

STATE OF CALIFORNIA  
GAMBLING CONTROL COMMISSION

CEP  
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COMMISSION MEETING

California Gambling Control Commission  
2399 Gateway Oaks Drive  
Suite 100  
Sacramento, California 95833  
OCTOBER 5, 2009  
10:00 A.M.

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



**Northern California Court Reporters**

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APPEARANCES:

DEAN SHELTON  
Chairman

STEPHANIE SHIMAZU  
Commissioner

ALEXANDRA VUKSICH  
Commissioner

JOY CALKIN  
Staff Services Analyst

TERRI A. CIAU  
Executive Director

JOE DHILLON  
Chief Counsel, Legal Division

Public Speakers:

Scott Crowell  
Ted Pata  
Sherry Rodriguez  
Steve Solomon  
James Butler  
George Forman  
David Fried  
Richard Ross  
Richard Mundy

1 BE IT REMEMBERED, that on OCTOBER 5, 2009, commencing  
2 at the hour of 10:00 A.M., at the California Gambling  
3 Control Commission, 2399 Gateway Oaks Drive, Suite 100,  
4 Sacramento, California, before me, DESIREE C. TAWNEY,  
5 Certified Shorthand Reporter in and for the county of  
6 Placer, state of California, the following proceedings took  
7 place:

8  
9 (The following proceedings were held on the record.)

10  
11 CHAIRMAN SHELTON: Call the meeting to order. Ask for  
12 everybody to stand for the Pledge of Allegiance, please.

13 (Pledge of Allegiance.)

14 CHAIRMAN SHELTON: Roll call, please.

15 JOY CALKIN: Chairman Shelton?

16 CHAIRMAN SHELTON: Here.

17 JOY CALKIN: Commissioner Shimazu?

18 COMMISSIONER SHIMAZU: Here.

19 JOY CALKIN: Commissioner Vuksich?

20 COMMISSIONER VUKSICH: Here.

21 JOY CALKIN: Thank you.

22 CHAIRMAN SHELTON: Mr. Ross, I think you have the  
23 podium.

24 RICHARD ROSS: Good morning.

25 CHAIRMAN SHELTON: Excuse me. I'm out of order. I

1 think the executive director would like to introduce  
2 Mr. Dhillon.

3 TERRY CIAU: Thank you. Chairman and Commissioners,  
4 I'd like to introduce Joe Dhillon as the new chief counsel  
5 for the Commission.

6 Mr. Dhillon brings extensive experience, knowledge and  
7 skills to the Commission. He completed his undergraduate  
8 degree at the US Air Force Academy and his law degree from  
9 Harvard Law School.

10 He also received an LLM in Intellectual Property law  
11 at the University of Houston Law Center.

12 During Mr. Dhillon's career in the military, he served  
13 as chief systems analyst, assistant staff judge advocate,  
14 assistant professor of law, labor council for the Central  
15 Law Labor Office, Deputy Chief of the Military Personnel  
16 Branch, Litigation Division, and Legal Advisor and Chief of  
17 Operational Law for the NORAD US Space Command.

18 Mr. Dhillon went into private practice. He completed  
19 his career reaching the ranks of lieutenant colonel. Upon  
20 his retirement from the military, Mr. Dhillon went into  
21 private practice for a period of time.

22 Mr. Dhillon served as director of academic support of  
23 lecture and law at McGeorge School of Law. And most  
24 recently was General Counsel for the California Emergency  
25 Management Agency, formerly, Homeland Security.

1 I am sure you'll all join in welcoming him to the  
2 Commission.

3 JOE DHILLON: Thank you. I'm honored to be here in  
4 the Commission.

5 CHAIRMAN SHELTON: You have no idea. Thank you.  
6 Mr. Ross?

7 RICHARD ROSS: Good morning. Richard Ross, deputy  
8 director, Compliance Division, CGCC.

9 Good morning, Mr. Chairman, Commissioners, executive  
10 director.

11 Welcome, Chief Counsel Dhillon.

12 I would refer the Commissioners to the memorandum from  
13 Executive Director Ciau dated October 5th, '09, entitled  
14 "Gaming Device License Draw Recommendations."

15 I ask it be entered into the record and request that  
16 Commissioners approve of the draw results.

17 This draw is unique as it occurs upon Court order  
18 dated August 19th, '09 in the matter of Cachil Dehe Band of  
19 Wintun Indians of the Colusa Indian Community versus State  
20 of California under conditions specified in the order and  
21 to occur within 45 days of the filing of the order, which  
22 is today.

23 It is noted that the State has appealed the order and  
24 the earlier judgment of April 21st, 2009 requesting this  
25 draw be stayed pending the appeal of the underlying

1 decision.

2 On last Thursday the stay was ruled upon by the  
3 Federal Court of Appeals. No stay was issued; therefore,  
4 the draw is going forward, although, the appeal was set for  
5 hearing in February of 2010.

6 As a result, the licensed certificates, if approved by  
7 this Commission today, will contain a caution statement  
8 related to the outcome of the February 2010 hearing.

9 The Commissioners have before you the results of the  
10 announcements of a licensed draw made on 8/27/09 to all  
11 Tribes eligible to draw licenses under the 1999 Tribal  
12 State Compact, of which there are 48.

13 Applications were due by close of business September  
14 16th. The hearing date was changed from September 28th to  
15 today, October 5th, and all Tribes were so noticed of that  
16 change on September 16th.

17 The staff assembled the applications, identified the  
18 requested number and calculated the allocation according to  
19 the Court's formula identified in its preliminary judgment  
20 dated April 21st, 2009, on Page 45.

21 The formula utilizes the number of devices in  
22 operation on 9/1/99 as found in Section -- of the 1999  
23 Compact -- 4.3.2.2.(a)(3) as the basis by which each  
24 Tribe's priority in the draw participates until the cap of  
25 the particular tier is reached.

1           This is observed in the Commissioners memorandum in  
2 Attachment A.

3           Consequently, a Tribe begins to draw only when all  
4 other Tribes starting from a lower tier receive the number  
5 they request or when their number of devices reaches the  
6 maximum allowed at the lower tier.

7           In this draw the Court declared the number of licenses  
8 available to be 10,549 in its April 21st ruling.

9           Consequently, given that fewer than that number were  
10 requested in total, there were enough licenses to meet all  
11 requests.

12           The motion before you indicates the specified number  
13 for each individual Tribe, as was requested.

14           I would observe several Tribes have indicated they may  
15 wish to address the Commission during comment period on  
16 this motion or seek amendment to the motion.

17           For point of information, the staff is not able to  
18 project the consequences of a Court decision in February on  
19 the license draw outcome or resulting revenue which is  
20 dependent on the outcome of that February hearing.

21           And should this motion be approved, Tribes that have  
22 their pre-payment fees today will be asked after this  
23 matter is acted upon to adjourn to our second floor where  
24 we can process those checks and process the certificates.

25           That is the end of my presentation. If there is any

1 questions, I'd be glad to attempt to address them.

2 CHAIRMAN SHELTON: Commissioners, with your  
3 permission, I'm going to open it up, unless you have  
4 questions --

5 COMMISSIONER VUKSICH: No.

6 CHAIRMAN SHELTON: -- or statements to make at this  
7 particular time.

8 Let's -- podium is open. Please state your name,  
9 spell your last name for the record. Thank you.

10 GEORGE FORMAN: Good morning. My name is George  
11 Forman, F-o-r-m-a-n. And I'm appearing before you today as  
12 counsel for the Cachil Dehe Band of Wintun Indians of the  
13 Colusa Indian Reservation of plaintiffs in the lawsuit --  
14 one of the two plaintiff Tribes.

15 First of all, I'd like to welcome Mr. Dhillon. I look  
16 forward to a constructive, collaborative relationship to  
17 that which I've enjoyed with your two immediate  
18 predecessors. I think all of the Tribes and Commission  
19 have benefitted from their services and I look forward to  
20 the same.

21 Today is almost five years to the date since Colusa  
22 filed its original lawsuit. And this is a bittersweet day  
23 for Colusa. It is sweet in that almost five years to the  
24 day after filing its lawsuit Colusa is finally going to get  
25 the licenses that it has been seeking, that it is entitled

1 to all along and in the proper draw priority; although,  
2 ironically, priority is not going to matter. There are  
3 more than enough licenses to go around. That is the only  
4 sweet part of it. The rest is pretty bitter.

5 First of all, it is almost five years to the day since  
6 Colusa filed its lawsuit. During this time, Colusa has  
7 been deprived of millions of dollars in governmental  
8 revenues to meet the needs of its community and the  
9 surrounding community.

10 The licenses it is going to get today it is getting at  
11 a time of economic stress. And so it was deprived of that  
12 revenue during good economic times. And for this time --  
13 for all of this time the State has forced Colusa into a  
14 position of competitive inferiority to neighboring Tribes,  
15 some of which the State has allowed to operate unlimited  
16 numbers of machines to Colusa's acute detriment.

17 It is particularly bitter because instead of  
18 litigating this case in a manner befitting one government  
19 having a legal dispute with another government, the State  
20 of California has taken a very different approach  
21 completely inconsistent with the spirit in which the  
22 Compacts were entered into of a collaborative, cooperative  
23 relationship that was supposed to be to the mutual benefit  
24 of the State and the Tribes that signed our 1999 Compacts.

25 The State's counsel, presumably with the approval of

1 their client's adopted, first, a litigation strategy of  
2 delay, delay, delay -- even to the point of extending to go  
3 to the very last day of Judge Damrell's order, the holding  
4 of the draw.

5       When that finally failed, switching to a  
6 scorched-earth-win-at-all-costs approach in which Colusa  
7 and other honorable Tribal governments were falsely  
8 portrayed as parasitic despoilers of the environment intent  
9 on overwhelming the infrastructure and services of  
10 surrounding local governments and wreaking havoc on the  
11 State's social fabric causing personal bankruptcies in all  
12 manners of horrible things. All of this was done in the  
13 Commission's name, in the governor's name in the State of  
14 California. I submit to you that that was not the  
15 appropriate way to litigate this lawsuit.

16       But there is a way that I think that some of this  
17 damage can be undone. And that is in the same spirit with  
18 which the Commission recently took action on CGCC-8, which  
19 I think was a very positive setting.

20       And perhaps it is completely naive of me to suggest  
21 this but Commissioner Shimazu, you know that naivete never  
22 stopped me from asking or proposing things in the past,  
23 that is very simple. That the CGCC dismiss the appeal;  
24 that it not continue this fight because dismissing the  
25 appeal would cost the State nothing. It would be a

1 tremendous benefit to the Tribes that need a few more  
2 licenses to satisfy their markets. Does not take any money  
3 out of the State's pocket. In fact, it puts money into the  
4 State's pocket. It puts money into the Revenue Sharing  
5 Trust Fund. It frees up dollars from the Special  
6 Distribution Fund that would otherwise have to go to  
7 backfill the Revenue Sharing Trust Fund.

8 The reason I said it saves the State money is because  
9 under the 2006 amendments that were ratified by legislature  
10 in 2007 and by the voters in 2008, every dollar that it has  
11 to go to make up shortfalls in the Revenue Sharing Trust  
12 Fund that can't be supported by the SDF has to come out of  
13 the State's General Fund.

14 So the license fees that will be paid under this  
15 judgment are going to relieve the General Fund and the SDF  
16 of a backfill obligation.

17 The State's -- the residents of surrounding  
18 communities of the Tribes that get additional licenses will  
19 benefit from increased employment opportunities. And there  
20 will be no environmental catastrophe, as the State's motion  
21 for stay predicted.

22 Colusa found that particularly offensive because of  
23 the fastidious way Colusa adhered to its obligations under  
24 Section 10.8 of the Compact introducing its environmental  
25 review process at a meeting of the board of supervisors

1 held on the reservation, presenting the final environmental  
2 document at another meeting of the board of supervisors  
3 held on the Colusa reservation, receiving no negative  
4 comments on its expansion proposal. This goes back to  
5 2004.

6 Best of all, I think, dismissing the appeal would  
7 eliminate a major and completely unnecessary source of  
8 rancor/conflict in a relationship that should be  
9 collaborative. It should be cooperative between the State  
10 and its agencies and the governments and Tribes with the  
11 '99 Compacts.

12 Throughout the term of its Compact Colusa has done its  
13 best to do the right thing in the right way. The  
14 Commission should take this opportunity to do the same.

15 Thank you.

16 CHAIRMAN SHELTON: Please come forward if you have  
17 something.

18 SCOTT CROWELL: Good morning, Scott Crowell on behalf  
19 of the Rincon Band.

20 George, thank you very much for those comments. I  
21 thought -- I don't think it could be said better. Sorry  
22 that Chairman Mazzetti from Rincon Band is not here today.

23 The only thing we would add is for Rincon it has been  
24 five years and four months to the date that we started in  
25 this litigation and we're glad to see it. We still have

1 some unfinished business that the Ninth Circuit is going to  
2 hear in November regarding machines above 2,000.

3 But I am sure that if this Commission went forward  
4 with Mr. Forman's proposed dismissal of the appeal, that we  
5 would certainly recommend and I would expect the Rincon  
6 counsel would withdraw its claim that is still pending in  
7 the Southern District regarding a number of the machines  
8 available in the pool.

9 Thank you.

10 CHAIRMAN SHELTON: Thank you. Yes, sir. Please come  
11 forward.

12 TED PATA: Morning, Mr. Chairman and Commissioners.

13 My name is Ted Pata, P-a-t-a. I'm the chairman of the  
14 Gaming Commission at Paskenta. And mine is easier this  
15 morning.

16 It -- all I'm asking for is if I could reduce our  
17 draw. We had a draw of 226, I believe, on there for  
18 Paskenta. And we would like to reduce our license draw, if  
19 possible, to 27, which is a big reduction, you know.

20 CHAIRMAN SHELTON: Absolutely. It will be considered.  
21 Anybody that -- you know, there is so many licenses now  
22 available under the Court decision. And I would hate to  
23 think a Tribe would financially put themselves in more  
24 jeopardy the way the world is operating today.

25 I can speak for this Commission, we'll certainly work

1 with you.

2 TED PATA: Thank you very much.

3 CHAIRMAN SHELTON: Yes, ma'am.

4 SHERRY RODRIGUEZ: Good morning, Commission. My name  
5 is Sherry Rodriguez, R-o-d-r-i-g-u-e-z, gaming commissioner  
6 for La Jolla Indian Reservation.

7 I would like to thank the Commission for offering us  
8 650 licenses as we requested. But at this time we are  
9 going to ask to withdraw that number, please, because we're  
10 still in the middle of our NIGC process. We want to make  
11 sure we're, you know, making sure everything is taken care  
12 of before this.

13 Could I please request -- do we have any idea when  
14 there might possibly be another draw?

15 CHAIRMAN SHELTON: The way I understand -- Mr. Ross,  
16 you can correct me -- any time a Tribe asks for a draw, we  
17 have to perform that in the next 30 days.

18 SHERRY RODRIGUEZ: Okay. Thank you very much. Thank  
19 you for your patience.

20 CHAIRMAN SHELTON: Thank you.

21 RICHARD ROSS: Mr. Chairman, Richard Ross again.  
22 Compact Section 4.3.2.2.(a)(3) sub vi contains  
23 qualifications that fundamentally it is 30 days after a  
24 draw a Tribe can request --

25 CHAIRMAN SHELTON: A new draw. Thank you. Yes, sir.

1           STEVE SOLOMON: Good morning. Steve Solomon on behalf  
2 of San Pasqual.

3           I would like to ask a procedural question. I join in  
4 the comments of the counsel for the other Tribes.

5           The Court order indicated that the draw was the last  
6 day which was the weekend, which ran over until Monday. I  
7 understand that the licenses are going to be processed  
8 today, assuming the funds are paid.

9           It is also my understanding based on the order that  
10 we're able to use these licenses today, assuming the funds  
11 are paid.

12           I see in your minutes there is something about  
13 tomorrow that you're going to have another Commission  
14 meeting and I thought --

15           CHAIRMAN SHELTON: No, I don't believe so.

16           STEVE SOLOMON: I thought it was in error.

17           CHAIRMAN SHELTON: I believe they constructed the fact  
18 they'd have the draw today and have the licenses available  
19 for you tomorrow but staff has decided they would start  
20 today; if you're not prepared for it, the licenses will  
21 still be there.

22           STEVE SOLOMON: But if we're prepared today, the  
23 license will start today?

24           CHAIRMAN SHELTON: Yes.

25           STEVE SOLOMON: Thank you very much.

1 CHAIRMAN SHELTON: Commissioners?

2 I'll make a motion to approve staff's recommendation  
3 and acknowledge the two Tribes that came forward with the  
4 reduction in their license count.

5 COMMISSIONER VUKSICH: Second it.

6 CHAIRMAN SHELTON: Call for the vote.

7 JOY CALKIN: Commissioner Shimazu?

8 COMMISSIONER SHIMAZU: Aye.

9 JOY CALKIN: Commissioner Vuksich?

10 COMMISSIONER VUKSICH: Aye.

11 JOY CALKIN: Chairman Shelton?

12 CHAIRMAN SHELTON: Aye.

13 JOY CALKIN: Motion carried.

14 CHAIRMAN SHELTON: Thank you very much. Move into  
15 another phase here for regulations.

16 Yes, sir.

17 RICHARD ROSS: In view of Mr. Solomon's comment, just  
18 for clarification, if the Tribes who have their pre-payment  
19 fee now would like to adjourn to the second floor, we will  
20 be able to process those checks, prepare the certificates;  
21 and then when they're all available, I'll come back or one  
22 of my staff will come down and ask you to sign these.

23 CHAIRMAN SHELTON: I'll take a short recess to sign  
24 them.

25 RICHARD ROSS: Thank you, Mr. Chairman.

1 (Pause in proceedings.)

2 CHAIRMAN SHELTON: I believe we're prepared to move  
3 into the next phase. Commissioners.

4 Floor is yours.

5 RICHARD MUNDY: Good morning, Mr. Chairman,  
6 Commissioners. My name is Richard Mundy, spelled  
7 M-u-n-d-y. I work in the Commission's Regulatory Actions  
8 Unit under Jim Allen.

9 Agenda Item Number 4 is before the Commission for  
10 consideration of final adoption and approval for filing  
11 with the Office of Administrative Law regulations that  
12 would propose to amend Title 4, California Code of  
13 Regulations, Section 12388, which regulates the extension  
14 of credit and check cashing at gambling establishments.

15 Section 12388 was originally adopted by the Commission  
16 on January 8, 2009. These regulations were subsequently  
17 approved by the Office of Administrative Law and filed with  
18 the Secretary of State on March 10, 2009.

19 Under normal circumstances, the regulations would have  
20 taken effect 30 days after the filing on April 8th.  
21 However, at the Commission hearing on January 8th, it was  
22 agreed that these regulations would not take effect for an  
23 additional three months making the regulations effective  
24 July 8th, 2009.

25 This delay in effective date was to allow time for the

1 gaming industry to adjust to the requirements of the  
2 regulations and for Commission staff to develop minor  
3 changes to the regulations that were requested by the  
4 gaming industry and the Bureau.

5 The regulation text before you today is intended to  
6 fulfill this commitment.

7 The proposed changes to Section 12388 were initially  
8 vetted with the industry and the Bureau during the  
9 Commission meeting on January 8th and, again, during two  
10 informal public comment periods ending on March 27th and  
11 May 20th, 2009.

12 The formal 45-day public comment period was held from  
13 June 4th to July 21st, 2009. And the Commission's formal  
14 public hearing was held -- was also held on July 21st.

15 This formal comment period and public hearing resulted  
16 in the Commission authorizing a 15-day change of the  
17 proposed regulations, which was held from July 31st through  
18 August 17th, 2009.

19 Every effort has been made by Commission and Bureau  
20 staff to accommodate industry concerns and recommendations  
21 wherever possible.

22 A summary of the comments received during the entire  
23 formal rulemaking process and the responses to those  
24 comments have been provided to the Commission and copies  
25 are available at the back table for public viewing.

1           This is an updated version of the comments and  
2 responses and is dated September 30th, 2009.

3           Based on clarifying public comments that were received  
4 last week, the responses for the first 15-day change,  
5 starting on Page 5, have been updated in this new document.

6           With Commission's indulgence, I'll summarize the two  
7 issues that arose during this last public comment period  
8 and will provide staff's recommendations and responses.

9           I will be referencing the Final Text of Proposed  
10 Regulations that was provided to the Commission and to the  
11 public on September 16th, 2009. Copies of which are also  
12 available at the back table.

13           So starting on Page 5 of those comments and responses,  
14 we have just two issues remaining. The first of which is  
15 on Page 1, line 23. This Section 12388(a) prohibits a  
16 cardroom from extending credit to an employee to act as a  
17 "house prop player" or "public relations player" in any  
18 controlled game.

19           Mr. David Fried from the California Gaming Association  
20 responds or comments that the Bureau's arguments about game  
21 strategy and play are misplaced. There is no legal reason  
22 why a cardroom cannot extend credit to a house prop player  
23 for use in poker game. House prop players are there to  
24 keep a game going that may otherwise end because of too few  
25 players. Once a game is active, the house prop player will

1 withdraw from a game. Contrary to the Bureau's notions,  
2 house prop players do not have unlimited funds available to  
3 them from the cage. House prop players usually play in  
4 poker games that have a wager limit so chip counts are not  
5 as decisive as may be the case in other games. Further,  
6 playing recklessly with large sums of money would only  
7 serve to excite other players and not intimidate them.

8 Staff recommends that this comment be rejected.  
9 Whether in a poker game or in a game with a player-dealer  
10 position, it is important that patrons do not have the  
11 perception the house is participating in the game.

12 Business & Professions Code 19984(a) prohibits the  
13 house from banking games through a licensed third-party  
14 provider of proposition player services by stating in part:  
15 In no event shall a gambling establishment or the house  
16 have any interest, whether direct or indirect, in funds  
17 wagered, lost or won.

18 To help reinforce the provision in accordance with  
19 Business & Professions Code, Section 19984(c), the  
20 Commission has established California regulations, Section  
21 12200.7(e) which states in part: That a proposition player  
22 contract shall be consistent with provisions of the  
23 Business & Professions Code 19984, prohibiting a gambling  
24 establishment or the house from having any interest,  
25 whether direct or indirect, in funds wagered, lost or won;

1 and no proposition player contract shall be approved that  
2 would permit the house to bank a game in gambling  
3 establishments.

4       These laws and regulations do not specify what type of  
5 games being played, whether it is poker or a game with a  
6 rotating player-dealer position. In fact, Section  
7 12200.7(e) prohibits the house from banking any games being  
8 played in the cardroom.

9       Although the statutes and regulations noted above  
10 apply only to licensed third-party providers of proposition  
11 player services, they are clear attempts to avoid any  
12 inference to the public that the house may be banking games  
13 through other players, which is prohibited by Penal Code  
14 Section 330 and B&P Code, Section 19806.

15       These third-party laws and regulations provide the  
16 Commission with the necessary guidance to establish  
17 additional regulations which would ensure that cardrooms  
18 are not banking games through their own employees.

19       If the legislature was clearer in their intention to  
20 not allow cardrooms to bank games through a third-party,  
21 then surely they would object to cardrooms banking games  
22 through their own employees, that is, house prop players.

23       Section 12388 was originally established and is now  
24 being amended under the broad authority provided by B&P,  
25 Section 19840 and 19841(g).

1           The guidance provided by the third-party laws and  
2 regulations noted above prohibit even an indirect interest  
3 in the funds wagered at the gambling table.

4           There may be a myriad of ways the cardroom could  
5 provide or loan money to a house prop player in an effort  
6 to disguise the house's financial interest in a game.

7           As a result, these amendments to Section 12388  
8 prohibit credit to employees to act as a house prop player  
9 in any controlled game.

10           CHAIRMAN SHELTON: Commissioners?

11           COMMISSIONER SHIMAZU: No questions.

12           COMMISSIONER VUKSICH: None.

13           CHAIRMAN SHELTON: Anybody want to address that?

14           JAMES BUTLER: Good morning. Reverend Jim Butler,  
15 B-u-t-l-e-r, from the California Coalition Against Gambling  
16 Expansion.

17           Mr. Chairman, first may I ask to have one point  
18 clarified for me --

19           CHAIRMAN SHELTON: If I can.

20           JAMES BUTLER: -- you or the staff, I'm sure. It is  
21 on Page 3, line 17. It's going to be 4(c).

22           It says: If payment upon extension of the credit is  
23 delinquent for more than ninety days.

24           My question is this: Does this imply that if someone  
25 is delinquent sixty days, credit could still be extended to

1 them?

2 CHAIRMAN SHELTON: Staff?

3 RICHARD MUNDY: The way the section reads, he is  
4 correct. It wouldn't apply for anything that is delinquent  
5 for less than ninety days.

6 JAMES BUTLER: Right. Thank you. First of all, I'd  
7 like to say we think that cashing checks is bad idea at a  
8 gambling establishment. Extending credit, we think, is  
9 worse. And providing an extension of credit when someone  
10 is already behind in paying off the debt, we think, might  
11 be truly a terrible idea.

12 We hope the Commission might at least review this one  
13 specific point. If someone is behind in repaying their  
14 obligation to the gambling operation that more credit would  
15 not be extended.

16 I'm sure you're all familiar with some of the material  
17 that comes -- that is made available to people with problem  
18 gambling since I'm certain some of it comes from your own  
19 organization. It is distributed through the Department of  
20 Alcohol problems and it comes from the problem gambling  
21 office or California Office of Problem Gambling.

22 One of the things I want to draw to your attention as  
23 this is considered is the guidelines to responsible  
24 gambling. I brought extra copies, if anybody would like  
25 those. Perhaps I can hand it to staff and you can

1 distribute it as you determine.

2 Responsible gambling guidelines. I'm not going to  
3 read them all. It says: Set a dollar limit and stick to  
4 it. Makes sense.

5 And yet if we allow these check cashing and credit  
6 extensions, we certainly offer the opportunity for someone  
7 who is set at a limit, walked in with a certain amount of  
8 money available, to extend that situation.

9 But the other one on here I think is even more on  
10 point is: Don't borrow money to gamble.

11 Finally, don't chase losses. Chances are, you'll end  
12 up you'll lose even more.

13 These seem so clear and obvious that one would wonder  
14 why would we, for the convenience of the gambling cardroom  
15 or any gambling operation, for their convenience put the  
16 patrons in perhaps a financially dangerous situation?

17 People obviously who are winning are not going to need  
18 extension of credit. So they will not be the ones who are  
19 chasing their losses. But the ones who have lost money and  
20 think all I need is a little more to win this back before I  
21 go home are exactly the ones who are being encouraged to  
22 follow the responsible gambling guidelines.

23 So like I say, we have this material if you want to  
24 glance at it. It is -- some with which I'm sure you are  
25 familiar. One is on retirement. One is on -- it is

1 written in English and Spanish that covers the same issues.  
2 The responsible guidelines address that.

3 I would hope that we might even say is there a way we  
4 can remove from the regulations the opportunity to extend  
5 any credit at all from the gambling operation? Cashing the  
6 checks is bad enough.

7 Extending the credit almost seems to be designed for  
8 people who are finding themselves in a situation where they  
9 might be chasing their losses. And I'm not certain that is  
10 the best route to take.

11 And extending the opportunity ninety days for them to  
12 fall behind in one debt and continue to borrow money which  
13 only increases the debt, I think, is a very unwise and  
14 unsafe decision.

15 So thank you for your time.

16 CHAIRMAN SHELTON: Thank you. Move on.

17 RICHARD MUNDY: Okay. Mr. Chairman, Commissioners,  
18 the second issue remaining in the 15-day comment period  
19 relates to Section 12388(f) which is on Page 3, line 28,  
20 which prohibits the cardroom from allowing a patron to  
21 redeem, reclaim or repurchase a personal check with another  
22 personal check, unless the patron is approved for credit  
23 and the amount of the check to be replaced is within the  
24 patron's approved credit limit.

25 This restriction does not apply to personal checks

1 that have not been deposited within three banking days of  
2 receipt or dishonored checks.

3 Finally, a subsequent personal check used by patrons  
4 to replace a previous personal check may not be replaced  
5 with another personal check at any time after receipt by  
6 the licensee.

7 Mr. Charles Bates from Bay 101 comments at the end of  
8 the play a patron should be allowed to redeem a personal  
9 check written earlier with a combination of their winnings,  
10 chips and a smaller check for the balance. This is a sound  
11 business practice since it reduces the chances of a bounced  
12 check. It also represents sound money management on the  
13 part of the patron. The redemption of a personal check  
14 with another personal check should be allowed if it reduces  
15 the cardroom's outstanding liability.

16 Mr. David Fried from the CGA responds that there is no  
17 authority for the Commission to restrict legal efforts by  
18 cardrooms to collect on dishonored checks. Cardrooms  
19 should be able to accept a personal check meant to clear a  
20 bad check. Further, cardrooms should be allowed to enter  
21 into an installment payment agreement with a patron that is  
22 short of funds. In this case the patron would pay down the  
23 debt by writing monthly payment checks to replace the  
24 bounced check.

25 Staff recommends that these comments be rejected. In

1 response to the first issue, Section 12388(f) already  
2 allows patrons to replace a personal check that was written  
3 to the cardroom at the beginning of play with another  
4 personal check as long as the original check has not yet  
5 been deposited by the cardroom and three banking days have  
6 not elapsed.

7 In response to the second issue, this section does not  
8 prohibit a cardroom from allowing patrons to replace a  
9 dishonored check with another personal check or multiple  
10 personal checks.

11 The only condition to either of these scenarios is  
12 that a replacement check or checks cannot again be replaced  
13 later with another personal check. This condition was  
14 introduced during the first 15-day change so that a  
15 cardroom cannot allow a patron to replace one check with  
16 another over and over again in an effort to avoid having  
17 the overall transaction considered an extension of credit.  
18 Some local jurisdictions do not allow cardrooms to extend  
19 credit.

20 CHAIRMAN SHELTON: Why don't you -- being as it's only  
21 one more comment, just move into it.

22 RICHARD MUNDY: These ones I don't know if you want me  
23 to go through them but these were actually received outside  
24 of the official 15-day comment period. And they relate  
25 specifically to the comments that have already been made

1 and are responses that --

2 CHAIRMAN SHELTON: Okay.

3 RICHARD MUNDY: -- that have been provided.

4 CHAIRMAN SHELTON: The podium is open for comment.

5 DAVID FRIED: Good morning, Commissioners. David  
6 Fried, F-r-i-e-d, appearing on behalf the regulations  
7 committee of the Golden State Gaming Association.

8 Welcome, Mr. Dhillon, pleased to have you on board.

9 I'm going to keep my comments concise and I'm not  
10 going to repeat what is in the written comments. Only two  
11 points I wanted to make today is when we went back after  
12 the last meeting and talked to the representatives on the  
13 regulations committee, they pointed out I'd say a number of  
14 fact variations on what to do with dishonored and  
15 replacement checks.

16 The only issue I'm rising to address is where the  
17 cardroom enters into an installment payment agreement with  
18 someone who has bounced a check. They successfully get  
19 some of the installment payments. That clearly shows an  
20 effort is being made to resolve the situation. No one is  
21 trying to evade the restrictions on credit by rolling over  
22 checks but one of the installment checks bounces.

23 Without need for changing what is written in the  
24 regulation you have in front of you, we simply wanted to  
25 clarify in that case that if they took a replacement check

1 for the installment payment or they took further  
2 installment payments, they would be allowed to do so.

3 The second issue concerns extension of credit to house  
4 proposition players in poker games. Without repeating the  
5 contents of the letter, I want to make it very clear we  
6 disagree with the notion that poker in any way, shape or  
7 form is a banking game. I think it is legally incorrect.

8 There may be a way for Commission or staff to explain  
9 its restriction in other ways. We do -- that gives us  
10 pause because it -- all of the cases that have decided  
11 poker games have said it is not a banking game. It's a  
12 round game. It's simply an error. And we don't want that  
13 error to get written into the literature or persist.

14 If you have any questions, I'm happy to answer  
15 them.

16 CHAIRMAN SHELTON: Not laughing at you. People get  
17 the wrong doors and walk in the closet.

18 I wanted to clarify it. I'm not being rude.

19 Commissioners?

20 COMMISSIONER SHIMAZU: I just -- maybe a question to  
21 staff on Mr. Fried's first question about the installment  
22 payment if there is a dishonored check or bad check. You  
23 kind of lost me there a little bit. I'm trying to picture  
24 the scenario.

25 DAVID FRIED: Someone bounces a check for \$400. The

1 cardroom talks to them. They agree to make four payments  
2 of a hundred dollars a month. They make the first two  
3 payments by check. The third check bounces.

4 Does that mean the cardroom can't take any more checks  
5 or can't they take at least a replacement check for the  
6 check that bounces? They're clearly not using the check  
7 system to try and evade the credit restrictions. They're  
8 trying to pay down the debt. There is an installment  
9 payment plan.

10 COMMISSIONER VUKSICH: At that point why would the  
11 establishment not require that the patron either repay in  
12 cash or cashier's check?

13 DAVID FRIED: The answer is because if the fellow  
14 walks in and says: Look, I'm sorry, I made two good  
15 payments. I bounced ~~ed~~ the third. Here is the check for the  
16 third; the business owner would want to take the check that  
17 is in front of them and send it to the bank instead of  
18 saying to the customer: I'm sorry, please go away. Come  
19 back with cash or cashier's check.

20 It is just a case of: I don't know if that guy is  
21 going to walk out and not come back for a month. He is  
22 here with a check. He has made two checks good. I'd like  
23 to take this check and send it in.

24 I don't think we need to change the language of the  
25 regulation. It lends itself to either interpretation.

1 Because you can view the installment payment check as a  
2 separate check and this is one replacement of it.

3 I just wanted to clarify if someone is in an  
4 installment payment plan and they're successfully making  
5 payments but they bounce one of the installment checks, you  
6 get one chance to replace that installment check.

7 CHAIRMAN SHELTON: I don't like that pyramid, not at  
8 all.

9 COMMISSIONER VUKSICH: At that point number one,  
10 you're extending credit. It is no longer replacing a  
11 bounced check. If I bounced a check at any other  
12 establishment out there, I am under an obligation to  
13 replace the amount of the check I wrote. Normally, there  
14 is a fee that is involved with the bounced check and I have  
15 "x" number of days to get it in completely paid, one time  
16 only, one shot, usually a cashier's check that has to come  
17 after that because you've already proven you can't make  
18 good on your check.

19 The entire -- I guess the e-thoughts involved in  
20 taking the -- it is -- sort of defies business practice.

21 DAVID FRIED: No, I understand. But I counsel  
22 non-gaming businesses as well. And I don't know -- I'm not  
23 aware of any legal restriction on those businesses that  
24 says if someone bounces a check you can't take another  
25 personal check to try to make it good.

1 CHAIRMAN SHELTON: This is apples and oranges. We're  
2 talking about gambling.

3 COMMISSIONER VUKSICH: This is a very different  
4 business.

5 CHAIRMAN SHELTON: If they're making installments  
6 where checks are still bouncing, you have a problem  
7 gambler. They shouldn't be gambling in the first place.  
8 If they have to get installments back but now they don't  
9 have any money in there.

10 DAVID FRIED: I don't know if they're still gambling  
11 or not gambling.

12 This is your choice. It is unclear how it applies to  
13 installment payments. If it is your preference to say it  
14 applies with equal force then --

15 CHAIRMAN SHELTON: I think it should. I'd like to  
16 hear from the Bureau. They're the ones in the streets  
17 enforcing it.

18 COMMISSIONER VUKSICH: I think, as written, these are  
19 pretty generous and pretty loose right now.

20 And the other hurdle I have a problem getting  
21 over -- and believe me, I've bounced a check or two in my  
22 lifetime. This is -- none of us -- I know it comes as a  
23 shock but it was youth and stupidity. But if you knowingly  
24 write a check for which there are no funds to cover it, I  
25 think that is not legal.

1 CHAIRMAN SHELTON: I've heard that.

2 COMMISSIONER VUKSICH: I've heard a rumor that that is  
3 not legal. If you do it continually, that is just --

4 DAVID FRIED: Briefly -- I agree -- but it is not  
5 always knowingly. This is why my wife and I don't have  
6 joint checking accounts. She only balances once a month  
7 and I balance every check.

8 There are some people in the world who are good people  
9 who bounce checks and it is not out of nefarious behavior.

10 COMMISSIONER VUKSICH: You've got very good banks you  
11 use.

12 COMMISSIONER SHIMAZU: I think the language right now  
13 would cover the situation. If you replace the check with  
14 the installment check and you can't replace it again if you  
15 have another subsequent dishonored check, I don't think  
16 it -- as written, I don't think it covers that situation.

17 RICHARD MUNDY: Rich Mundy. The way staff interprets  
18 the way section -- the section -- subsection (f) as written  
19 now starting on line 28, Page 3 but extending over into  
20 subsection (2) that would cover any check that is meant to  
21 replace a check that already replaced a check would not be  
22 permitted.

23 CHAIRMAN SHELTON: Did the Bureau have comments on any  
24 of this?

25 MARTY HORAN: Marty Horan, H-o-r-a-n, with the Bureau

1 of Gambling Control.

2 The Bureau agrees with Commission staff on these  
3 comments.

4 CHAIRMAN SHELTON: Commissioners, anything further?

5 COMMISSIONER SHIMAZU: No.

6 CHAIRMAN SHELTON: Motion?

7 COMMISSIONER SHIMAZU: Move to approve staff's  
8 recommendation.

9 COMMISSIONER VUKSICH: Second.

10 CHAIRMAN SHELTON: Call for the vote.

11 JOY CALKIN: Commissioner Shimazu?

12 COMMISSIONER SHIMAZU: Aye.

13 JOY CALKIN: Commission Vuksich?

14 COMMISSIONER VUKSICH: Aye.

15 JOY CALKIN: Chairman Shelton?

16 CHAIRMAN SHELTON: Aye.

17 JOY CALKIN: Motion carried.

18 CHAIRMAN SHELTON: I think that takes care of your  
19 agenda.

20 RICHARD MUNDY: Correct. Provided, Mr. Chairman, that  
21 that was officially considered an adoption of the  
22 regulations so we can file them with OAL.

23 CHAIRMAN SHELTON: That's correct. Move into public  
24 comment period.

25 Hearing none, motion to adjourn.

1 COMMISSIONER SHIMAZU: Move to adjourn.  
2 COMMISSIONER VUKSICH: Second.  
3 CHAIRMAN SHELTON: Call for the vote.  
4 JOY CALKIN: Commissioner Shimazu?  
5 COMMISSIONER SHIMAZU: Aye.  
6 JOY CALKIN: Commissioner Vuksich?  
7 COMMISSIONER VUKSICH: Aye.  
8 JOY CALKIN: Chairman Shelton?  
9 CHAIRMAN SHELTON: Aye.  
10 JOY CALKIN: Motion carried.  
11 CHAIRMAN SHELTON: Thank you everybody for attending.  
12 Appreciate it.

(End of proceedings.)

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CERTIFICATE

OF

CERTIFIED SHORTHAND REPORTER

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

That the foregoing deposition was taken before me at the time and place therein set forth, at which time the witness was duly sworn by me;

That the testimony of the witness and all objections made at the time of the deposition 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 October 21, 2009.

*Debra C. Ly*

Certificate Number 12414