

CALIFORNIA GAMBLING CONTROL COMMISSION STATUTES AND REGULATIONS PERTAINING TO ADMINISTRATIVE HEARINGS

BUSINESS AND PROFESSIONS CODE

DIVISION 8. SPECIAL BUSINESS REGULATIONS

CHAPTER 5. THE GAMBLING CONTROL ACT

ARTICLE 2. ADMINISTRATION

§ 19825. Administrative Adjudication.

The commission may require that any matter that the commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial, suspension, or revocation of a license, permit, or a finding of suitability, be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

ARTICLE 4. LICENSING

§ 19870. Commission Authority to Deny or Grant License; Restrictions; Statement of Reasons; Petition.

(a) The commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.

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

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

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

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

§ 19871. Commission Meeting; Conduct.

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

- (1) Oral evidence shall be taken only upon oath or affirmation.
- (2) Each party shall have all of the following rights:
 - (A) To call and examine witnesses.
 - (B) To introduce exhibits relevant to the issues of the case.
 - (C) To cross-examine opposing witnesses on any matters relevant to the issues, even though the matter was not covered on direct examination.
 - (D) To impeach any witness, regardless of which party first called the witness to testify.
 - (E) To offer rebuttal evidence.
- (3) If the applicant does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.
- (4) The meeting need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.
 - (b) Nothing in this section confers upon an applicant a right to discovery of the department's investigative reports or to require disclosure of any document or information the disclosure of which is otherwise prohibited by any other provision of this chapter.

§ 19872. Ex Parte Communications.

- (a) No member of the commission may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, upon the merits of an application for a license, permit, registration, or approval while the application is being investigated by the department or pending disposition before the department or the commission.
- (b) No applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application while the application is being investigated by the department or pending disposition before the department.
- (c) No employee or agent of the department, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.
- (d) The receipt by a member of the commission of an ex parte communication prohibited by this section may provide the basis for disqualification of that member or the denial of the application. The commission shall adopt regulations to implement this subdivision.
- (e) For the purposes of this subdivision, "ex parte" means a communication without notice and opportunity for all parties to participate in the communication.
- (f) Nothing in this section precludes a communication made on the record at a public hearing on a properly agendized matter.

CALIFORNIA CODE OF REGULATIONS
TITLE 4. BUSINESS REGULATIONS.

DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.

CHAPTER 1. GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS and GENERAL PROCEDURES.

§ 12002. General Definitions.

Unless otherwise specified, the definitions in Business and Professions Code section 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the Penal Code (commencing with section 330), shall govern the construction of this division. As used in this division:

(a) "Administrative Procedure Act Hearing" or "APA Hearing" means an evidentiary hearing which is conducted pursuant to the requirements of Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and section 1000 et seq. of Title 1 of the California Code of Regulations. An APA hearing includes those evidentiary hearings which proceed pursuant to Business and Professions Code sections 19825 and 19930, as well as under Chapter 10 of this division.

(b) "Advisor of the Commission" shall be all employees of the Commission except those designated as an advocate of the Commission.

(c) "Advocate of the Commission" shall be any employee so designated pursuant to subsection (a) of Section 12056.

(d) "BCII" means the Bureau of Criminal Identification and Information in the California Department of Justice.

(e) "Bureau" means the Bureau of Gambling Control in the California Department of Justice, acting as "the department" as provided in section 19810 of the Business and Professions Code.

(f) "Bureau report" means a final determination, as defined in Business and Professions Code section 19869 as "final action by the department," by the Chief of the Bureau regarding his or her recommendation to the Commission on any application.

(g) "California games" means controlled games that feature a rotating player-dealer position, as described in Penal Code section 330.11.

(h) "Commission" means the California Gambling Control Commission.

(i) "Conviction" means a plea or verdict of guilty or a plea of *nolo contendere*, irrespective of a subsequent order of expungement under the provisions of Penal Code section 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code section 4852.13. A plea of guilty entered pursuant to Penal Code section 1000.1 does not constitute a conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d) unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.

(j) "Deadly weapon" means any weapon, the possession or concealed carrying of which is prohibited by Penal Code section 16430.

(k) "Employee of the Commission" means the staff employed by the Commission including the Executive Director and all staff under the direction of the Executive Director.

(l) "Executive Director" means the executive officer of the Commission, as provided in Business and Professions Code section 19816 or his or her designee. If the Executive Director

position is vacant, the “Executive Director” means the officer or employee who shall be so designated by the Commission.

(m) “Gambling Control Act” or “Act” or “GCA” means Chapter 5 (commencing with section 19800) of Division 8 of the Business and Professions Code.

(n) “GCA hearing” means an evidentiary hearing referred to as “the meeting” pursuant to Business and Professions Code sections 19870 and 19871.

(o) “Interim license” means a license issued by the Commission for some interim period which includes an interim renewal license issued pursuant to Section 12035, an interim gambling license issued pursuant to Section 12349, and an interim key employee license issued pursuant to Section 12354.

(p) “Member of the Commission” means an individual appointed to the Commission by the Governor pursuant to Business and Professions Code sections 19811 and 19812, and does not include an employee of the Commission.

(q) “Registrant” means a person having a valid registration issued by the Commission.

(r) “Surrender” means to voluntarily give up all legal rights and interests in a license, permit, registration, finding of suitability, or approval.

(s) “Temporary license” means a preliminary license issued by the Commission, prior to action on an initial license application, with appropriate conditions, limitations or restrictions determined on a case-by-case basis.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3), 19854, and 19869, Business and Professions Code; and Section 7, Government Code. Reference: Sections 7.5, 19800, 19805, 19811, 19816, and 19951, Business and Professions Code.

§ 12006. Service of Notices, Orders and Communications.

(a) When service of any notice or other written communication is specifically required to be made pursuant to this section, service shall be made by certified mail, addressed to the residence address, address of record or mailing address of the applicant, licensee, or designated agent, as last reported to the Commission.

(b) Service shall be effective upon mailing of the notice or communication.

Note: Authority cited: Sections 19811, 19824 and 19840, Business and Professions Code. Reference: Section 19811, 19824 and 19840, Business and Professions Code

§ 12012. Ex Parte Communication.

(a) For purposes of this section, “*ex parte* communication” or “*ex parte*” means a communication upon the merits of an application without notice and opportunity for all parties to participate in the communication.

(b) The limitations on *ex parte* communication imposed by Business and Professions Code section 19872, subdivisions (a) and (b) shall apply when an application is submitted to the Bureau for investigation until the Bureau report is issued to the Commission and the communication is upon the merits of the application.

(c) The limitations on *ex parte* communication imposed by Business and Professions Code sections 19872, subdivisions (a) and (c) shall apply when the Bureau report is issued to the Commission until a decision is final pursuant to Section 12066 and the communication is upon the merits of the application.

(d) When the *ex parte* provisions of subsections (b) or (c) apply, the following communications shall not be considered *ex parte*:

(1) Communications related to undisputed issues of practice and procedure that are not upon the merits of an application.

(2) Communications made at a public hearing or meeting and which concern a properly noticed matter.

(3) Information or documents provided by the applicant upon the merits of an application pending disposition before the Bureau or Commission to an advisor or member of the Commission which is simultaneously provided to the Bureau or advocate of the Commission, if one has been designated.

(4) Information or documents provided by the Bureau or an advocate of the Commission, upon the merits of an application pending disposition before the Commission to an advisor or member of the Commission which is simultaneously provided to the applicant.

(5) Information or documents provided by any other interested person upon the merits of an application pending disposition before the Bureau or Commission to an advisor or member of the Commission which is simultaneously provided to both the Bureau and an advocate of the Commission, if one has been designated, and the applicant.

(6) Information or documents provided by the Bureau upon the merits of an application pending disposition before the Commission to an advisor or member of the Commission pursuant to Business and Professions Code section 19822, subdivision (b), but that cannot be provided to the applicant pursuant to Business and Professions Code section 19821, subdivision (d), and section 19868 subdivisions (b)(3) and (c)(2), and which is provided as follows:

(A) The Bureau first provides redacted information or documents to both an advisor or member of the Commission and the applicant;

(B) If an advisor or member of the Commission requests an unredacted copy of the information or documents, the Commission shall provide a notice to the applicant, pursuant to Section 12006, allowing at least 14 calendar days for the applicant to object and pursue any appropriate judicial remedies to challenge the request and seek a judicial in camera review of the confidentiality and relevancy of the information;

(C) The Bureau shall provide the unredacted information or documents only to an advisor or member of the Commission and only after the time period specified to seek judicial review has elapsed, or the appropriate judicial remedies have been exhausted, whichever is later.

(e) The limitations on *ex parte* communication imposed by Government Code sections 11430.10 through 11430.80 shall apply from when:

(1) The Executive Director has elected to hold an evidentiary hearing under subsection (a) of Section 12060 until any decision is final pursuant to Section 12066;

(2) The Commission has elected to hold an evidentiary hearing under paragraph (2) of subsection (a) of Section 12054 until any decision is final pursuant to Section 12066; or,

(3) The Bureau has filed an accusatory pleading under Section 12554 or Business and Professions Code section 19930 until any decision is final pursuant to Government Code section 11519.

(f) If an applicant, the Bureau or other interested person or an advocate of the Commission, if one has been designated, communicates directly or indirectly on an *ex parte* basis with a member of the Commission, including indirectly through submission of information or documentation to an advisor of the Commission, then:

(1) All information, documentation and responses shall immediately be provided to the Bureau, or an advocate of the Commission, if one has been designated, and the applicant.

(2) That communication, if by the applicant, may be used as a basis for denial of the application pursuant to Business and Professions Code sections 19856, 19857 and subdivision (d) of section 19872.

(3) Any meeting or hearing following the provision of this communication may be delayed as necessary to allow for the full participation of all parties.

(g) A member of the Commission who is involved in a communication on an *ex parte* basis with an applicant, the Bureau, other interested persons or an advocate of the Commission, if one has been designated, must publicly disclose the communication, and provide notices to both the applicant and Bureau pursuant to Section 12006. The notice shall contain any information or document(s) conveyed and shall be provided to the applicant and the Bureau as soon as possible so that they may participate in the communication. Any meeting or hearing following the provision of this communication may be delayed as necessary to allow for the full participation of all parties. The member of the Commission may voluntarily withdraw from consideration of an application as long as the withdrawal would not prevent the existence of a quorum qualified to act on the particular application.

(h) An advisor of the Commission may communicate and convey information or documents upon the merits of an application as long as it is simultaneously conveyed to the applicant, the Bureau, and the advocate of the Commission, if one has been designated, so that they may participate in the communication.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, and 19872, Business and Professions Code; Sections 11400.20, 11410.40, 11415.10, and 11415.20, Government Code. Reference: Sections 19821, 19822, 19825, 19868, 19870, 19871, 19872, and 19930, Business and Professions Code; Sections, 11425.10, 11430.10, 11430.20, 11430.30, 11430.50, and 11430.60, Government Code.

§ 12015. Withdrawal of Applications.

(a) A request by an applicant to withdraw a submitted application may only be made prior to the Bureau report being issued to the Commission. The request shall be made in writing to the Bureau. Upon receipt of the request to withdraw, Bureau staff shall send written confirmation of receipt to the applicant. The Bureau shall stay any investigation of the applicant being conducted under Business and Professions Code section 19868. The Executive Director shall, upon receipt of any information or documentation provided by the Bureau, place the request before the Commission for consideration at a regularly scheduled meeting pursuant to Section 12054.

(b) The Commission may grant or deny a withdrawal request based upon the public interest and the applicable provisions of the Act, including for example, where the applicant has failed to respond to Bureau or Commission inquires, or preliminary information has been provided by the Bureau which would indicate grounds for mandatory denial under Business and Professions Code section 19859. A withdrawal request may be granted with or without prejudice based upon the public interest and the applicable provisions of the Act.

(c) If a request for withdrawal is granted, any unused portion of a background investigation deposit shall be refunded by the Bureau.

(d) If a request for withdrawal is granted with prejudice, the applicant shall not be eligible to apply again for licensure or approval until after the expiration of one year from the date the request for withdrawal is granted.

(e) If the request for withdrawal is denied, the Bureau shall proceed with the investigation of the applicant and provide a recommendation pursuant to Business and Professions Code section 19826.

(f) An applicant who withdraws his, her or its application shall not have a right to an evidentiary hearing pursuant to Section 12056.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19869, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19951, and 19984, Business and Professions Code.

§ 12017. Abandonment of Applications.

(a)(1) At any time before the Bureau report is issued to the Commission, the Chief of the Bureau may deem an application abandoned based upon the following:

(A) Failure of the applicant to respond to Bureau inquiries; or,

(B) Notice by the applicant or his, her or its designated agent that the application is no longer being pursued because, for example, the applicant is deceased or no longer employed in a capacity that requires Commission consideration.

(2) If an application has been deemed abandoned, a notice of abandonment shall be sent to the applicant or his, her or its designated agent, with a copy to the Commission, stating the reasons for abandonment of the application and that the Bureau will consider the application abandoned unless the applicant contacts the Bureau within 30 calendar days from the date of the notice.

(b)(1) At any time after the Bureau report is issued to the Commission and either recommended approval or made no recommendation, the Executive Director may deem an application abandoned based upon the following:

(A) Information related to abandonment provided to the Commission as a result of the Bureau's background investigation;

(B) Failure of the applicant to respond to Bureau or Commission inquiries; or,

(C) Notice by the applicant or his, her or its designated agent that the application is no longer being pursued.

(2) If an application has been deemed abandoned, a notice of abandonment shall be sent to the applicant, pursuant to Section 12006, with a copy to the Bureau, stating the reasons for abandonment of the application and that the Commission will consider the application abandoned unless the applicant contacts the Commission within 30 calendar days from the date of the notice.

(c) Where the Bureau has issued its Bureau report, the Commission may deem an application abandoned at its discretion, pursuant to Section 12054 after taking into consideration those criteria listed under subparagraphs (A) through (C), inclusive, of paragraph (1) of subsection (b).

(d) Upon abandonment of an application, a refund of any unexpended portion of a background investigation deposit shall be made, if possible.

(e) An applicant who abandons their application shall not have a right to an evidentiary hearing pursuant to Section 12056.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, and 19951, Business and Professions Code.

§ 12035. Issuance of Interim Renewal Licenses.

(a) The Commission shall issue an interim renewal license to an applicant for renewal of a license when:

(1) The Commission has elected to hold an evidentiary hearing pursuant to paragraph (2) of subsection (a) of Section 12054;

(2) The Executive Director determines, pursuant to subsection (a) of Section 12060, that it is appropriate for the application to be considered at a GCA hearing; or,

(3) An accusation is pending pursuant to Business and Professions Code section 19930 and under Chapter 10 of this division.

(b) The following conditions shall apply to all interim renewal licenses issued under subsection (a):

(1) An interim renewal license shall be issued with the same conditions, limitations, or restrictions, if any, that existed for the previous license, except for any condition that by Commission decision has been determined to be satisfied and no longer applicable. This paragraph does not preclude the Commission from applying additional conditions through a separate GCA hearing or with the consent of the applicant.

(2) An interim renewal license shall be valid for a period of two years from the date the previous license expires, or until a decision is final under Section 12066, whichever is earlier, and is not subject to renewal. The Commission may issue additional interim renewal licenses if the hearing process has not been, or will not be, concluded by the expiration date of the current interim renewal license.

(3) The holder of an interim renewal license shall pay all applicable annual fees associated with that license.

(4) The issue date of the most recently granted interim renewal license shall serve as the issue date for any regular license granted thereafter.

(5) The issuance of an interim renewal license does not limit or impair, and is without prejudice to, any exercise of the discretion vested in the Commission with respect to the license at issue in the hearing process.

(6) The issuance of an interim renewal license is without prejudice to the Bureau's prosecution of an accusation and has no preclusive effect on any ground for discipline that may exist against the licensee, whether or not presented in an accusation.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19876, 19880, 19881, 19890, 19891, and 19951, Business and Professions Code.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

§ 12050. Bureau Recommendation and Information.

(a) When the Bureau report is issued to the Commission with a recommendation to deny, limit, restrict, or condition a license, permit, finding of suitability, renewal, or other approval, as described in Business and Professions Code section 19868, subdivisions (b) and (c):

(1) The Bureau shall provide to the applicant a copy of the following as relevant to the application:

(A) The Bureau report which shall include any Bureau recommendation to the Commission.

(B) A detailed factual and/or legal basis for any recommendation.

(C) Any supplemental documents provided to the Commission.

(D) Any other information or documentation provided to the Commission.

(2) The documents or information provided under paragraph (1) need not include anything inconsistent with paragraph (6) of subsection (d) of Section 12012.

(b) The Commissioners, or Administrative Law Judge sitting on behalf of the Commission at an APA hearing, will determine what, if any, significance the Bureau's or Commission staff's recommendation shall have regarding the merits of the application. The Commissioners and Administrative Law Judge are not bound by the recommendation's rationale or conclusions in any way.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19824, 19826, 19827, 19868, 19869, 19870, 19871, and 19930, Business and Professions Code.

§ 12052. Commission Meetings; General Procedures; Scope; Rescheduling of Meeting.

(a) Nothing in this article is intended to limit the manner in which the Commission reviews an application, or otherwise limit its authority or discretion under the Act.

(b) This article does not apply to accusations brought under Business and Professions Code section 19930, subdivision (b) to revoke, suspend, or discipline a license, registration, permit, finding of suitability, renewal or other approval under the Act or a matter proceeding pursuant to Chapter 10 of this division.

(c) An applicant for any license, permit, finding of suitability, renewal, or other approval shall be given notice of the meeting at which the application is scheduled to be heard. Notice shall be given pursuant to Section 12006.

(1) If the application is scheduled at a non-evidentiary hearing meeting, the notice shall be provided at least 10 calendar days prior to the meeting date and shall inform the applicant of the following:

(A) That the applicant will be afforded the opportunity to:

1. Address the Commission by way of an oral statement, written statement, or both; and,
2. Submit documents in support of the application; however, documents which are not provided to the Commission and Bureau with sufficient time for consideration may result in the documents not being considered or the application being continued, at the Commission's discretion.

(B) That the application may be rescheduled for consideration at an evidentiary hearing pursuant to Section 12058, by Commission action.

(C) Any individual making an oral statement may be required to be placed under oath.

(2) If the application is to be scheduled at an evidentiary hearing, pursuant to subsections (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:

(A) The date, time and location of the evidentiary hearing at which the application is scheduled to be heard;

(B) The date, time and location of the pre-hearing conference, pursuant to paragraph (1) of subsection (f) of Section 12060;

(C) The individual assigned, pursuant to subsection (c) of Section 12060, as the presiding officer and his or her contact information;

(D) That the applicant will be afforded the opportunity to:

1. Address the Commission by way of an oral statement, written statement, or both;
2. Submit documents in support of the application;
3. Call, examine, cross-examine and impeach witnesses; and,
4. Offer rebuttal evidence.

(E) That a Notice of Defense, CGCC-ND-002 (New 01/14), which is attached in Appendix A to this chapter, will be included unless already provided by Commission staff or the Bureau.

(F) That the waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at the evidentiary hearing, may result in:

1. A default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which may be provided to the Commission, or
2. The hearing being held as originally noticed without applicant participation.

(d) Any application for a license, permit, approval or finding of suitability scheduled for Commission consideration at a noticed public meeting may be rescheduled for a later public meeting by the Executive Director, prior to the meeting, or by the Commission at the meeting, provided that in the case of renewal applications, the Commission must act before the license expires.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19816, 19823, 19824, 19856, 19870, 19871, 19876 and 19930, Business and Professions Code.

§ 12054. Consideration at Regular Commission Meeting.

(a) At a non-evidentiary hearing meeting, the Commission may take, but is not limited to taking, one of the following actions:

(1) Issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval.

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

(3) Table or continue an item for consideration at a subsequent meeting, for any purpose, including obtaining new or additional information from the applicant, Bureau or Commission staff, provided however in the case of renewals, the Commission must act on the application before the license expires.

(4) Extend a license for up to 180 calendar days as necessary, as provided in Business and Professions Code section 19876, subdivision (c).

(5) Approve or deny a request for withdrawal pursuant to Section 12015.

(6) Make a finding of abandonment pursuant to subsection (c) of Section 12017.

(7) If the Bureau has filed an accusatory pleading with the Commission pursuant to Business and Professions Code section 19930 prior to Commission action on a renewal application, the Commission shall issue an interim renewal license pursuant to Section 12035.

(b) If the Commission approves or denies a request for withdrawal pursuant to paragraph (5) of subsection (a) or makes a finding of abandonment pursuant to paragraph (6) of subsection (a), that decision is final when issued, unless the Commission specifies otherwise. An applicant shall not have a right to an evidentiary hearing pursuant to Section 12056.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19816, 19823, 19824, 19869, 19870, 19871, and 19876, Business and Professions Code.

§ 12056. Evidentiary Hearings.

(a) If the Commission elects to hold an evidentiary hearing, the hearing will be conducted as a GCA hearing under Section 12060, unless the Executive Director or the Commission determines the hearing should be conducted as an APA hearing under Section 12058. The

evidence shall be presented by the complainant, which is selected by the Executive Director or the Commission, and may be either the Bureau or advocates of the Commission. If an advocate of the Commission is selected, the determination shall include a list of employees of the Commission who shall be designated as an advocate of the Commission.

(b) Nothing in this section, Section 12058 or Section 12060 confers upon an applicant a right to discovery of the Commission's or Bureau's confidential information or to require production of any document or the disclosure of information which is otherwise prohibited by any provision of the Act, or is privileged from disclosure or otherwise made confidential by any other provision of law. Documentary evidence may be redacted as needed to prevent the disclosure of confidential information. Exculpatory or mitigating information shall be provided to the applicant, but any confidential information may be redacted by the Bureau.

(c) Under either an APA or a GCA hearing, all parties will bear their own costs. This does not prevent the Bureau from requiring that additional sums be deposited pursuant to Business and Professions Code section 19867 for any necessary supplemental investigations.

Note: Authority cited: Sections 19811, 19823, 19824, 19825, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868, 19870, 19871, and 19876, Business and Professions Code; Section 11512, Government Code.

§ 12058. APA Hearing.

(a) When the Commission elects to hold an APA hearing the Commission shall determine whether the APA hearing will be held before an Administrative Law Judge sitting on behalf of the Commission or before the Commission itself with an Administrative Law Judge presiding in accordance with Government Code section 11512. Notice of the APA hearing shall be provided to the applicant pursuant to Government Code section 11500 et seq.

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

(c) A Statement of Issues shall be prepared and filed according to Government Code section 11504 by the complainant.

(d) At the conclusion of the evidentiary hearing, when the Commission is hearing the matter, the members of the Commission shall take the matter under submission, may discuss the matter in a closed session meeting, may leave the administrative record open in order to receive additional evidence as specified by the Commission, and may schedule future closed session meetings for deliberation.

(e) The evidentiary hearing shall proceed as indicated in the notice, unless and until the Executive Director or Commission approves cancellation or a continuance.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868, and 19876, Business and Professions Code; Section 11512 and 11517, Government Code.

§ 12060. GCA Hearings.

(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 shall 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. The Commission retains the authority to refer the matter to an APA hearing pursuant to subsection (a) of Section 12056 or hear the matter at a Section 12054 meeting if the Commission deems it appropriate.

(b) When the Commission has elected to hold a GCA hearing, the Executive Director shall 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 shall have no communication with the Commission or Commission staff upon the merits, or upon information or documents related to the application prior to the evidentiary hearing. The Executive Director shall designate a presiding officer which shall 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 shall provide to the applicant, at least 45 calendar days prior to the GCA hearing, and the applicant shall 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) Stipulation for undisputed facts including the admission of the Bureau's report; and
- (E) 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 shall 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 on the applicant at all times to prove his, her, or its qualifications to receive any license or other approval under the Act.

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

(k) Except as otherwise provided in subsection (g), the complainant and applicant shall have the right to call and examine witnesses under oath; to introduce relevant exhibits and documentary evidence; to cross-examine opposing witnesses on any relevant matter, even if the matter was not covered in direct examination; to impeach 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 own behalf, the applicant may be called and examined, under oath, as if under cross-examination.

(l) Oral evidence shall 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 shall take the matter under submission, may discuss the matter in a closed session meeting, and may schedule future closed session meetings for deliberation.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871, and 19876, Business and Professions Code; Section 11512, Government Code.

§ 12062. Issuance of GCA Hearing Decisions.

(a) Within 30 calendar days of the conclusion of a GCA hearing, the Commission legal staff shall prepare and submit to the Commission a proposed decision.

(b) Within 45 calendar days of the issuance of the proposed decision, the Commission shall issue its decision, which shall comply with Business and Professions Code section 19870, and shall be served pursuant to Section 12006 and, in the case of a gambling license, on any associated or endorsed owner or owner-licensee.

(c) All decisions of the Commission issued pursuant to this section shall specify an effective date and may include further directions as to any stay provisions or orders to divest.

(d) Only members of the Commission who heard the evidence presented in the hearing are eligible to vote on a decision and may vote by mail or by another appropriate method unless such a requirement would prevent the existence of a quorum qualified to act on the particular application. In that event, a member of the Commission who has not heard the evidence may be allowed to vote after a review of the complete record and any additional briefing or hearing the Commission believes necessary.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19883 and 19892, Business and Professions Code.

§ 12064. Requests for Reconsideration.

(a) After the Commission issues a decision following a GCA hearing conducted pursuant to Section 12060, an applicant denied a license, permit, registration, or finding of suitability, or whose license, permit, registration, or finding of suitability has had conditions, restrictions, or limitations imposed upon it, may request reconsideration by the Commission within 30 calendar days of service of the decision, or before the effective date specified in the decision, whichever is later.

(b) A request for reconsideration shall be made in writing to the Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either:

(1) Newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission's issuance of the decision or at the hearing on the matter; or,

(2) Other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

(c) The Executive Director shall determine whether a request for reconsideration is complete and if so shall place the request on the Commission's agenda within 60 calendar days of its receipt. The applicant shall be given at least 10 calendar days' advance written notice, pursuant to Section 12006, of the date and time of the Commission meeting at which the request will be heard. The applicant, whether present at that meeting or not, shall be notified in writing of the Commission's decision on the request within 10 calendar days following the meeting pursuant to Section 12006.

(d) The effective date of the decision will be stayed while the request is under review by the Commission.

(e) The granting or denial of reconsideration under this section shall be at the sole discretion of the Commission.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section 11521 Government Code.

§ 12066. Final Decisions; Judicial Review.

(a) A withdrawal or abandonment decision is final:

(1) 30 calendar days after the date of notice of abandonment pursuant to either paragraph (2) of subsection (a) or paragraph (2) of subsection (b) of Section 12017 if not repealed by the issuing agency.

(2) Upon approval by the Commission pursuant to paragraph (5) of subsection (a) of Section 12054 or the making of a finding of abandonment pursuant to paragraph (6) of subsection (a) of Section 12054.

(b) A Commission decision is final

(1) Upon the effective date specified in the decision or 30 calendar days after service of the decision if no effective date is specified, and if reconsideration under Section 12064 has not been requested; or,

(2) If a request for reconsideration has been granted under Section 12064, immediately upon the Commission's affirmation of its decision or issuance of a reconsidered decision.

(c) A decision of the Commission denying an application or imposing conditions on a license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section 11521 Government Code.

§ 12068. Decisions Requiring Resignation or Divestiture.

When an application is denied or conditions, limitations, or restrictions are imposed under the Act or this chapter and that decision is final under Section 12066, any requirements set forth in the decision shall be complied with, and the following shall apply to the extent not inconsistent with the decision, as applicable:

(a)(1) If the denied applicant is an officer, director, employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the denied applicant shall resign according to the date specified in the Commission's decision and shall so notify the Commission in writing.

(2) If the denied applicant is an officer or director of a corporation that is licensed, registered, or found suitable by the Commission, the corporation shall remove that person from office according to the date specified in the Commission's decision and shall so notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the corporation shall terminate its relationship with that person pursuant to the date specified in the decision and shall so notify the Commission in writing.

(4) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the corporation licensed, registered, or found suitable by the Commission, shall comply with Business and Professions Code section 19882, if applicable.

(b)(1) If the denied applicant is an officer, director, manager, member, employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the denied applicant shall resign according to the date specified in the Commission's decision and shall so notify the Commission in writing.

(2) If the denied applicant is an officer, director, manager or member of a limited liability company that is licensed, registered, or found suitable by the Commission, the limited liability company shall remove that person from office according to the date specified in the Commission's decision and shall so notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the limited liability company shall terminate its relationship with that person pursuant to the date specified in the decision and shall so notify the Commission in writing.

(c)(1) If the denied applicant is a general or limited partner in a general or limited partnership licensed, registered, or found suitable by the Commission, the denied applicant shall resign as a partner according to the date specified in the Commission's decision and shall so notify the Commission in writing.

(2) If the denied applicant is an owner or holder of an interest in a limited partnership licensed, registered, or found suitable by the Commission, the denied applicant and the limited partnership shall comply with Business and Professions Code section 19892 and shall so notify the Commission in writing.

(d) If the denied applicant is a principal in a business entity not otherwise described above that is licensed, registered, or found suitable by the Commission:

(1) The denied applicant shall resign his or her position within that entity and divest whatever interest is held in that entity pursuant to the timelines and instructions specified in the Commission's decision, and shall so notify the Commission in writing.

(2) The business entity shall remove the denied applicant from any principal role in the business entity and shall so notify the Commission in writing.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19882, 19883 and 19892, Business and Professions Code.

APPENDIX A

(Form CGCC-ND – 002 (New 01/14))



State of California
 California Gambling Control Commission
 2399 Gateway Oaks Drive, Suite 220
 Sacramento, CA 95833-4231
 (916) 263-0700; Fax: (916) 263-0452
 www.cgcc.ca.gov

NOTICE OF DEFENSE CGCC – ND – 002 (New 01/14)

In the Matter of:

CGCC No. _____

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issued by the Commission. The Notice of Defense is due:

- **Within 15 calendar days of receipt, if provided by Commission staff or the Bureau; or,**
- **Within 15 calendar days of the date of service, if provided with the Notice of Hearing.**

(Please select one of the following.)		
1	A	<input type="checkbox"/> I acknowledge and accept that the conditions, limitations and restrictions attached to the notice will be placed on my license, registration, finding of suitability or other approval, and waive my right to an evidentiary hearing. (See Box 2)
	B	<input type="checkbox"/> I waive my right to an evidentiary hearing. (See Box 2)
	C	<input type="checkbox"/> I request an evidentiary hearing where the Commission will consider the merits of my application and any recommendation of the Bureau.
2	<p>_____ (Initial Here)</p>	<p>The waiver of my right to an evidentiary hearing includes a waiver of the following associated rights:</p> <ul style="list-style-type: none"> The right to be heard at the hearing The right to a copy of the hearing's governing procedure The right to discovery The right to present oral evidence The right to present and examine witnesses The right to introduce relevant exhibits The right to cross-examine opposing witnesses The right to impeach witnesses The right to offer rebuttal evidence The right to challenge evidence used against me The right to request reconsideration following the decision's issuance The right to petition for review of the decision under Section 1085 of the Code of Civil Procedure <p>The waiver of an evidentiary hearing may result in a default decision being issued by the Commission based upon the Bureau report, any supplemental reports by the Bureau and any other documents or testimony already provided or which may be provided to the Commission, or that the hearing may continue to occur on the originally noticed date without applicant participation.</p>

3	<input type="checkbox"/>	I understand English or have had an interpreter read and explain this form to me in _____ <div style="text-align: right; font-size: small;">(Language)</div>
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NOTICE OF DEFENSE

		(Please select one of the following:)	
4	A	<input type="checkbox"/>	I am represented by counsel, whose name, address and telephone number appear below:
			Name:
			Mailing Address:
			City, State and Zip Code:
			Telephone Number:
	B	<input type="checkbox"/>	I am not represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be provided to the Commission and the Bureau so that counsel will be on the record to receive legal notices, pleadings, and other papers.

Signature: _____

Date: _____

Relationship to Gambling Enterprise: _____ (N/A if Individual signing on own behalf)