ATTACHMENT A

STATE OF CALIFORNIA

GAMBLING CONTROL COMMISSION

CERTIFIED COPY

COMMISSION MEETING

California Gambling Control Commission
2399 Gateway Oaks Boulevard
Suite 100
Sacramento, California 95833

WEDNESDAY APRIL 22, 2009
10:00 A.M.

Reported by: Desiree C. Tawney, CSR No. 12414

NCCR

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APPEARANCES:

DEAN SHELTON
Chairman

STEPHANIE SHIMAZU
Commissioner

ALEXANDRA VUKSICH
Commissioner

JOY CALKIN
Staff Services

EVELYN MATTEUCCI
Chief Counsel

Public Speakers:

James Allen
Marty Horan
Andrew Schneiderman
David Fried
Alan Titus
Richard Teng
Aron Wong

BE IT REMEMBERED, that on WEDNESDAY, APRIL 22, 2009, commencing at the hour of 10:00 A.M., at the California Gambling Control Commission, 2399 Gateway Oaks Drive, Suite 100, Sacramento, California, before me, DESIREE C. TAWNEY, Certified Shorthand Reporter in and for the county of Placer, state of California, the following proceedings took place:

(The following proceedings were held on the record.)

CHAIRMAN SHELTON: Call the meeting to order. Please stand and state the Pledge of Allegiance.

(Pledge of Allegiance.)

CHAIRMAN SHELTON: Roll call, please.

MS. CALKIN: Chairman Shelton?

CHAIRMAN SHELTON: Here.

MS. CALKIN: Commissioner Shimazu?

COMMISSIONER SHIMAZU: Here.

MS. CALKIN: Commissioner Vuksich?

COMMISSIONER VUKSICH: Here.

CHAIRMAN SHELTON: Item Number 3, start that for us, Jim.

JAMES ALLEN: Sure. Good morning, Mr. Chairman.

For the record, my name is James Allen, A-l-l-e-n. And I'm the regulatory actions manager for the Commission.

Agenda Item 3 concerns the final adoptions of regulations in Title 4 of the California Code of Regulations to establish requirements for Minimum Internal Control Standards for the operations of cardrooms.

In your binders there is a memorandum with staff's recommendations and an overview of the proposed action, proposed regulation text and a summary of the public comments received.

These documents are also available at the back table for the public.

Staff is recommending the Commission adopt and approve filing with the Office of Administrative Law the final text of the Phase I cardroom MICS regulations, as described in staff memorandum included in your binders, and authorize staff to make any necessary non-substantive changes that may be required by OAL during their review process.

These regulations have gone through extensive public review and comment, both informal and formal.

This is just a brief history of what has taken place: In September 2007 a joint Commission bureau work group was formed to develop regulations to establish MICS for cardrooms.

An informal comment session was held December 11, 2007 to solicit comments from the industry on the draft proposal.

In early March 2008 a modified draft proposal was completed and distributed to interested parties for further written comment.

On September 10th, the proposed regulations were put before the Commission for consideration and approval to commence the formal APA rulemaking process. And there were additional comments from the public at that time.

The Commission approved going forward with the formal rulemaking and a formal notice was published on September 26, 2008 commencing the 45-day public comment period.

On November 25th, following that comment period, a regulation hearing was conducted.

Then on February 13th, modified text was distributed for an additional 15-day comment period, which ended March 5th.

The public comment period portion of the rulemaking process has been concluded. Just to be clear, that part of the record is closed.

The Commission will entertain public comments here today as part of this public meeting but those will not be included in or responded to in the rulemaking record.

It has taken a long -- that is it.

CHAIRMAN SHELTON: Yeah. I have a date here starting in June of 2004, first time everybody sat down and started on this.

1 JAMES ALLEN: That is true. The work on this specific
2 proposal started a little later. Consideration of MICS
3 regulations has dated back much earlier.
4 CHAIRMAN SHELTON: For clarification, we move into
5 Item Number 4. It is a workshop. It is not up for
6 adoption. Make sure everybody understands.
7 Commissioners? Open to public comment.
8 Please state your name for the record and spell the
9 last name.
10 ANDREW SCHNEIDERMAN: Good morning. My name is Andy
11 Schneiderman.
12 I'm here representing both my employer, the Commerce
13 Casino, and the California Gaming Association. I'm a
14 member of the Regulatory Committee Association.
15 And I'd like to first say that -- just make general
16 comments regarding the regulations.
17 First of all, both Commerce Casino and the California
18 Gaming Association support a Minimum Internal Control
19 Standards regulations. We firmly believe and share the
20 view of the Commission that these are the regulations that
21 provide the public, and particularly our patrons, with the
22 confidence of the integrity of our operations. We're
23 starting at the same place of in terms of our analysis of
24 the set regulations.
25 Second, we also greatly appreciate the willingness of

1 the Commission and the Bureau of Gambling Control to both
2 listen to our comments and to seriously consider them in
3 the context of finalizing these important regulations.
4 Point out that most of the cardrooms in California
5 have been in business for generations, certainly decades.
6 And even without statewide Minimum Internal Control
7 Standards regulations, they've been operating their
8 businesses for considerable periods without great
9 controversy. We do have great expertise in running
10 businesses of this nature and our expertise should be taken
11 into account in terms of the regulatory process.
12 Next general point. Whether it be 2004 or 2007 that
13 this process started, we believe that the communication
14 that has occurred between the industry and the Commission
15 staff and the Bureau has greatly improved the regulations
16 in many respects.
17 We believe should the regulations be adopted in their
18 present form, many practical issues that would have
19 thwarted effective compliance and enforcement have now been
20 resolved. And we think the regulations are much better as
21 a result of the communications that have occurred.
22 We, in particular, and as in wearing my hat as a
23 representative of the California Gaming Association, we
24 have found the most difficult -- one of the most difficult
25 parts of adopting regulations related to minimal control

1 standards over our industry is that there is a huge
2 disparity in the nature of the operations, which are our
3 mom and pop operations, one and two table clubs and the
4 larger 243 table clubs like Commerce Casino and drawing the
5 lines in terms of where minimum control standards or how to
6 improvise or revise control standards to accommodate those
7 widely varying business environments. And it has proven to
8 be as much art as science, we believe. There is a lot of
9 judgment that has to be exercised in this area.
10 We believe drawing the lines does require an intimate
11 understanding of how these businesses operate. There is no
12 better source of that than the people that have run the
13 businesses for the many, many years.
14 One more general comment, then I want to get to the
15 specific regulations at hand. That is from a process
16 perspective, these regulations have been discussed on the
17 table for many, many years. But what has been lacking from
18 my point of view in this process is the opportunity for
19 dialogue, as opposed to monologue.
20 What we have found is that the nature of the
21 discussions that has occurred on the regulations has been
22 such that the regulations are adopted or are published. We
23 have the full opportunity and we are fully convinced that
24 we have full opportunity to submit written comments and to
25 appear at meetings like this and present our comments

1 orally. We have every confidence the comments are taken
2 very seriously and considered very thoroughly. There has
3 not been opportunity for dialogue. That is, we -- okay, we
4 don't agree necessarily -- Commission staff or the Bureau
5 staff may not agree with all of our comments but there may
6 be some opportunity for discussions to find solutions. We
7 have a problem. We have a goal in terms of minimum control
8 standards. Let's work to find the solution.
9 We have not had that opportunity to have a -- have
10 something less formal than this type of setting where there
11 is actually a dialogue with the stakeholders in this, which
12 is the industry, and the regulatory bodies of the
13 Commission and the Bureau.
14 We think that type of forum will be very helpful in
15 terms of finding solutions, going -- as we go forward in
16 the regulatory process.
17 To facilitate that kind of communication, the
18 California Gambling Control -- Gaming Association has
19 created a small regulatory committee that is prepared to
20 represent the association's perspective in a very small
21 setting. We are equipped to be able to, you know, meet
22 very quickly and as efficiently as possible in terms of
23 trying to find solutions to regulatory issues.
24 COMMISSIONER SHIMAZU: How many people on the
25 committee?

1 ANDREW SCHNEIDERMAN: Five, I believe. Eight. But we
2 usually break -- today we are represented by two of us.
3 And we basically assign responsibility for certain pieces
4 of regulations to one or two people.
5 And so, you know, wouldn't require all eight of us be
6 convened to have a dialogue. That is it.
7 Some of the comments that we have raised since the
8 beginning of the process that have not been addressed, we
9 would still like to be heard on. And the -- I should say,
10 first of all, that the vast majority of our comments have
11 been addressed to our satisfaction. Of the 12 pages of
12 comments that we originally submitted, I believe in
13 2007 -- maybe 2008 -- all but four of our comments have
14 been addressed to our satisfaction. We haven't necessarily
15 gotten the response we originally proposed but we feel that
16 a reasonable solution has been arrived at.
17 One of the comments that we have relates to the
18 requirements under the current regulations that the count
19 process and the collection box -- the drop collection
20 box -- drop collection box process be monitored by a live
21 surveillance operator, meaning, that -- I should say
22 continuously monitored by a surveillance operator, meaning,
23 during the entire process under -- during the entire time a
24 card club is counting chips or collecting drop boxes, we
25 have to have under the current regulations, as we read

1 them, a dedicated surveillance operator watching people in
2 the count room count chips and watching employees on the
3 floor grab boxes from the tables, take them out, put them
4 into a cart and replace that with a new box.
5 Under the regulations -- the regulations currently
6 require basically two things. First, is that the entire
7 count process and the entire drop box collection process be
8 monitored and recorded by surveillance cameras. In
9 addition, they require there be continuous live
10 surveillance monitoring of the process.
11 We believe that -- and keep in mind that the -- that
12 the -- what is being collected, what is going into the drop
13 boxes and what is being counted in the count room is the
14 revenue of our businesses. That is a subject that is of
15 great important to us and something we have given great
16 thought to in making certain our assets are protected.
17 We firmly believe and our practice in the past has
18 been that we do videotape the entire process -- the count
19 process. And we videotape the entire process of the
20 collection of the drop boxes. And we can then pull the
21 tapes, if a problem is detected. We believe that
22 the -- the fact it is all being recorded gives us the
23 ability to both deter people from doing anything
24 inappropriate in those processes and also gives us the
25 tools to be able to investigate any issues that come

1 up.

2 We do not believe that having somebody sitting in a

3 surveillance room watching these processes on a monitor

4 does anything to enhance that process.

5 COMMISSIONER SHIMAZU: Can I stop you real quick? I

6 want to clarify.

7 I think live monitoring is for Tiers 4 and 5 for the

8 count and just for Tier 5 for the drop collection.

9 ANDREW SCHNEIDERMAN: That's correct.

10 COMMISSIONER SHIMAZU: I think you'll probably speak

11 to that, too.

12 ANDREW SCHNEIDERMAN: There has been -- right now,

13 forgive my -- having predominantly representing a Tier 5

14 club, some of the distinctions -- yeah.

15 This is Tier 4 and 5 and a Tier 5 issue. And

16 the -- and so in -- that is our position going in. That

17 was the position we have taken in our written comments to

18 the Commission.

19 Over the last week or so we have had dialogue with the

20 Bureau of Gambling Control. First, with the Commission,

21 who indicated that this is a predominantly Bureau-driven

22 issue. Second, with the Bureau to discuss exactly what

23 their -- what the control objective that they have in the

24 process is and these regulations are and that maybe we can

25 find a compromise that would enable us to both -- let me

1 back up one second.

2 From Commerce Casino's perspective, having a

3 surveillance operator -- a designated surveillance operator

4 assigned only to watching the count process and the drop

5 collection box process would cost approximately $200,000

6 per year to a club the size of Commerce Casino. There is a

7 substantial cost issue involved in compliance with these

8 regulations.

9 We initiated discussions with the Bureau. And as a

10 result of the discussions -- and they're here to confirm

11 this -- but basically we discussed whether or not the

12 continuous live monitoring was an essential requirement and

13 if there was some compromise. I think what we agreed upon

14 was that the -- if the regulation was amended to permit to

15 mandate that a surveillance operator be responsible -- a

16 particular surveillance operator be responsible for

17 monitoring the entire count process and the entire box

18 collection process but that -- but also would permit that

19 surveillance operator in the exercise of their professional

20 judgment to not continuously watch those processes but to

21 watch other things that's in their professional judgment

22 might be more important in a given period of time, that

23 that would then both achieve the control objective that the

24 Bureau has in mind and would also permit clubs to have more

25 flexibility in terms of the responsibilities that the

1 surveillance operators would be responsible for in a
2 particular moment in time. Therefore, save us a
3 considerable amount of money and staffing expenses for this
4 responsibility.
5 So we hope that the Commission seriously considers
6 amending those two regulations that relate to Tier 4 and 5
7 clubs in one case and in 5 in the other case. That being
8 Section 12384(c) and Section 1235(d)(2) to specifically
9 remove the word "continuously" from the regulation and put
10 in language that would permit surveillance operators in the
11 exercise of their professional judgment to perform other
12 tasks, even though they're assigned the responsibility of
13 monitoring the count and box collection processes. Those
14 are two of the four issues that we still wanted to voice.
15 And let me go over the next two as well. Number 3
16 relates to -- this relates only to Tier 5 clubs. Under the
17 current draft regulations Tier 5 clubs are required to have
18 a minimum of three employees performing the count whenever
19 there is a count undergoing. The practice, as opposed to
20 Tier 4 and below, which the minimum would be two.
21 The process in many clubs in California, Tier 5 clubs
22 which are 61 plus table clubs, is -- depending on the
23 business needs -- to have as few as two and as many as four
24 or five people performing the count. We're talking minimum
25 control standards. The question is not: What is the

1 appropriate staffing from a business perspective? It is:
2 What is necessary staffing from a control perspective?
3 Given a good number of Tier 5 clubs have utilized less
4 than three -- two or more employees performing our count
5 for many years, given that, to my knowledge and to the
6 knowledge of our members, there have not been reported
7 problems related to that.
8 Given the economic times we're facing, there is a need
9 for performing tasks at minimum possible costs necessary,
10 if possible, and still maintaining the standards required.
11 Given that there is really not a scientific difference
12 between a Tier 4 and Tier 5 club, we would like the
13 Commission to consider reducing the minimum required number
14 of employees required to conduct the count in a Tier 5 club
15 from three to two and permit clubs, based on business
16 judgment, to set their staffing at the levels above two
17 they consider to be appropriate for their business needs.
18 The last comment relates to, I believe, Tiers 3, 4 and
19 5. And I'm going to address this issue from a Tier 5 club
20 perspective.
21 I believe David Fried will address it from the
22 medium-size club perspective. This relates to the process
23 of collecting drop boxes.
24 Currently, Commerce Casino has 243 tables. And it
25 takes a considerable period of time for a team to go out

1 and collect all of the boxes, pull them from a table, put
2 them onto a cart, put new boxes into the tables and take
3 the boxes into the count room. Some of the boxes weigh 60
4 pounds, if they're full of chips. It is a cumbersome
5 process. Currently we perform that task with exclusively
6 security officers.
7 Under the proposed regulations we would be required to
8 substitute or add a non-security employee to that team. It
9 is not a big deal. We believe that it is actually better
10 from a control perspective to have the box collection
11 process performed by a single unit in terms of
12 accountability purposes. We want to make certain everybody
13 on the team is reporting up to the same supervisor. From
14 an administrative perspective and accountability
15 perspective, we can control the process. So therefore, we
16 feel that the requirement that we have to add a
17 non-security employee to this team actually detracts from
18 the control standards rather than supplements it.
19 The counter argument, of course, is if you have
20 employees from different departments that would tend to
21 make collusion more difficult. But that is kind of
22 fiction, I believe. If -- just because two department
23 employees are from different departments, does not stop
24 them from speaking to each other and forming relationships
25 with each other and creating bonds with each other.

1 We think it is a better control function, better
2 control strategy to have the count team all reportable to
3 the same supervisor so everybody is accountable to the same
4 person, as opposed to different department heads.
5 With that, that is the full set of comments that I
6 have. I believe that David wants to supplement these
7 comments related to the Tiers 4 and -- 3 and 4 clubs.
8 Thank you for your time.
9 COMMISSIONER SHIMAZU: Thank you.
10 DAVID FRIED: Good morning. David Fried, appearing on
11 behalf of the California Grand Casino, which is a Tier 3
12 club and the Oaks Cardroom, a Tier 4 club.
13 I agree with what Andy has said. And to be concise,
14 I'm not going to repeat it. I want to call your attention
15 to a single issue involving Tier 3 clubs and the difficulty
16 they're going to have implementing one section of the
17 regulations.
18 There are by my count nine clubs which fall in the
19 Tier 3 range. Most of them fall to the low end of the
20 range between 11 and 18 tables. The drop box collection
21 procedure contemplates that two people from two different
22 departments -- one of them is a security guard -- will move
23 the drop boxes.
24 Now, in the Tier 3 clubs, you're talking about gaming
25 occurring in a room about the size of this room. And

1 moving a drop box from one corner of this room to, say, the
2 cage located in the other corner is a fairly short process.
3 And the clubs use two employees to do that. That is not an
4 issue. But they will use the employees that are available.
5 If there is a couple of dealers out of rotation, they may
6 do it. If there is a key employee or floor person
7 available, they do it. If there is an extra cage person,
8 they do it. They do so in full view of everybody in the
9 room, which could be 50 or 60 people. They do so as
10 recorded by video surveillance.
11 The risk of loss of a drop box disappearing in a
12 25-foot distance from a table to the cage or of someone
13 opening the box and reaching in and grabbing chips out in
14 full view of all of us present in this room is minimal.
15 The difficulty they have with this regulation is
16 they're not organized like the Commerce. They don't have a
17 surveillance department. They don't have robust staff
18 security department. They've got one person in the cage on
19 the day shift, possibly two, but usually just one. They
20 have a bookkeeper upstairs, who is the administrative
21 person. Then they've got gaming employees. Everybody else
22 is classed as a gaming employee on the floor. They have
23 two security guards who are outside from an independent
24 service they hire to patrol the parking lots. That is the
25 greatest public safety issue and risk of loss is someone

1 getting mugged between their car and the front door of the
2 gambling establishment. And if there is a security problem
3 in the club, the gaming employees deal with it first or ask
4 the security guard to come in or call the local sheriff.
5 No one can get out the front door and run down the street
6 because there is a security guard outside of the front
7 door.
8 How do they implement this regulation which requires
9 two people from the different departments, one of them
10 being security or its equivalent? It is extremely
11 difficult to do so. If there is only one person in the
12 cage, they can't pull that employee. I can tell you the
13 bookkeeper is a slightly built woman. She is not
14 physically capable of moving boxes. I don't see the
15 utility of bringing her out of the office to stand next to
16 someone else moving the box. They don't have a security
17 department. Even though the regulation allows the security
18 department or its equivalent inside the club, the
19 equivalent are the dealers, floor people, key employees who
20 keep order in the club. If they have to pick people from
21 two different departments to move a box a short distance,
22 it causes an administrative nightmare. They've got to add
23 employees or something else to comply.
24 I'm hoping when we sit down to write the rules we can
25 interpret what the equivalent is broadly. How do we

1 identify two people from different departments to do the
2 task when traditionally it is just whatever two people are
3 available and not currently dealing or working in the cage?
4 From a small club's perspective, this is either a very
5 expensive regulation to comply with or a very difficult
6 regulation to comply with or they have to pull a security
7 guard out of the parking lot -- there are two parking
8 lots -- to move a drop box, which is kind of manual
9 physical labor, where there is little risk of loss and have
10 less security in the parking area.
11 I'm hoping at the appropriate time that this section
12 will be revisited and revised accordingly for Tier 3 clubs.
13 And that in its implementation, if it is implemented in its
14 current form, the Bureau will be flexible in understanding
15 how especially clubs at the smaller end of the Tier 3 range
16 have to implement this procedure.
17 It is especially acute once you're off of the day
18 shift. Talking now graveyard shift or night shift. There
19 are fewer employees available. You don't have the
20 bookkeeper upstairs. You may only have one parking lot
21 operating. It is even more difficult and more expensive
22 because I think it's very little payoff in terms of public
23 safety. Because I don't think you're going to find an
24 incident where an employee or member of the public or any
25 other person associated with the cardroom is going to be

1 stealing a drop box between the table and the cage, when
2 they're just moving it a short distance.
3 Thank you very much.
4 ALAN TITUS: Good morning, Chairman and commissioners.
5 My name is Alan Titus. I'm here representing Artichoke
6 Joe's, a Tier 4 cardroom.
7 CHAIRMAN SHELTON: Would you spell your last name? I
8 let Mr. Fried get away with it.
9 ALAN TITUS: T-i-t-u-s. I have two issues to raise.
10 Before I do, I want to comment on how pleased I am with the
11 procedures that have been followed in developing these
12 regulations for Artichoke Joe's. It has been a very
13 gratifying procedure. The first drafts that came out
14 actually had lots of issues in them. We had problems that
15 would have been serious problems. We don't know how this
16 would at all work in our cardroom.
17 We invited people to come down and we had some
18 commissioners come down and staff come down, go through
19 thoroughly and see it and discuss with us the various
20 problems we had. A lot of the issues were cured over the
21 process. And so this has really worked very nicely.
22 With that said, we do have two last issues to raise
23 that have not been raised with staff. I hope we can get
24 some more traction here.
25 The first issue regards the collection of the drop

1 boxes. And as an issue already raised today about the two
2 employees that must collect them and like other cardrooms,
3 Artichoke Joe's uses two uniformed security officers that
4 go around and collect these boxes. As you probably know,
5 the boxes are locked with one key. The contents are locked
6 with one key. They're then secured to the table and locked
7 to the table with another key. And so the security
8 department has a key to remove the boxes from the table.
9 No one in the security department has a key to unlock that
10 box. They simply have no access to the contents of that
11 box, whether on the floor, off the floor, anywhere.
12 They're not involved in the count. They just do that, just
13 do the collection.
14 It is our feeling that having uniformed security
15 officers is a very important control. And that having an
16 un-uniformed employee from another department weakens that
17 control significantly.
18 I don't know how many of the three of you have worn a
19 uniform as security, as police. It is a very important
20 characteristic for a person to walk around with that
21 uniform on. It is assigned a responsibility. It is
22 assigned that this person has authority and they can't
23 abuse it. They have to act a certain way.
24 To bring someone else in, I tell you, the person that
25 would come in is not going to be of that stature. It is

1 going to significantly weaken the controls. We think that
2 would be a huge mistake.
3 We understand the concern about collusion. We think
4 that concern is misplaced. These boxes are locked. You
5 can't get in them. This is so different from the count
6 room. I have yet to have anyone, staff or commissioners,
7 explain to me how they think someone can access one of
8 these boxes. They are heavy metal boxes. And you -- as
9 David Fried was commenting, they're on the floor. They're
10 being collected on the floor. There is lots of people
11 around.
12 So there is just -- I don't see any way you can have
13 collusion in the collection of the boxes that is going to
14 result in stealing of chips.
15 The second comment I want to raise is regarding the
16 live monitoring of the drop. Artichoke Joe's is, I think,
17 unique in the state in that they use a machine to count the
18 chips. I have not heard of another club that does that.
19 Maybe someone has. And they have used these machines for
20 years. That is one control they have adopted. This is a
21 significant control. The person that operates the machine
22 has much less contact with the chips. They pour it into
23 the machine. The machine racks the chips. They have to
24 remove the racks. But other than that, it is very little
25 contact. The room is under surveillance by numerous

1 cameras from different angles watching what goes on.
2 Furthermore, I think that some of the concern about
3 this about the boxes comes from Nevada. I made the point
4 before, I want to make it again. The boxes in California
5 don't have merely the kind of money in them they do in
6 Nevada. In Nevada, boxes hold money from the purchase of
7 chips. And the money that the club is making, sort of its
8 take, is on the rack. In California, we reverse this. So
9 the money in the box is the money the club is making. The
10 money sold -- chips are sold is more than the money on the
11 rack. Which one is bigger? The chips being sold is far
12 bigger than the chips coming in in revenue. These boxes
13 don't have the kind of revenue. To the extent the regs are
14 patterned on Nevada, I think there is a difference there
15 that needs to be taken into account.
16 Furthermore, I want to make a point I haven't made
17 before. The chips that go into these boxes -- at least at
18 Artichoke Joe's -- can't be larger than $20. As a control
19 on the collection at the table when the dealer is putting
20 the drop in, he can consolidate chips but only up to $20.
21 That is the largest chip in there. That means the largest
22 chip in the count room is going to be a $20 chip.
23 How much can an operator of a machine take before
24 people begin to notice he is walking around like, you know,
25 with his pocket hanging down? Not that I haven't seen lots

1 of people with pockets hanging down. That is another point
2 that I take up with my kids.
3 I don't think that there really is a very significant
4 problem. I think that the cost of having live monitoring
5 is going to be very disproportional. Artichoke Joe's does
6 not have any live monitoring currently, at least not on a
7 continuous basis. Video is monitored as an as-needed
8 basis. If there is a reason to do it because of concerns
9 about the play that is going on, a particular person or if
10 there is a dispute and that needs to be looked at, then the
11 video is looked at. But this would entail a whole new
12 procedure: Hiring new people to do this, really setting up
13 a whole new department. And that is very significant.
14 I think that the clubs who have been doing this -- and
15 Artichoke Joe's case, they've been open for over 90 years.
16 They have been running as a cardroom continuously for 50 or
17 60 years. They understand the needs of their business and
18 they have adopted many controls. This one goes well beyond
19 what is needed and what is appropriate.
20 So with those comments, I submitted a letter that just
21 states these comments a little more fully. And I
22 appreciate your consideration of them.
23 CHAIRMAN SHELTON: Thank you.
24 If anyone else forgot to put their cell phone on
25 vibrate, please do that.

1 RICHARD TENG: Good morning, Mr. Chairman,
2 commissioners and chief counsel.
3 My name is Richard Teng. I'm the administrator for
4 the Division of Gaming Control, city of San Jose.
5 CHAIRMAN SHELTON: Spell your last name.
6 RICHARD TENG: It is T, as in Tom, e-n-g, as in
7 George.
8 I have been included in the mailing list with respect
9 to the new regulations the State is about to adopt. I just
10 want to make a few points I'd like to just address to the
11 Commission today with respect to surveillance and also
12 drop box collection processes.
13 I think the most important thing we need to talk about
14 today here -- I have not yet heard -- is that internal
15 controls only design -- I think would be as effective as
16 they're designed, may I say. That is -- we talked
17 about -- I heard today -- I heard Alan and I heard Andy and
18 also -- sorry, Dave.
19 We talked about today the various departments involved
20 in the -- you know, with respect to collecting drop boxes.
21 There are reasons for all of these reasonings.
22 And by way of background, I worked in the Nevada. I
23 was an auditor first, audited the major strip casinos. And
24 I have been a law enforcement officer for the Intelligence
25 Division doing undercover work on the casinos.

1 From my own personal experience working with the
2 industry before I served with the Nevada Gaming Control
3 Board is that I have been a dealer. I have been a floor
4 person. I have been in charge of marketing. I have seen
5 both sides of the fence, if you will.
6 I have seen more -- I have made more arrests when I
7 was in Enforcement Division of people that are working in
8 the drop teams; that those are the security officers who
9 are wearing, as Mr. Alan Titus was saying earlier -- not
10 here to an offend anybody. I just want to advocate a
11 couple of points. All I'm trying to do.
12 The drop process is important because it is probably
13 one of the most critical areas in the cardroom. There are
14 only four critical areas, as far as we're concerned, in San
15 Jose. I am speaking for myself today. This is not the
16 view of San Jose. This is Richard Teng speaking today in
17 hopes of the Commission will adopt the regulations because
18 they will eventually help us out in San Jose down the road.
19 That is this: The drop involves a release key in order for
20 the key to pull the boxes off of the table. We understand
21 that. We understand that the contents key is separately
22 kept and probably separately maintained, as they should be.
23 I can tell you right now, 99 percent of the time when
24 I walk into a casino anywhere in Nevada -- not so sure San
25 Jose. We have been pretty -- our relationship has been

1 increased -- improved, if you will, over time. Most of the
2 time when you have the release key for the counting person
3 to count the chips in the boxes, they are on the same ring
4 with the contents key. The release key is also used to
5 reset the boxes. When you release a box from the table,
6 that key is also used to open and reset the key later. A
7 lot of the times those keys are ringed together.
8 If you have a drop team person -- drop team security
9 officers, if you will, they are able to get access to the
10 release keys. There are possibilities that those release
11 keys have a contents key that are ringed together. That is
12 one risk.
13 Another risk is that most of the theft that I have
14 personally witnessed when I was working in Nevada has been
15 times the boxes leaving the tables en route to the count
16 room. That is the reason why we should put controls over
17 empty drop boxes. That is, it is easy to just switch boxes
18 en route. There were many, many arrests made that way in
19 Nevada. That is just one point.
20 The second thing I would like to say is this: Is that
21 surveillance, as far as we're concerned -- "we," meaning
22 that San Jose -- is a compensatory control. It is not a
23 primary control you can rely on.
24 That is, number one, you have people that are up there
25 in a surveillance room. We don't know what they do. Don't

1 know what they're doing. Things have happened on the
2 casino floor. I believe David and Andy had mentioned
3 earlier, the first line of defense you would have is the
4 people working on the casino floor. Okay.
5 So when you do a drop and when you do a count and you
6 don't know what the person is doing up there other than
7 there are regulations out there that would preclude them
8 from going to areas -- I hate to be rude about this. We
9 have found people that they are up in the surveillance
10 rooms watching certain body parts of the female patrons, as
11 opposed to be watching the games.
12 Here in California, I agree with the speaker earlier,
13 that is the float, the table racks on the table, really is
14 not a major concern to the cardroom operators.
15 There are only four critical areas. One would be the
16 table drop slide with money stack before the drop into the
17 boxes. That is the revenue. The second one is the casino
18 cage. Third is the drop boxes and the count room.
19 If you look at the count and the drop, that represents
20 50 percent of your risk. 50 percent of your total risk
21 outstanding.
22 So as far as I'm concerned, if the drop and the count
23 is being monitored live, I think that is a great control.
24 It's a great control because this person is required to
25 monitor the entire drop and the entire count by

1 regulations.

2 I just want to advocate that point to you. What we
3 try to do with internal controls is to design a system that
4 would prevent one person to be doing the things he
5 shouldn't or she shouldn't be doing in the normal course of
6 business. If you have just security people pulling boxes
7 and no one else is involved, that is just one department
8 involvement. Okay. It is easy for one person to steal,
9 harder for two, harder for three. And the whole casino is
10 in collusion. There is no internal control system
11 outstanding that would help you eliminate any risk at all.
12 If everybody is in collusion, there is no control.

13 There lies the three department involvement
14 requirements in Nevada. Here I'm hearing that you are
15 requiring two departments. One, which is security people
16 and second is someone from the casino floor.

17 In San Jose, the people that pull the drop boxes are
18 security folks. And we require one incoming pit manager to
19 be the person supervising that drop. That person has no
20 involvement with the money being dropped or shipped prior.
21 That gives us a better assurance that the things are being
22 done correctly.

23 When I first helped draft the first set of Minimum
24 Internal Control Standards in Nevada back in 1985, it was
25 an uphill battle with the industry. Over time people

1 realized these controls assisted them in profitability and
2 in addition to maintaining credibility to the business as
3 far as to the State.
4 I am brave enough today to tell you when I first came
5 in 2002 to San Jose we're tracking 13 percent on gaming tax
6 on gross gaming receipts. At that time it was about 8.1
7 million in 2002.
8 In 2004/'5 we adopted our first set of seven chapters
9 of internal control standards. Same number of tables.
10 Same collection rate. Today, analyzed 2008, looks like
11 collecting something like 13 million.
12 There is something to say about controls. And I would
13 applaud the Commission's decision to adopt these
14 regulations.
15 Thank you.
16 CHAIRMAN SHELTON: Thank you. Any further public
17 comments?
18 Would the Bureau like to make a statement?
19 MARTY HORAN: Yes, we would. Good morning,
20 Mr. Chairman and commissioners. My name is Marty Horan,
21 H-o-r-a-n. I'm the assistant chief for the Bureau of
22 Gambling Control.
23 We have some general comments and then some specific
24 comments to make on the Phase I of the Minimum Internal
25 Control Standards.

1 First of all, we also want to recognize that this has
2 been a long process. We are very glad we're here at the
3 adoption of Phase I and look forward to moving forward with
4 the other phases.
5 We want to applaud the Commission for coordinating all
6 of this and pulling it together and obtaining comments from
7 the industry and from the Bureau and workshops that were
8 conducted and so forth.
9 As you said, Mr. Shelton, it started roughly in 2004.
10 Long overdue but we're glad we're here. Thank you again
11 for everything you guys have done.
12 We hope that in the future, not only with this
13 regulation that is being adopted but with the other
14 regulations -- it is understandable that we cannot possibly
15 be thinking of everything out there that is going to be the
16 best for the Commission, for the Bureau and for the
17 industry. And that the regulations are going to be
18 realistically living documents so-to-speak and that
19 amendments and additions may need to be made in the future
20 as we actually implement them and see how they progress.
21 I'll start off with general comments related to
22 Mr. Schneiderman's comments. It is true that we had a
23 teleconference call with Mr. Schneiderman on Monday of this
24 week to discuss the actual live monitoring of the count and
25 the drop process and the actual wording there. It was

1 interpreted and can easily be interpreted the way the
2 language was prepared that they physically actually have to
3 have somebody dedicated and monitoring that video
4 surveillance the entire time the drop and count are
5 occurring. And what we have done is come to an
6 understanding or agreement with Mr. Schneiderman, which
7 again was representing the industry in this teleconference
8 call, that somebody does not -- live monitoring does need
9 to occur for the drop and for the count process but if
10 there is already an employee in the surveillance room doing
11 live monitoring of the surveillance system of the operation
12 or the gambling floor, that individual can be utilized to
13 focus the attention on the actual drop or count process.
14 Having said that, we drafted some language that could
15 possibly be used to eventually amend this section if it is
16 agreed upon by the Commission. For instance, for the drop
17 process under 12384 subsection (c) the language could be
18 worded to the effect that it says: In addition to the
19 requirements of subsection (a) and (b) the policies and
20 procedures for Tier 5 shall include standards for drop
21 collection -- and here is where the change comes in -- that
22 provide that a member of the surveillance unit should be
23 designated to monitor the count process and that the entire
24 drop collection process shall be continuously recorded by
25 video surveillance.

We thought it was a reasonable compromise to the wording of that section that allowed some flexibility for the cardroom industry and employees.

Similarly related to the section dealing with the count process, Section 12385 (d)(2), language could be amended to the effect as follows: Immediately prior to the commencement of the count, one of the designated individuals shall notify the surveillance unit or its equivalent that the count is about to begin. Period. Here is where the amended language comes in: One member of the surveillance unit shall be designated to monitor the count process and the entire drop collection process shall be continuously recorded by video surveillance. Okay. Something similar to that.

Again, we think it was a reasonable compromise with the industry and they agreed to that just for consideration for the commissioners.

Secondly, I would like to comment on Mr. Schneiderman, Mr. Fried and Mr. Titus' comments related to the drop process itself involving two employees and those employees being from different units.

First of all, I would like to applaud them on their cardrooms for policies and procedures they have in place to ensure the integrity of this process. However, the importance of us coming up with Minimum Internal Control

1 Standards is this is a document or guideline that all
2 cardrooms in the state of California will have to abide by
3 according to their tier structure.
4 For instance, Mr. Titus talks about having two
5 security guards handling theirs. That may be appropriate
6 for their specific club at this point but there may be many
7 other clubs that don't have two security guards to do that.
8 They have other options or ideas. The whole point of these
9 standards is to do exactly that, create a standard that
10 everybody has to operate by.
11 We do at the Bureau feel strongly the drop process
12 does need to be handled or monitored by a drop team of two
13 employees, one of them from the gambling establishment and
14 one of them from the security department. And, again, that
15 is to hopefully further prevent theft, collusion,
16 embezzlement and so forth as related to Mr. Teng's comments
17 he made earlier, also.
18 In addition, the Bureau does have two specific
19 comments we did make in a comment period on both occasions.
20 They were not accepted by the Commission. They were
21 rejected. We believe strongly in these recommendations.
22 As a representative of the Bureau, we want to make sure it
23 is heard. We have strong opinions in these two areas. The
24 first area being dealing with the drop process 12384
25 subsection (c). It currently reads: In addition to the

1 requirements of subsection (a) and (b) the policies and
2 procedures for Tier 5 shall include standards for drop
3 collection that provide for continuous live monitoring of
4 the live collection process by at least one member of the
5 surveillance unit during the recording of the video
6 surveillance.
7 We also strongly believe that that should also include
8 Tier 4. And, again, those comments have been suggested to
9 the Commission.
10 We strongly believe this because, you know, these are
11 still considered large cardrooms anywhere from 31 to 60
12 tables. There is a large amount of revenue traveling
13 through the cardroom. As Mr. Teng commented, it is not
14 necessarily the floats that the cardroom ownership is
15 concerned about. It is the money that is going into that
16 drop process and then eventually to the cage or to the
17 count room for counting.
18 We believe that in the larger cardrooms, Tier 4 and 5,
19 there is a greater opportunity for theft, possible robbery,
20 skimming of funds or chips from the boxes or embezzlement.
21 And in addition to that, this is an industry standard as
22 far as of the monitoring of these drop collection processes
23 that other states are following.
24 And one area of concern we have at the Bureau is we do
25 not want to be viewed here in California as a state that

1 has overly relaxed minimum internal controls compared to
2 other states with legalized gambling.
3 The next point that we feel strongly about and, again,
4 was a comment we submitted that was rejected by the
5 Commission has to do with the count process, Section 12385.
6 The Bureau recommends to add subsection (b)(1)(C). This
7 pertains to Tiers 2 through 5. It is our recommendation
8 that Tiers 2 through 5 be required to have a fully --
9 actually read the language: The count room shall be a
10 fully enclosed room independent from all of the other rooms
11 in the gambling establishment. Tiers 2 and 3 should be
12 added or included and required to have a count room other
13 than the cage to perform the count, which is currently with
14 regulations only required by Tier 4 and 5.
15 By requiring this for Tiers 2 and 3, it helps to avoid
16 any confusion that may be occurring during the count. It
17 maintains the integrity of the count itself. And it
18 minimizes the possibility of co-mingling of the funds and
19 under reporting of income by the cardroom.
20 And during the comment period some of the comments or
21 recommendations made by the industry had to do with --
22 because the gambling in the other tiers takes place in just
23 one large room will not have a manned surveillance unit and
24 so forth. I don't know. It may have been specific to a
25 particular cardroom. But in reality that is not the case

1 for the majority of the cardrooms, as far as just having
2 one large room where it is all occurring. And it is an
3 easier simple process for somebody to walk around and
4 monitor the whole -- this whole process.
5 That is the end of my comments.
6 CHAIRMAN SHELTON: Commissioners?
7 COMMISSIONER SHIMAZU: Do you have any thoughts about
8 for Tier 5 has to have three people in the count room? We
9 heard the industry requested bringing it down to two. Any
10 thoughts?
11 MARTY HORAN: We strongly support three employees in
12 the count room. Again, industry standard and also like
13 Mr. Teng commented, the chance or opportunity for somebody
14 if they're just operating independently or individually to
15 have the urge to embezzle or steal is greater when they
16 have nobody watching or they think nobody is watching them.
17 It is even less difficult to get away with something like
18 that when there is two people involved. Same goes if you
19 have a third.
20 The view of having three people in there is that two
21 people are basically involved in the actual count and the
22 verification with a third person being an overseer to what
23 is happening and doing a final sign off on the actual
24 accurate count.
25 We do feel strongly at the Bureau that is important to

1 have three people in there.

2 COMMISSIONER SHIMAZU: Okay. With respect to the

3 whole, the live monitoring situation, I know -- I'll share.

4 Staff, we had a conversation about what that would entail.

5 Would it be somebody specifically glued to the monitor or

6 could it be they're kind of looking back and forth? We

7 agreed, no, they could do other things, too; but we want to

8 make sure it is up and certainly the people doing all of

9 the things, they don't know when the person might be

10 looking away or doing other things. We want to make sure

11 something is up on the monitor and someone is watching it.

12 But if something else is going on, they can divert their

13 attention and look at the other monitors. I think that

14 would be agreeable to me. I don't know if maybe we can do

15 that later in the amendments, too.

16 CHAIRMAN SHELTON: I'm listening, being educated.

17 MARTY HORAN: One other comment we have, I believe

18 that was brought up by Mr. Titus, having to do with

19 automated counts in the count room and only needing one

20 individual to do the count, as long as they're using the

21 machine. That is another area that the Bureau feels

22 strongly about. It can be reduced from three to two but

23 there should still be two people involved in the count with

24 an automated machine, for the same reasons as discussed

25 earlier, to minimize the possibility of somebody tempted to

1 steal or embezzle money from that process.

2 So the idea of minimum control standards is hopefully

3 to implement a better system that is uniformed for the

4 State of California and our licensed establishments that is

5 basically going to hopefully keep the honest people honest.

6 CHAIRMAN SHELTON: Any further questions?

7 COMMISSIONER SHIMAZU: No, want to hear from you guys.

8 COMMISSIONER VUKSICH: I have one question. In your

9 discussions with other states in their practices, are any

10 other states out there set up like California with the same

11 type of cardrooms we have or are they all house banked

12 or --

13 MARTY HORAN: Like the third party banking? Is that

14 what you're talking about?

15 COMMISSIONER VUKSICH: Uh-huh.

16 MARTY HORAN: To my knowledge, we're unique in

17 California with third part banking industry. That is why

18 obviously our regulations are unique to accommodate that.

19 But as far as other states having licensed gambling and

20 poker rooms and banking games, their regulations apply

21 similarly to the basis behind our drop process and count

22 process and so forth.

23 COMMISSIONER VUKSICH: Okay. Thank you.

24 COMMISSIONER SHIMAZU: One more comment with respect

25 to including 2 and 3 and having the separately enclosed

rooms. I know in a perfect world that would be great.

We were looking at some of the 2 and 3's and visited them and there does not seem to be room sometimes. They brought up sometimes because they can't build out because they are in a historic building or zoning requirements or whatever. And when you go in there, some are pretty small. I don't know where they would have room to build an extra room. There was at some point someone suggesting providing a variance. We didn't want to do that. We figured the Bureau would be bombarded with different requests. That was our thinking. I know a lot of them do do it in the cage or somewhere else, pull it out on a table and do it. And it was mostly the kind of geographic -- not geographic -- the size constraints of the buildings themselves. Didn't know if that would be doable.

MARTY HORAN: We're aware of that and understand that those are some of the concerns with the Tier 2, more particularly.

Realistically to have a separate count room does not entail that much. We're talking a room of maybe six foot by three foot that could be utilized as a separate count room. We did notice in the comments from the industry some of the establishments being historical establishments and not permitted by ordinance to make additions and so forth in the club. There is options available. I know that I

1 believe it is in Nevada that if they're going to use their
2 cage to also do their count, they have to do their
3 accounting of everything that is in the cage at that time
4 and reconcile everything and keep it separate. Then they
5 can bring the drop boxes in and do the count. During that
6 period of time during the count, the cage is basically
7 closed. So they can have money out on the floor that they
8 can be utilizing to cash in and exchange and so forth. But
9 the cage itself would be closed during the operation of the
10 count.
11 There is options that are out there. The idea is to
12 implement standards that will work for Tiers 4 through 5
13 and provide security, minimize co-mingling, and possible
14 embezzlement. But at the same time recognizing there may
15 be alterations that can be done or possibly a variance may
16 need to be considered for a historical place. I think
17 those are few and far between.
18 COMMISSIONER SHIMAZU: Okay.
19 RICHARD TENG: Richard Teng, San Jose again. With
20 respect to the poker drop and the poker count, I believe
21 Commissioner --
22 COMMISSIONER VUKSICH: Vuksich.
23 RICHARD TENG: Thank you. -- mentioned are there any
24 other states with the same kind of controls we have in
25 California. I wanted to bring to the attention of this

1 Commission that the drop and count procedures for poker
2 rooms in Nevada are identical to the drop and count
3 procedures for regular band games. Key controls, drop
4 controls, count controls are identical. Okay.
5 And secondly, I'd like to also suggest that with
6 respect to the count room it should be in the sterile area.
7 That means it should be just used for counting money. When
8 you have a casino in Nevada where they have different
9 revenue centers, they have to be done other than the time
10 you count your table fees for table collections because
11 that money is unaccounted for until it is accepted in the
12 casino cage. If the location is so small they do not have
13 room to expand into a count room, the cage essentially
14 would become the count room. Before you can do so, you
15 have to take an ending inventory count of the count room of
16 the cage first so we know what it is before you count your
17 table collection fees. When it is counted, that can be
18 accepted in the cage accountability. Then you do the
19 entire count again. That is, now you're beginning
20 inventory. Then you have the count of the table fees.
21 That is how it is done in the smaller locations.
22 And one last point is Garden City in San Jose has a
23 very, very tiny count room. Probably, I would suggest,
24 somewhere between five to six feet by maybe twelve. That
25 accommodates for three accounting personnel. Thank you.

1 CHAIRMAN SHELTON: Now I have a quick couple
2 statements anyway. Maybe.
3 State your full name. Spell your last.
4 ARON WONG: Aron Wong, W-o-n-g, Bureau of Gambling
5 Control.
6 Again, to add to Commissioner Vuksich' question about
7 other jurisdictions that have similar gaming and what are
8 their requirements in regard to drop and count and
9 surveillance and so on.
10 I did some research with Washington gaming, state of
11 Washington. Apparently, they have a very similar gambling
12 industry as we do with the exception they have house
13 banking games in their cardrooms.
14 With that said, the biggest cardroom only has 15
15 tables. And with that, all banking game cardrooms up in
16 Washington are required to have live monitoring of the drop
17 and the count process by dedicated surveillance operators
18 at all times.
19 CHAIRMAN SHELTON: Can you tell me when Washington
20 started poker rooms?
21 ARON WONG: I think they're -- I know the gaming unit
22 started about '91. When did they start having gambling,
23 not quite sure. But the poker room, there is a leniency on
24 that end as far as live monitoring of the drop and count
25 process.

1 They basically have a reg that says if you have
2 strictly a poker room in your poker houses in your gambling
3 houses, then they do not need a dedicated person to monitor
4 the drop and count process. But for banking games, it is a
5 must.
6 CHAIRMAN SHELTON: You know, for me it is a real
7 dilemma. Number one, you come to the MICS, we're
8 protecting the industry. I don't see much protection for
9 the patron when you get right down to it. Not being
10 critical. I think that is the facts of life.
11 We keep talking about embezzlements and thefts and
12 things going on. That affects the cardroom owner more than
13 it does the players themselves, cheating the game and drop
14 boxes. I don't know. I admit, I don't have the reach to
15 know this. I don't know how many incidents have happened
16 out there that we have the concern we have on the count
17 room and on the pick up of the drop boxes and employee
18 thefts out of the drop boxes, which again, comes back to a
19 loss of the industry.
20 The skimming part by the industry, I would have
21 concerns over and IRS would have great concerns, I assume,
22 too. But having gone out and visited some of the
23 cardrooms -- there is one we visited in Northern
24 California. He had two tables. He had so much junk piled
25 on the one table and only one table in operation. In his

1 count room he framed pictures. And he was just a very nice
2 gentleman. He was as old as I am and been in the business
3 since he could walk, I imagine.
4 That is what I see. I see a lot of the industry out
5 there that has been there a long, long time operating under
6 rules they had and worked for them in different levels.
7 And when you go down and see Hawaiian Gardens and the
8 Commerce Club and Bicycle Club, it is like walking in to a
9 casino in Nevada. You have all of the surveillance
10 equipment going. It is just great.
11 But I -- my problem is, I don't know what the
12 difference is between 14 people picking up the boxes and
13 one person picking up the box with the surveillance.
14 We just made a trip to the Oaks Club. And the
15 manager -- shift manager can stand there and watch that and
16 see everything going on. So it is a complete view. And I
17 think that the owner of that made a good argument against
18 live observation, the continuous taping. I was concerned
19 how long the tapes are kept. Because my law enforcement
20 background, if the tapes are destroyed in three days, and
21 the Bureau is out there and all of the sudden coming along
22 is a card cheat that has been taking the clubs, don't know
23 which club they hit, they have no opportunity to come back
24 and revisit the surveillance tapes. That is my background.
25 I think there has been great presentations. I think

1 the Bureau has been more than accommodating in talking.
2 When you do have the conversations, however, would be nice
3 if one of my people can be on that phone call, who heads
4 this up. I don't want my people getting blind-sided in
5 these meetings about what you and the Bureau came to
6 accommodations to. You don't want to be blind-sided on
7 what we and the Bureau came to accommodations to. It has
8 to work both ways.
9 Having said that, we have some changes made. If we
10 accept some of the changes, Jim, what does that do to us
11 today?
12 JAMES ALLEN: Those all seem to be fairly substantive
13 changes. We have to go back out for another 15-day comment
14 period on the modified text.
15 CHAIRMAN SHELTON: Then bring it back for final vote?
16 JAMES ALLEN: Then bring it back for final vote.
17 CHAIRMAN SHELTON: Commissioners?
18 COMMISSIONER VUKSICH: What happens if we adopt as
19 presented or put in these amended?
20 CHAIRMAN SHELTON: I think we have an obligation to be
21 open-minded. Even though I want to put these things to bed
22 and get them voted on and out there and I'm sure the Bureau
23 does, some of the changes I think are justified.
24 So we would need motions or can we make the changes
25 without motions and are brought back to us and continue

1 this meeting over for three weeks?

2 JAMES ALLEN: I think we can continue the matter

3 without a motion. I think we can agree.

4 CHAIRMAN SHELTON: Get more time for interaction and

5 the wording of it with all three parties? Does that -- I'm

6 looking at the industry. Is that acceptable? Can we work

7 with that?

8 ALL: Yes.

9 COMMISSIONER SHIMAZU: Not up against the one year's.

10 JAMES ALLEN: We have a little leeway as far as the

11 one year on the initial 45-day notice.

12 CHAIRMAN SHELTON: Having said that, I cannot thank

13 the Bureau enough for being here and participation and

14 education you're giving to us because we need that and we

15 need your support in why we're doing this in putting the

16 regulations in place.

17 And Mr. Teng, thank you for coming from San Jose.

18 With that --

19 EVELYN MATTEUCCI: Evelyn Matteucci. It really

20 wouldn't be a continuation of the meeting. We don't have a

21 date to continue it to. I think we can't technically

22 continue the meeting. We can table the matter.

23 CHAIRMAN SHELTON: Table the matter and adjourn --

24 table this matter and move on to Item Number 4?

25 EVELYN MATTEUCCI: Correct. We can have the time to

1 work on it with the industry and reschedule the meeting and
2 re-notice.
3 CHAIRMAN SHELTON: Is that acceptable?
4 COMMISSIONER VUKSICH: Yes.
5 COMMISSIONER SHIMAZU: Yes.
6 CHAIRMAN SHELTON: Get it back on the agenda as soon
7 as possible.
8 JAMES ALLEN: Yes.
9 CHAIRMAN SHELTON: We can move into Item 4?
10 JAMES ALLEN: Yes. Agenda Item 4 concerns
11 consideration of regulations addressing fire safety and
12 Minimum Internal Control Standards for cardrooms in the
13 areas of security and surveillance. This is Phase II of
14 the MICS regulations.
15 The purpose of this item is for the Commission to
16 consider and approve commencement of the formal APA
17 rulemaking process for adoption of the proposed regulatory
18 action.
19 Additionally, this item is intended to be another
20 opportunity for the public to comment outside of the formal
21 rulemaking process.
22 Staff is recommending the Commission approve the
23 initiation of the formal APA rulemaking process to adopt
24 these proposed regulations. They're set out and described
25 in a memorandum dated April 1st, 2009. That is included in

1 your binders and available at the back table.
2 These regulations have already been subject to
3 informal review and comment as follows: An informal public
4 comment session was held on April 4, 2008.
5 And then in September 2008 a modified draft proposal
6 was completed and distributed to interested parties for
7 further written comment.
8 And now we're here.
9 CHAIRMAN SHELTON: I guess we're open to public
10 comment.
11 Mr. Fried?
12 DAVID FRIED: Good morning, Mr. Chairman. David
13 Fried, F-r-i-e-d, for the regulations subcommittee of the
14 Golden State Gaming Association and for the Oaks and Grand.
15 First of all, we support the Commission sending out
16 these regulations for formal rulemaking for the 45-day
17 comment period. We have had a couple opportunities to
18 submit comments previously. And with the package that was
19 prepared for today, we actually have got a document back
20 I'll talk about in a minute called a reason comment
21 document that gives us feedback on our comments.
22 I think with the progress made previously there will
23 only be a handful of comments going forward. What I
24 thought I would do is make just a couple of general
25 comments today, rather than going through the regulation

1 section by section.

2 CHAIRMAN SHELTON: Good.

3 DAVID FRIED: First, some of the issues in the
4 regulations are technical. I think what we will do as part
5 of our 45-day comment period is try to get some comments
6 from people who actually sell, provide, design surveillance
7 systems on some of the technical aspects of the regulations
8 such as frames per second. And one thing I think you'll
9 hear in our comments is the concept of motion activated
10 cameras for areas of the cardroom not in constant use. It
11 reduces the storage capacity you need if the camera is
12 motion activated, rather than recording continuously.

13 On frames per second, I don't pretend to be an expert
14 but my understanding is it does not really relate to the
15 quality of the image. The quality of each frame is the
16 same but how many pictures for every second you're taking
17 and what is the right amount of pictures per second to see
18 the movements of the individual.

19 The second general comment I have is I'd like to
20 suggest -- make some suggestions about the process going
21 forward. I will say from my perspective the reason and
22 comment document the Commission recently started issuing
23 with every set of regulations is one of the most helpful
24 documents I've seen and one of the best improvements I've
25 seen. I want to thank you for it and compliment you for

1 it.

2 In the past, we submit a letter. There is new draft
3 that comes out with changes. We don't know why certain
4 comments were accepted and some were rejected. There is
5 not always a three-way dialogue between the industry and
6 the Commission and Bureau where we sit down and say: What
7 is the purpose of this? Okay. Can we think of an
8 alternative? We can back off if our reasoning is wrong.
9 We may think of something else that is better than what
10 either side thought of independently.

11 Here are my suggestions for going forward. After we
12 submit our 45 days comments, our comments in writing, if
13 the Commission staff were to prepare a revised reason and
14 comment document that said we agree with A, B, C but not D,
15 E, F and here is why, then we have something to talk about.

16 I next suggest what I call a round table discussion
17 with Commission staff, the Bureau and the regulation
18 subcommittee where we can sit down and talk about the three
19 or four issues remaining and maybe come up with something
20 that will make your job easier. Maybe there will still be
21 one or two things we disagree on.

22 Then if before the regulations are marked for final
23 adoption when the 15-day version comes out or before a
24 15-day version is out -- because that is towards the end of
25 the process -- if there can be one Commission agenda item

1 where we can say: Here are the two issues we haven't
2 reached agreement on. Here is what we think, what the
3 Bureau thinks and what the members of the public think.
4 You can give publically guidances to what you want in the
5 15-day version. I think it will speed up the process and
6 improve the process.
7 If we can do the three steps after the 45-day
8 comments, get the reason and comment document, have a round
9 table discussion and then have it on the agenda once for
10 discussion before it is up for final adoption, I think it
11 makes everybody's task easier and the final regulations
12 better.
13 Thank you.
14 CHAIRMAN SHELTON: Thank you. Makes sense to me.
15 JAMES ALLEN: If I can just comment briefly on the
16 process.
17 I very much like Mr. Fried's suggestions for the
18 interworkings of meeting with the Bureau and Commission
19 staff and industry and the associations. Those types of
20 things are more workshops that occur before the formal
21 rulemaking process has started. That is not part of the
22 APA rulemaking process. That should occur before. Once we
23 get into the formal rulemaking process, there are certain
24 steps that have to be gone through. It does not really
25 lend itself to that kind of process and I think --

1 CHAIRMAN SHELTON: Is that law or procedure?

2 JAMES ALLEN: It is part of the Administrative

3 Procedure Act. It is in the statutes and lays out the

4 process.

5 Doing that in advance of the -- of starting the APA

6 process, I think, really is the advantage. And these

7 issues get worked out ahead of time and makes the

8 rulemaking process go much smoother. The Commission and

9 staff, everybody can come to a point where we've agreed on

10 what we can agree on. If there are remaining issues, that

11 can be dealt with in the formal process.

12 That is what we're doing with MICS II. That is sort

13 of the purpose of this meeting to come to some sort of

14 agreement, if we can, based on the informal comments that

15 are taking place, the changes that we have made, the

16 discussions here today.

17 And if the Commission is satisfied that we've reached

18 a point where we can move forward with the formal process,

19 then we can -- the Commission can adopt a motion to do

20 that. If not, we can table this and go back and have

21 additional meetings and additional exchanges of information

22 with the industry and the Bureau.

23 So that is the informal phase before we get to the

24 formal phase.

25 MARTY HORAN: I agree with Mr. Fried's comments. I

1 think overall the process worked very well for 95 percent
2 of the issues we dealt with.
3 If there is a way to possibly bring us together near
4 the end before we do final adoption to possibly iron out or
5 at least come to an understanding between everybody on the
6 last couple of issues, it may smoothe out the process for
7 the actual adoption.
8 The workshops are beneficial. The comment period is
9 beneficial. As we just saw as it got down for the last
10 couple of weeks for final adoption, there were a small
11 percentage of sticking points we agree to disagree on. And
12 I'm speaking from a perspective of the Bureau with the
13 industry. It may be helpful to be able to have -- I don't
14 know if we can squeeze in another informal meeting between
15 the Commission, Bureau and industry to discuss the last
16 couple of items and see if there can be some sort of mutual
17 resolution. If not, it falls in the category we'll agree
18 to disagree and it is up to the Commission to make a
19 judgment decision and implement the regulations.
20 CHAIRMAN SHELTON: The Commission has no problem
21 making the judgment. But I kind of like the bite at the
22 apple. I like openness and exchange between the industry
23 and us and you. And every time something comes back there
24 is -- there is a new concern brought up somebody didn't
25 think about. We can do it forever. We don't want that to

happen.

I think we're at a point that maybe some of the fears are going away that what the MICS are going to do and that they do have strong input and influence and they should. Maybe we can table this one, move into another informal workshop between you folks and then bring them back. And we'll get our bite of the apple.

COMMISSIONER SHIMAZU: I think it is kind of what Mr. Fried suggested. We're doing it even before we get into the formal process and we have less to do once the process starts.

CHAIRMAN SHELTON: It is so beneficial to myself to hear from you guys, all of us, the input you have. I don't claim to be an expert in this field. Each meeting we're learning something new. Kind of exciting.

COMMISSIONER VUKSICH: I have a question, Mr. Chairman.

Mr. Allen, could I ask you, once the formal process has started and once the Commission has adopted regulations, what then is the process to amend the regulations? I think we're getting caught up in once we've said yes to a set of regulations it is -- you know, the tablet is being handed to Moses. I know it is not so.

How cumbersome is the process after that to continue making changes?

1 JAMES ALLEN: It is basically same process starting
2 over again. It is --
3 COMMISSIONER VUKSICH: Then it's based on practice?
4 JAMES ALLEN: It is a separate rulemaking process. It
5 may be after 12 to 18 months in place issues arise that
6 need to be addressed. We can start a process again,
7 another rulemaking process, to amend the existing
8 regulations.
9 CHAIRMAN SHELTON: That is my expectation. After
10 they're out there and the Bureau is out and attempting to
11 enforce these, they find flaws and bring it back and say:
12 You did not do a very good job. Didn't give us a solid
13 tablet to work off of.
14 And the industry in the same reasoning may come back
15 and say: There's no reason for this astronomical cost
16 we're being burdened with it and let's change it.
17 I think you know this Commission is open to doing
18 that.
19 DAVID FRIED: David Fried. If I can address
20 Commissioner Vuksich' question, from my perspective, it is
21 not easy getting something amended. I was going to stand
22 up at the public comment at the end but -- in January the
23 Commission adopted checks and credit regulations. That is
24 very important to the internal operation of the club and
25 how they interact with customers and to the extent in which

1 customers have to carry cash with them to the front door or
2 don't have to carry cash.
3 At the time you delayed the effective date by three
4 months to give us time to deal with just a couple of
5 remaining issues that came up towards the end of the
6 process on those regulations. It is now April and I don't
7 know, as of this point, when it will come back to the
8 Commission for the formal 45 day start of consideration of
9 amendments.
10 I'm getting calls from club owners saying: Look,
11 these checks and credit regs adopted in January are going
12 to take effect soon. I've got to have a period of time
13 before they take effect to change my internal operations
14 and train employees and train customers because it is
15 changing how the customers behave in the club. When are
16 the amendments going to be done so I know what is the final
17 set of requirements I have to deal with?
18 And you know, one of the issues that we now have to
19 deal with on checks and credits -- and I believe the Bureau
20 and Commission staff will be as cooperative as possible --
21 is if the amendments -- if we don't kick off the 45 days of
22 those amendments and don't come back to the Commission on
23 time and don't get to OAL in time, is there a period of
24 time where in a relatively short period the club has three
25 different sets of practices, the original practices, the

1 practices under the -- what was adopted in January and then
2 the amended practices?
3 And so one of the things I hope staff can talk among
4 themselves is for that set of regulations, what can we do
5 at this point? Do we just -- does the Bureau delay
6 enforcement of them? Is there some way to make the
7 amendments take effect sooner? Is there some way to delay
8 the original ones?
9 From my perspective on a going forward basis, I would
10 much rather see regulations at least at the time we adopt
11 them, everyone thinks they're pretty good. And that we
12 can't point to a couple things and say: Gosh, we know
13 those are problems. Because the process of amending is so
14 cumbersome.
15 ALAN TITUS: Hello, commissioners. Alan Titus,
16 T-i-t-u-s, for Artichoke Joe's.
17 I wanted to make one comment on this. We have got one
18 issue that is going to be a very serious issue on these
19 regulations. And that has to do with the privacy rights of
20 customers. And we have had some discussions with people
21 but there certainly has not been an agreement to disagree.
22 And I think that I'm going to want to have more discussions
23 on this issue because I have got a club that has championed
24 this issue for as long as I've been around for over 20
25 years. It has been drilled into me constant from the day

one when I started working for this client. Very strong feeling about privacy rights.

And the idea that someone can walk into the club and right away gain access to the taping that has gone on of the players is going to be very serious.

CHAIRMAN SHELTON: Wait a minute. Who is the someone you're referring to who reviews the taping?

ALAN TITUS: The Bureau could come in or even the Commission.

CHAIRMAN SHELTON: I don't want to be a burden to you but I sure hope they can. I sure hope we get to the point where the Bureau can review that.

ALAN TITUS: We're going to have disagreements on that.

CHAIRMAN SHELTON: We just established that point. I'm sure we can do it to protect certain rights.

ALAN TITUS: I think legal should be involved in that. And there should be discussions over what are the legal authorities. It could be those discussions would bear some fruit. And we haven't had enough of those discussions.

CHAIRMAN SHELTON: I understand. Appears to me we're back to tabling again?

EVELYN MATTEUCCI: This is just a workshop.

CHAIRMAN SHELTON: Don't have to vote?

EVELYN MATTEUCCI: Not going to be a formal adopt.

CHAIRMAN SHELTON: I don't have to disclose my cards.

If anybody has any public comments they'd like to make, please come forward.

Mr. Fried? No?

DAVID FRIED: No. I truly think there are a handful of issues and we need technical guidance.

CHAIRMAN SHELTON: I thank all of you. We're going to adjourn. We're not even going to take a vote. Just adjourn for the day. Thank you.

(End of proceedings.)

CERTIFICATE

OF

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The undersigned certified shorthand reporter of the state of California does hereby certify:

That the foregoing commission meeting was taken before me at the time and place therein set forth;

That the testimony of the public and all objections made at the time of the meeting were recorded stenographically by me and thereafter transcribed, said transcript being a true copy of my shorthand notes thereof.

In witness whereof, I have subscribed my name this date 5.6.09.

Desiree C. Tawney

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