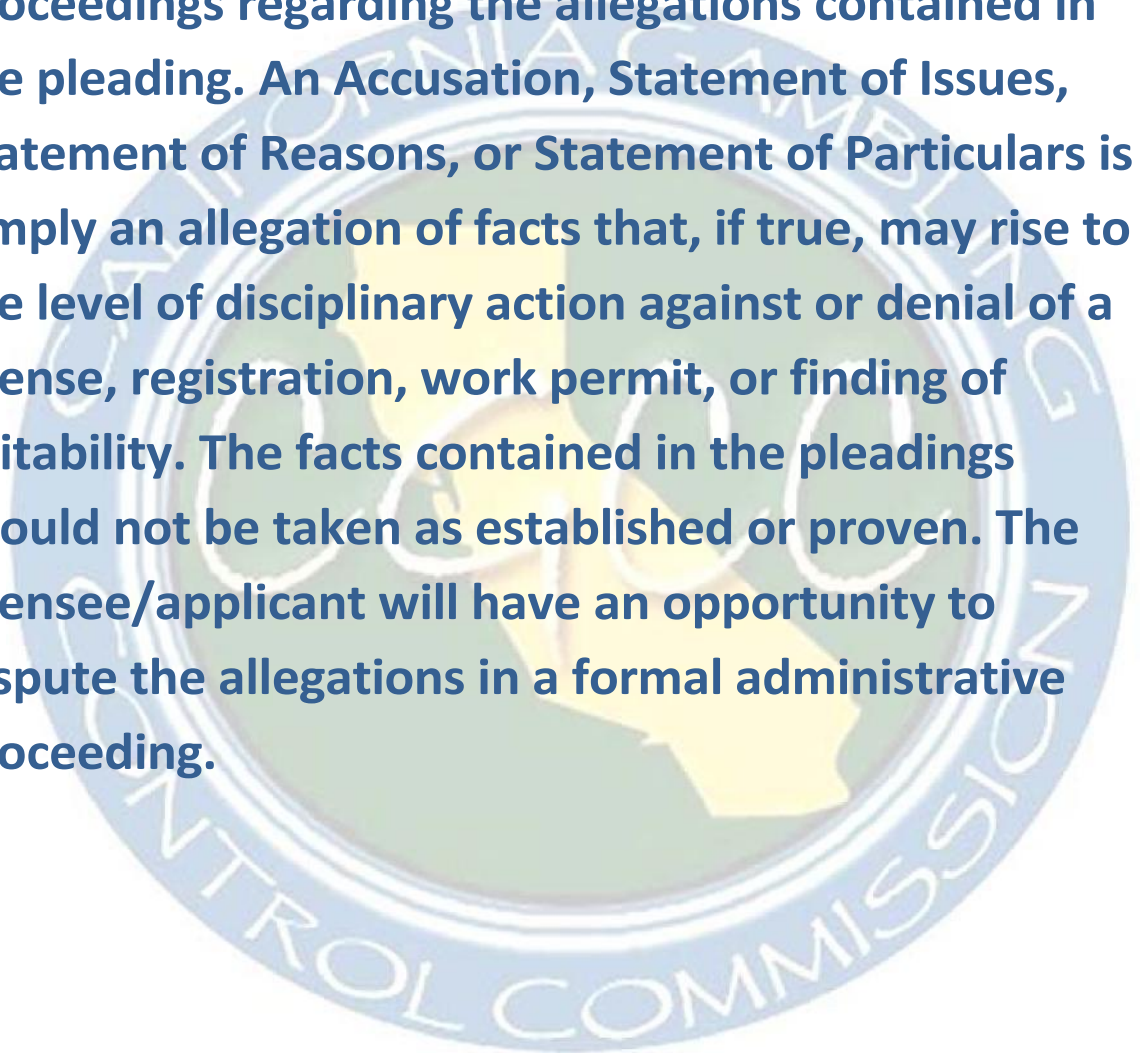


The Commission is providing a copy of this pleading (Accusation, or Statement of Reasons, Statement of Particulars, or Statement of Issues) so the public is as informed as possible of pending administrative proceedings regarding the allegations contained in the pleading. An Accusation, Statement of Issues, Statement of Reasons, or Statement of Particulars is simply an allegation of facts that, if true, may rise to the level of disciplinary action against or denial of a license, registration, work permit, or finding of suitability. The facts contained in the pleadings should not be taken as established or proven. The licensee/applicant will have an opportunity to dispute the allegations in a formal administrative proceeding.



**RECEIVED**

By CGCC Legal Division at 12:44 pm, Aug 12, 2024

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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 **NICOLE MARIE BROOKS**

17 (Record Number TRKE-021676)

18 Respondent.

CGCC Case No.: CGCC-2023-0921-13Cii

BGC Case No.: BGC-HQ2023-00009AL

**STATEMENT OF REASONS**

Hearing Date: September 27, 2024

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.**

22 Complainant alleges as follows:

23 **THE PARTIES**

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

1           2. Nicole Marie Brooks (Respondent) has been employed by Yaamava’ Resort and  
2 Casino at San Manuel (Yaamava’) since 2017. She assumed key employee duties (Cage  
3 Operations Supervisor) in December 2019. The San Manuel Tribal Gaming Commission (TGA)  
4 suspended Respondent’s tribal gaming license on July 3, 2023, upon notification that the Bureau  
5 intended to recommend denial of Brooks’ application for a finding of suitability as a key  
6 employee. It is unknown whether Respondent is working at Yaamava’ as of the date of this  
7 Statement of Reasons.<sup>1</sup>

### 8                                   **THE APPLICATION AND THIS PROCEEDING**

9           3. On December 27, 2019, the Bureau received Respondent’s initial Application for  
10 Finding of Suitability, Tribal Key Employee (BGC-TKE-001 (Rev. 03/2015)) and a Tribal Key  
11 Employee Supplemental Background Investigation Information form (BGC-TBL-001 (Rev.  
12 03/2015)) (collectively, Application). The Application was occasioned by Respondent’s  
13 promotion from Senior Cashier (non-key employee) to Cage Operations Supervisor (key  
14 employee) at Yaamava’. Upon receipt of the Application, the Bureau assigned Respondent  
15 Record Number TRKE-021676, and undertook a Tribal Key Employee Background  
16 Investigation.

17           4. During its background investigation of Respondent, the Bureau requested further  
18 information from Respondent regarding her two misdemeanor convictions, and Respondent  
19 provided further responses. On June 30, 2023, the Bureau notified the TGA via email of the  
20 Bureau’s intention to recommend denial of the Application.

21           5. On July 13, 2023, the Bureau met with Respondent by telephone and informed her of  
22 the basis for the Bureau’s recommendation to deny the Application. On July 18, 2023, the  
23 Bureau issued its Tribal Key Employee Background Investigation Report recommending that the  
24 Application be denied.

25 \_\_\_\_\_  
26           <sup>1</sup> At the time of her Application, Respondent was employed at Yaamava’. Because this  
27 gambling establishment is owned and operated by the Yuhaaviatam of San Manuel Nation  
28 pursuant to a tribal-state compact, Respondent’s gaming license was issued by the TGA.  
Accordingly, under these circumstances, the Commission is required to make a Finding of  
Suitability “for licensure under the California Gambling Control Act.” (Tribal-State Compact  
Between the State of California and the San Manuel Band of Mission Indians, § 6.5.6.)

1 6. On September 22, 2023, the Commission notified Respondent that the Commission  
2 had considered the Application at its September 21, 2023 meeting, and had referred the  
3 Application to an evidentiary hearing pursuant to California Code of Regulations, title 4, section  
4 12054, subdivision (a)(4).<sup>2</sup>

5 7. On October 12, 2023, Respondent submitted a Notice of Defense. The Notice of  
6 Defense included a request that notices or written communications concerning the evidentiary  
7 hearing be provided to Respondent via email.

8 8. On June 6, 2024, the Commission issued a Notice of Hearing informing Respondent  
9 that the evidentiary hearing would take place at 10:00 a.m. on September 27, 2024, via Zoom  
10 teleconference, and that a Prehearing Conference would be held by Zoom teleconference on  
11 August 15, 2024.

12 **BURDEN OF PROOF**

13 9. Respondent has the burden of proving that she is qualified to receive a tribal key  
14 employee license. (Bus. & Prof. Code, § 19856, subd. (a).)

15 **FIRST CAUSE FOR DENIAL**

16 **(Misdemeanor Convictions - Unsuitable for Licensure)**

17 10. Respondent's Application is subject to denial because Respondent has engaged in  
18 illegal behavior, demonstrating a willingness to violate the law and a conscious disregard for the  
19 health, safety, and welfare of others. Specifically, on or about October 16, 2008, Respondent was  
20 convicted of violating Penal Code section 496, subdivision (a), receiving stolen property, a  
21 misdemeanor, in the case of *People of the State of California v. Nicole Marie Brooks* (Super. Ct.  
22 San Bernardino County, 2008, Case No. FSB804044). In addition, on or about June 4, 2008,  
23 Respondent was convicted of violating Health and Safety Code section 11377, subdivision (a),  
24 unauthorized possession of a controlled substance, a misdemeanor, in the case of *People of the*  
25 *State of California v. Nicole Marie Brooks* (Super. Ct. San Bernardino County, 2008, Case No.  
26 MSB801993).

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

1 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subd. (a) [mandatory denial]; Cal. Code. Regs., tit.  
2 4, §§ 12040, subds. (a)(1), (2) [mandatory denial].)

3 **SECOND CAUSE FOR DENIAL**  
4 **(Failure to Accurately and Honestly**  
5 **Disclose Required Material Information)**

6 11. Respondent's Application is subject to denial because Respondent failed to disclose  
7 required information that is material to her Application. In response to the Bureau's inquiry,  
8 Respondent failed and/or refused to accurately and honestly disclose the circumstances regarding  
9 the two misdemeanor convictions alleged in paragraph 10.


10 (Bus. & Prof. Code, §§ 19856, 19857, 19859, subds. (a) & (b) [mandatory denial], 19866; Cal.  
11 Code. Regs., tit. 4, §§ 12040, subds. (a)(1), (2) [mandatory denial].)

12 **PRAYER**

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

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

17  
18  
19 Dated: August 12, 2024

20   
21 \_\_\_\_\_  
22 Yolanda Morrow, Director  
23 Bureau of Gambling Control  
24 California Department of Justice  
25  
26  
27  
28

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 operations of  
7 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 not  
12 issued to, or held by, unqualified or disqualified persons, or by  
13 persons whose operations are conducted in a manner that is  
14 inimical to the public health, safety, or welfare.

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

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

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

26 The commission shall have all powers necessary and proper to  
27 enable it fully and effectually to carry out the policies and purposes of  
28 this chapter,<sup>3</sup> including, without limitation, the power to do all of the  
following:

[¶] ... [¶]

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

<sup>3</sup> “Chapter” refers to Business and Professions Code, division 8, chapter 5, (commencing with section 19800), also known as the Gambling Control Act.

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. Business and Professions Code section 19853, subdivision (a), provides in part:

5 The commission, by regulation or order, may require that the  
6 following persons register with the commission, apply for a finding of  
7 suitability as defined in subdivision (i) of Section 19805, or apply for a  
8 gambling license:

8 [¶] ... [¶]

9 (3) Any person who does business on the premises of a  
10 licensed gambling establishment.

5. Business and Professions Code, section 19854 provides, in part:

11 (a) A person shall not be employed as a key employee unless that  
12 person applies for and obtains a key employee license.

13 (b) A person shall not be issued a key employee license unless the  
14 person would qualify for a state gambling license.

6. Business and Professions Code section 19856 provides:

15 (a) Any person who the commission determines is qualified to  
16 receive a state license, having due consideration for the proper  
17 protection of the health, safety, and general welfare of the residents of  
18 the State of California and the declared policy of this state, may be  
19 issued a license. The burden of proving his or her qualifications to  
20 receive any license is on the applicant.

19 (b) An application to receive a license constitutes a request for a  
20 determination of the applicant's general character, integrity, and  
21 ability to participate in, engage in, or be associated with, controlled  
22 gambling.

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

7. Business and Professions Code section 19857 provides:

26 No gambling license shall be issued unless, based on all of the  
27 information and documents submitted, the commission is satisfied that  
28 the applicant is all of the following:

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

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

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

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

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

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

15 (b) Failure of the applicant to provide information,  
16 documentation, and assurances required by this chapter or requested  
17 by the chief, or failure of the applicant to reveal any fact material to  
18 qualification, or the supplying of information that is untrue or  
19 misleading as to a material fact pertaining to the qualification criteria

20 9. Business and Professions Code section 19866 provides:

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

26 10. Business and Professions Code section 19870 provides:

27 (a) The commission, after considering the recommendation of the  
28 chief<sup>4</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,  
grant a license to an applicant who it determines to be qualified to hold  
the license, or refer the application to an evidentiary hearing.

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

(c) If, during a meeting, the commission denies an application,  
denies approval, or approves with limits, restrictions, or conditions,  
the action shall be stayed for a period of 30 days after the meeting,  
during which the applicant may request an evidentiary hearing. If the  
applicant does not file a request for an evidentiary hearing within 30

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<sup>4</sup> “Chief” refers to the Director of the Bureau. (Bus. & Prof. Code, § 19805, subd. (d).)



1 days, the action of the commission taken at the meeting is final. If the  
2 applicant waives the right to hearing and assents to the action of the  
3 commission in writing, upon receipt of the waiver by the commission,  
4 the action shall no longer be stayed. If the applicant files a timely  
5 request for an evidentiary hearing, the action shall be vacated and the  
6 application shall be reviewed de novo at the evidentiary hearing.

(d) When an application is denied after an evidentiary hearing,  
5 the commission shall prepare and file a detailed statement of its  
6 reasons for the denial.

(e) All proceedings relating to an application at a meeting of the  
7 commission or at an evidentiary hearing shall be recorded  
8 stenographically or by audio or video recording.

(f) A decision of the commission after an evidentiary hearing,  
9 denying a license or approval, or imposing any condition or restriction  
10 on the grant of a license or approval may be reviewed by petition  
11 pursuant to Section 1085 of the Code of Civil Procedure. Section  
12 1094.5 of the Code of Civil Procedure does not apply to any judicial  
13 proceeding held to consider that petition, and the court may grant the  
14 petition only if the court finds that the action of the commission was  
15 arbitrary and capricious, or that the action exceeded the commission's  
16 jurisdiction.

11. Business and Professions Code section 19871 provides:

(a) An evidentiary hearing described in Section 19870 shall be  
15 conducted in accordance with regulations of the commission and as  
16 follows:

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

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

(A) To call and examine witnesses.

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

(C) To cross-examine opposing witnesses on any matters  
22 relevant to the issues, even if the matter was not covered on  
23 direct examination.

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

(E) To offer rebuttal evidence.

(3) If the applicant does not testify on their own behalf, the  
26 applicant may be called and examined as if under cross-  
27 examination.

1 (4) The hearing 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) This section does not confer upon an applicant a right to  
10 discovery of the department's<sup>5</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  
19 Code 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  
22 to the applicant.

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

25 At a Commission meeting, the Commission may take, but is not  
26 limited to taking, one of the following actions:

27 [¶] ... [¶]

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

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

If the Commission elects to hold an evidentiary hearing, or an  
applicant has elected to request an evidentiary hearing following a  
Commission approval with conditions, restrictions, or limitations  
pursuant to paragraph (2) of subsection (a) of Section 12054 or a

---

<sup>5</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).)

1 denial pursuant to paragraph (3) of subsection (a) of Section 12054,  
2 the hearing will be conducted as a GCA hearing under Section 12060,  
3 unless the Executive Director or the Commission determines the  
4 hearing should be conducted as an APA hearing under Section 12058.  
5 The evidence will be presented by the complainant, which is selected  
6 by the Executive Director or the Commission, and may be either the  
7 Bureau or an advocate of the Commission. If an advocate of the  
8 Commission is selected, the determination will include a list of  
9 employees of the Commission who will be designated as an advocate  
10 of the Commission.

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

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

22 (b) When a GCA hearing is elected pursuant to Section 12056,  
23 subsection (a), the Executive Director will give notice to the applicant,  
24 pursuant to paragraph (2) subsection (c) of Section 12052, to the  
25 Office of the Attorney General, and to the Bureau no later than 60  
26 calendar days in advance of the GCA hearing.

27 (c) An applicant may request that his, her, or its GCA hearing be  
28 held at a Southern California location instead of the Commission's  
principal office in Sacramento, by completing the appropriate section  
on the Notice of Defense, CGCC-CH1-03 (Rev. 08/21). The request  
must be made on the initial Notice of Defense form submitted to the  
Commission and Bureau within the timeframes specified on the form.

(1) The Executive Director will approve a Southern  
California GCA hearing, if the request is timely made on the initial  
Notice of Defense form and meets all of the following criteria:

(A) The GCA hearing is estimated by Commission staff  
to last no longer than four hours

(B) The primary residence of the applicant is located in  
one of the following counties: Imperial, Kern, Los Angeles,  
Orange, Riverside, San Diego, San Luis Obispo, San  
Bernardino, Santa Barbara, or Ventura.

(C) A GCA hearing will be noticed for a Southern  
California location only when it is in the best public interest,  
promotes judicial economy, and comports with the  
Commission's availability.

1 (2) If at any time before the hearing, the Executive Director  
2 determines that the criteria in subparagraphs (A) through (C) of  
3 paragraph (1) are no longer met, Commission staff may cancel the  
4 Southern California GCA hearing and issue a new notice for a  
5 hearing at the Commission's principal office in Sacramento.

6 (d) The presiding officer and her or his support staff will have no  
7 communication with the Commission or Commission staff upon the  
8 merits of an application prior to the evidentiary hearing. The  
9 Executive Director will designate a presiding officer which will be:

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

12 (e) The applicant or the complainant, or the applicant and the  
13 complainant, may request a continuance in writing to the Executive  
14 Director stating the reason for the continuance and any proposed  
15 future hearing dates. The Executive Director or Commission may  
16 approve the request. For a Southern California GCA hearing, if a  
17 continuance is granted, the hearing may be scheduled in Sacramento  
18 or Southern California based on the criteria specified in subparagraphs  
19 (A) through (C) of paragraph (1) of subsection (c).

20 (f) The complainant will provide to the applicant, subject to  
21 subsection (b) of Section 12056, at least 45 calendar days prior to the  
22 GCA hearing, and the applicant must provide to the complainant, at  
23 least 30 calendar days prior to the GCA hearing, the following items:

- 24 (1) A list of potential witnesses with the general subject of  
25 the testimony of each witness;
- 26 (2) Copies of all documentary evidence intended to be  
27 introduced at the hearing and not previously provided;
- 28 (3) Reports or statements of parties and witnesses, if  
available; and
- (4) All other written comments, writings, or other items  
containing relevant evidence.

(g) The provisions of subsection (f) of this section provide the  
exclusive right to and method of discovery between the applicant and  
complainant to a GCA hearing. Discovery is not permitted upon a  
Commission member or an advisor of the Commission unless a  
showing is made that they have direct personal factual information  
pertaining to material issues related to the application at issue and the  
information to be gained from the Commission member or advisor of  
the Commission is not available through any other sources.

(h) A presiding officer will rule on the admissibility of evidence  
and on any objections raised except for objections raised under  
subsection (h). A ruling by the presiding officer is final.

1 (1) In advance of the GCA hearing, upon a motion of a party  
2 or by order of the presiding officer, the presiding officer may  
3 conduct a pre-hearing conference, either in person, via  
4 teleconference, or by email exchange, subject to the presiding  
5 officer's availability and will issue a pre-hearing order if  
6 appropriate or requested by either party. The pre-hearing  
7 conference and order may address the following:

8 (A) Evidentiary issues;

9 (B) Witness and exhibit lists;

10 (C) Alterations in the Bureau recommendation;

11 (D) Stipulations for undisputed facts and/or the  
12 admission of evidence including without limitation the  
13 Bureau's report;

14 (E) Authorizing offsite livestreaming appearances for  
15 parties or witnesses if good cause has been presented and only  
16 if the process for offsite livestreaming has been approved by  
17 the Executive Director; and,

18 (F) Other issues that may be deemed appropriate to  
19 promote the orderly and prompt conduct of the hearing.

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

27 (i) The Commission may, at any time upon a showing of  
28 prejudice by the objecting party:

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

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

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

1 (k) The burden of proof is always on the applicant to prove his,  
2 her, or its qualifications to receive any license or other approval under  
the Act.

3 (l) The applicant may choose to represent himself, herself, or  
4 itself, or may retain an attorney or lay representative. Lay  
5 representatives may assist the applicant but are not authorized to serve  
as an attorney as otherwise defined and regulated by state law.

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

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

15 (o) At the conclusion of the evidentiary hearing, the members of  
16 the Commission will 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 **TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA**  
27 **AND THE SAN MANUEL BAND OF MISSION INDIANS**

28 17. Section 6.5.6 of the Tribal-State Compact Between the State of California and the San  
Manuel Band of Mission Indians provides, in part:

(a) With respect to Gaming Employees, upon receipt of an  
Applicant's completed license application and a determination to  
issue either a temporary or permanent license, the Tribal Gaming  
Agency shall transmit within thirty (30) days to the State Gaming  
Agency for a determination of suitability for licensure under the  
California Gambling Control Act a notice of intent to license the  
Applicant, together with all of the following:

- 1 (1) A copy of all tribal license application materials and  
2 information received by the Tribal Gaming Agency from the  
3 Applicant which is not otherwise prohibited or restricted from  
4 disclosure under applicable federal law or regulation;  
5  
6 (2) A complete set of fingerprint impressions, rolled by a certified  
7 fingerprint roller, transmitted electronically;  
8  
9 (3) A current photograph; and  
10  
11 (4) Except to the extent waived by the State Gaming Agency,  
12 such releases of information, waivers, and other completed  
13 and executed forms as have been obtained by the Tribal  
14 Gaming Agency.

15 [¶] ... [¶]

- 16 (c) Investigation and disposition of applications for a determination  
17 of suitability shall be governed entirely by State law, and the State  
18 Gaming Agency shall determine whether the Applicant would be  
19 found suitable for licensure in a gambling establishment subject to  
20 the State Gaming Agency's jurisdiction. Additional information  
21 may be required by the State Gaming Agency to assist it in its  
22 background investigation, to the extent permitted under State law  
23 for licensure in a gambling establishment subject to the State  
24 Gaming Agency's jurisdiction.
- 25 (d) The Tribal Gaming Agency shall require a licensee to apply for  
26 renewal of a determination of suitability by the State Gaming  
27 Agency at such time as the licensee applies for renewal of a tribal  
28 gaming license.
- (e) Upon receipt of a completed license or license renewal  
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 is  
suitable to be licensed for association with Class III Gaming  
operations. While the Tribal Gaming Agency shall ordinarily be  
the primary source of application information, the State Gaming  
Agency is authorized to directly seek application information  
from the Applicant. The Tribal Gaming Agency shall provide to  
the State Gaming Agency reports of the background  
investigations conducted by the Tribal Gaming Agency and the  
NIGC and related applications, if any, for Gaming Employees . . .  
. If further investigation is required to supplement the  
investigation conducted by the Tribal Gaming Agency, the  
Applicant will be required to pay the application fee charged by  
the State Gaming Agency pursuant to California Business and

1 Professions Code section 19951, subdivision (a), but any deposit  
2 requested by the State Gaming Agency pursuant to section 19867  
3 of that Code shall take into account reports of the background  
4 investigation already conducted by the Tribal Gaming Agency  
5 and the NIGC, if any. Failure to provide information reasonably  
6 required by the State Gaming Agency to complete its  
7 investigation under State law or failure to pay the application fee  
8 or deposit can constitute grounds for denial of the application by  
9 the State Gaming Agency. The State Gaming Agency and Tribal  
10 Gaming Agency shall cooperate in sharing as much background  
11 information as possible, both to maximize investigative efficiency  
12 and thoroughness, and to minimize investigative costs.

13 (f) Upon completion of the necessary background investigation or  
14 other verification of suitability, the State Gaming Agency shall  
15 issue a notice to the Tribal Gaming Agency certifying that the  
16 State has determined that the Applicant is suitable, or that the  
17 Applicant is unsuitable, for licensure in a Gaming Operation and,  
18 if unsuitable, stating the reasons therefore. Issuance of a  
19 determination of suitability does not preclude the State Gaming  
20 Agency from a subsequent determination based on newly  
21 discovered information that a person or entity is unsuitable for the  
22 purpose for which the person or entity is licensed. Upon receipt  
23 of notice that the State Gaming Agency has determined that a  
24 person or entity is or would be unsuitable for licensure, the Tribal  
25 Gaming Agency shall deny that person or entity a license and  
26 promptly, and in no event more than thirty (30) days from the  
27 issuance of the State Gaming Agency notification, revoke any  
28 tribal gaming license that has theretofore been issued to that  
person or entity, provided that the Tribal Gaming Agency may, in  
its discretion, reissue a tribal gaming license to the person or  
entity following entry of a final judgment reversing the  
determination of the State Gaming Agency in a proceeding in  
state court between the Applicant and the State Gaming Agency  
conducted pursuant to section 1085 of the California Code of  
Civil Procedure.

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