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.

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BEFORE THE

CALIFORNIA GAMBLING CONTROL COMMISSION

STATE OF CALIFORNIA

In the Matter of the Application for a Finding of Suitability for: **BRENDON KENT BIRCH** [redacted] **TRKE-026802** Respondent.	Case No. CGCC-2024-1010-11Li BGC-HQ2024-00024AL **STATEMENT OF PARTICULARS** Hearing Date: August 6, 2025 Hearing Time: 10:00 a.m. Hearing Place: **This hearing will be conducted by means of video conferencing on Zoom. The Zoom meeting code 285 757 8614**

Complainant alleges as follows:

PARTIES

1. Yolanda Morrow (Complainant) submits this Statement of Particulars solely in her official capacity as Director of the California Department of Justice, Bureau of Gambling Control (Bureau).

2. Respondent Brendon Kent Birch (Respondent) has been employed by the Pala Casino Spa and Resort (Pala Casino) from August 2022 to the present. He assumed his role as a Lead Slot Floor Person, a key employee position, on August 21, 2023.

THE APPLICATION AND THIS PROCEEDING

3. On September 1, 2023, the Bureau received an Application for Finding of Suitability Tribal Key Employee (BGC-TKE-001 (Rev. 03/15)) and a Tribal Key Employee Supplemental Background Investigation Information (BGC-TBL-001 (Rev. 03/15)) (collectively, Application). from Respondent. The Application was occasioned by Respondent's employment as a Lead Slot Floor Person at the Pala Casino.[1]

4. On or about July 24, 2024, the Bureau sent its Tribal Key Employee Initial Background Investigation Report Level II for Respondent (Report) to the California Gambling Control Commission (Commission), recommending approval of Respondent's Application.

5. On September 27, 2024, the Commission notified Respondent that his Application would be considered by the Commission at 10:00 a.m., on October 10, 2024.

6. At its October 10, 2024, meeting, the Commission considered the Application and voted to refer the Application to an evidentiary hearing pursuant to California Code of Regulations title 4, section 12054, subdivision (a)(4),[2] and determined that the hearing would be conducted as a Gambling Control Act hearing, pursuant to California Code of Regulations, title 4, section 12060, before the Commissioners. The Commission's notification to Respondent included a Notice of Defense.

7. Respondent timely submitted a Notice of Defense, dated October 24, 2024.

[1] At the time of his Application, Respondent was employed at the Pala Casino. Because this gambling establishment is owned and operated by the Pala Band of Mission Indians pursuant to a tribal-state compact, Respondent's gaming license was issued by the Pala Tribal Gaming Commission. Accordingly, under these circumstances, the California Gambling Control Commission is required to make a determination of suitability. (Tribal-State Compact Between the State of California and the Pala Band of Mission Indians, § 6.4.3, subd. (a).)

[2] The statutes and regulations applicable to this Statement of Particulars are quoted in pertinent part in Appendix A.

BURDEN OF PROOF

8. Respondent has the burden of proving that he is suitable for licensure and qualified to hold a tribal key employee license. (Bus. & Prof. Code, § 19856, subd. (a).)

LICENSURE CONSIDERATIONS

(Factors in Aggravation and Mitigation)

9. When the Bureau reviewed Respondent's Application it discovered that Respondent stated he left employment with Pechanga Resort and Casino (Pechanga) in 2015 for a "new opportunity – try different field." However, during the employment verification process it was discovered that Respondent was terminated from Pechanga for a violation of the drug and alcohol policy as Respondent was intoxicated while on duty. Further, it was discovered that Respondent also put the incorrect termination information on his initial application for employment with his current employer, Pala Casino.

10. When questioned about the discrepancy, Respondent claimed he failed to provide this information on his application with Pala Casino because he "was filling out so many applications after being unemployed due to Covid" and that he was "filling out 5 to 10 applications a day and lost track of what happened" with the job at Pechanga. Respondent claimed he failed to provide the correct information about his termination at Pechanga on his Application because "when filling out the Tribal Key information I once again made the mistake of just using the same information from the original Pala gaming application."

11. Respondent has worked at the Pala Casino since August 2022, assuming key employee duties on August 21, 2023, with no reported derogatory incidents. The Pala Tribal Gaming Commission was made aware of the termination information at issue and does not believe it is an area of concern. With the exception of the above-described 2015 termination, no derogatory information regarding the Respondent's prior employment was received.

12. Additionally, Respondent filed for Chapter 7 bankruptcy with the U.S. Bankruptcy Court in Riverside, California, on September 9, 2016. On January 3, 2017, Respondent was discharged of debts estimated to be between $45,658.07 and $89,272.07. Respondent disclosed the bankruptcy on his Application and indicated the circumstances that led to the bankruptcy were

due to being overextended on credit card debt. The Pala Tribal Gaming Commission was made aware of the bankruptcy and does not believe it is an area of concern.

13. Based on the Bureau's findings during its investigation, the Bureau is not recommending denial of Respondent's Application.

CONCLUSION

WHEREFORE, Director Morrow requests that following the hearing to be held on the matters herein alleged, the Commission take such action as it may deem appropriate.

Dated: May 21, 2025

Trevor Dewar for
YOLANDA MORROW, Director
Bureau of Gambling Control
California Department of Justice

APPENDIX A

1. Business and Professions Code section 19856 provides in part:

> (a) Any person who the commission determines is qualified to receive a state license, having due consideration for the proper 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 receive any license is on the applicant.

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

> (a) At a Commission meeting, the Commission may take, but is not limited to taking, one of the following actions:
>
> * * *
>
> (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.

3. California Code of Regulations, title 4, section 12060 provides, in part:

> (a) If the Executive Director determines it is appropriate, he or she may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. The Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, 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 sources including, without limitation, a request from the Bureau or applicant as well as the Commission's operational considerations.
>
> (b) When the Commission has elected to hold a GCA hearing, the Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 60 calendar days in advance of the GCA hearing.
>
> (c) The presiding officer and her or his support staff will have no communication with the Commission or Commission staff upon the merits of an application prior to the evidentiary hearing. The Executive Director will designate a presiding officer which will be:
>
> (1) A member of the Commission's legal staff; or,

(2) An Administrative Law Judge.

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

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

(1) A list of potential witnesses with the general subject of 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 appropriate or requested by either party. The pre-hearing conference and order may address the following:

(A) Evidentiary issues;

(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

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

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

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

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

(g) The Commission may, at any time upon a showing of 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 (e); or

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

(h) 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.

(i) The burden of proof is always on the applicant 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. Lay representatives may assist the applicant but are not authorized to serve as an attorney as otherwise defined and regulated by state law.

(k) Except as otherwise provided in subsection (g), the complainant and applicant will 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 any witness, regardless of which party first called the witness to testify; and to offer rebuttal evidence. If the applicant does not testify on his, her or its behalf, the applicant may be called and examined, under oath, as if under cross-examination

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

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

TRIBAL-STATE COMPACT BETWEEN THE STATE OF CALIFORNIA AND THE PALA BAND OF MISSION INDIANS

Sec. 6.4.3. Gaming Employees.

* * *

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

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

(2) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a person whose employment duties require or authorize access to areas of the Gaming Facility that are not open to the public, provided that this exception shall not apply ifhe or she supervises Gaming 28 Activities or persons who conduct, operate, maintain, repair, assist, account for or supervise any such Gaming Activity, and is empowered to make discretionary decisions affecting the conduct of the Gaming Activities.

(3) The employee is subject to the licensing requirement of subdivision (a) solely because he or she is a Tribal Gaming Agency employee with access to confidential information.

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

(c) Notwithstanding subdivision (b), where the State Gaming Agency determines it is reasonably necessary, the State Gaming Agency is authorized to review the tribal

license application, and all materials and information received by the Tribal Gaming Agency in connection 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 notify the State Gaming Agency of its determination immediately 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.

(e) At any time after five (5) years following the effective date of this Compact, either party to this Compact may request renegotiation of the scope of coverage of subdivision (b).

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

Tribal-State Compact Between the State of California and the Pala Band of Mission Indians, § 6.4.3, pp. 28-30.