

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

**CERTIFIED
COPY**

COMMISSION MEETING

California Gambling Control Commission
2399 Gateway Oaks Drive
Suite 100
Sacramento, California 95833
JULY 21, 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 CIAU
Executive Director

EVELYN MATTEUCCI
Chief Counsel, Legal Division

Public Speakers:

James Allen
Aaron Wong
David Fried
Kelly Schmidt
Robert Burge

1 BE IT REMEMBERED, that on JULY 21, 2009, commencing at
2 the hour of 10:00 A.M., at the California Gambling Control
3 Commission, 2399 Gateway Oaks Drive, Suite 100, Sacramento,
4 California, before me, DESIREE C. TAWNEY, Certified
5 Shorthand Reporter in and for the county of Placer, state
6 of California, the following proceedings took place:

7
8 (The following proceedings were held on the record.)
9

10 CHAIRMAN SHELTON: Call the meeting to order. Ask you
11 to please stand for the pledge.

12 (Pledge of Allegiance.)

13 CHAIRMAN SHELTON: Roll call, please.

14 JOY CALKIN: Chairman Shelton?

15 CHAIRMAN SHELTON: Here.

16 JOY CALKIN: Commissioner Shimazu?

17 COMMISSIONER SHIMAZU: Here.

18 JOY CALKIN: Commissioner Vuksich?

19 COMMISSIONER VUKSICH: Here.

20 CHAIRMAN SHELTON: Mr. Allen?

21 JAMES ALLEN: Good morning, Mr. Chairman,
22 Commissioners.

23 For the record, my name is James Allen, A-l-l-e-n, and
24 I'm the manager of the Commission's Regulatory Actions
25 Unit.

1 This is Agenda Item 3. We're here to conduct a public
2 hearing regarding the proposed adoption of regulations in
3 Title 4, Division 18, of the California Code of Regulations
4 as described in the Notice of Proposed Action duly
5 published in the California Regulatory Notice Register June
6 5, 2009, and mailed to those on the Commission's
7 regulations mailing list.

8 Specifically, the Commission is proposing to amend
9 Section 12388 concerning extensions of credit and check
10 cashing by licensees.

11 Before we begin taking public comment, I have a few
12 things I need to go over regarding the procedures for this
13 hearing.

14 First of all, if you have not already done so, I would
15 ask that all persons attending this hearing, even if you do
16 not wish to testify, please sign the register. This is
17 purely voluntary but we would appreciate having a complete
18 record of having all those in attendance.

19 Under the rulemaking provision of the Administrative
20 Procedures Act, this is the time and place set for the
21 presentation of statements, arguments and recommendations
22 orally or in writing for or against the proposed
23 regulations.

24 This is a quasi-legislative proceeding in which the
25 Commission carries out a rulemaking function delegated to

1 it by the legislature.

2 If anyone has written comments they wish to present
3 today, you may hand them to me now or at any time before
4 the close of this hearing.

5 In addition, written comments will be accepted until
6 the close of the public comment period today; that is, July
7 21st, 2009, at 5:00 p.m.

8 And I'll note for the record that as of Monday, July
9 20th, the Commission has received two letters with written
10 comments. Both letters were provided to the Commissioners
11 this morning and are included in the rulemaking file.

12 This entire proceeding is being recorded. The record
13 of this hearing, as well as all written comments received
14 by the end of the public comment period, will become a part
15 of the rulemaking file.

16 Persons presenting objections and recommendations will
17 not be sworn in, nor will we engage in cross-examination of
18 witnesses.

19 Persons who wish to present comments, objections or
20 recommendations are asked to come to the podium and use the
21 microphone to ensure all testimony is recorded and entered
22 into the record correctly.

23 Before you begin your comments, please identify
24 yourself by name and spell your last name for the record.

25 Commission may respond to and discuss any questions,

1 comments, objections or recommendations received today.

2 All comments, objections and recommendations will be
3 considered. And the Commission's formal responses will be
4 included in the final Statement of Reasons that will be
5 prepared after the close of the public comment period.

6 The Commission will not formally respond directly to
7 individuals.

8 The Commission has maintained a rulemaking file for
9 the proposed regulatory action. A copy of the current file
10 is contained in a binder at the back table and is available
11 for public inspection here today and following this
12 hearing at the Commission's Sacramento office. That
13 rulemaking file contains the written comments received as
14 of yesterday.

15 Before we begin taking oral comments, are there any
16 questions concerning the nature of the proceeding or
17 procedures to be followed?

18 Okay. Hearing none, we'll proceed. Who would like to
19 begin?

20 CHAIRMAN SHELTON: Makes my job very easy. Any public
21 comment for the record, please?

22 DAVID FRIED: Good morning, Commissioners. David
23 Fried, F-r-i-e-d, speaking for the California Gaming
24 Association Regulation Subcommittee.

25 This morning we just wanted to express to you and your

1 staff and the Bureau our appreciation for your
2 consideration of these amendments.

3 When we were here in January there was some discussion
4 about clean-up changes to the regulations. There has been
5 a very cooperative effort to make the changes, to clarify
6 them and to deal with discreet issues like dishonored
7 checks and check cashing procedures.

8 We support the adoption of these regulations. My
9 clubs, the Oaks and Grand, that I individually represent
10 already established policies and procedures to comply with
11 the original regulations and they would be pleased to have
12 the regulations amended and put into final form as soon as
13 possible so they can train their employees and set up their
14 internal procedures for what will be the final version of
15 these regulations.

16 I'm aware yesterday afternoon you received other
17 comments about the regulations. I looked at those
18 comments. Those comments were all made previously at other
19 workshops and hearings. The Commission addressed them. If
20 there are any individual issues raised in the other
21 comments you've received you would like me to address, I'm
22 happy to do so. If not, again, thank you for your efforts
23 and your help.

24 CHAIRMAN SHELTON: Thank you. Bureau? Bureau, you
25 can sit at the table.

1 AARON WONG: It's all right.

2 CHAIRMAN SHELTON: You comfortable?

3 AARON WONG: Makes me look taller.

4 CHAIRMAN SHELTON: Doesn't work.

5 (Laughter.)

6 AARON WONG: Aaron Wong, W-o-n-g, from Bureau of
7 Gambling Control.

8 I'm here basically standing in for Marty. He is in
9 San Diego.

10 The Bureau continues to oppose to the language in
11 12388, subsection (a), line 28 -- 28 and 29.

12 Basically, the Bureau feels that the sentence should
13 just end right there after: "Public relation player in a
14 game," rather than the following phrase that specifies what
15 type of game.

16 Main reason is we feel strongly that the poker games
17 should also be excluded from being allowed to extend credit
18 to the players or to the house players or house employees
19 because of the recent investigation we just concluded that
20 was conducted at the request of the Commission to look into
21 a possible house banking issue dealing with a key employee
22 at the time -- he is now an owner of the club -- being
23 allowed to extend credit or being allowed to use house
24 money to play in a poker game for possible house banking
25 violation.

1 And as a result of that investigation, we found that
2 that key employee at the time -- he is now owner --
3 actually had taken out the money as a loan from the club to
4 be -- to allow him to play in the poker game. And as a
5 result, is still in play whether he fully repaid the loan
6 or not.

7 So in essence, we see that as a potential problem for
8 clubs that may or may not, you know, be allowed to extend
9 credit to begin with but yet allow the house players to use
10 house money to play.

11 CHAIRMAN SHELTON: Help me along here. I know some
12 owners play at the tables.

13 And how do they differentiate the money they play with
14 when they play?

15 AARON WONG: From what I understand over the number of
16 years I been with the Bureau now, the house -- the owners
17 that play in the poker game uses their personal funds to
18 gamble. It is kind of silly because if you can just
19 picture this, if your personal fund is in your left pocket
20 and your house profit is in the right pocket, at what point
21 do you comingle those funds? You know, and then that
22 becomes your personal funds.

23 We always question the ability of owners even being
24 able to play in their own poker games for that same reason.

25 CHAIRMAN SHELTON: It seems to be a long practice

1 talking to the owners out there that do this. It seems to
2 be customer --

3 AARON WONG: Relation.

4 CHAIRMAN SHELTON: -- relations. They like to see the
5 owner sit at the table playing. When I asked why, they say
6 they feel the game is a fair game when you're there playing
7 with your own money.

8 I am like you. I have mixed emotions about it. I do
9 agree that I don't like the idea that we use their funds to
10 get the -- kind of leans to house banking a little bit. I
11 don't know. I'm confused on that one.

12 AARON WONG: I think as long as you have house funds
13 being involved in the game, that leads to other problems
14 with their pairing of house banking issues, the pairing of
15 collusion, maybe the game is fixed.

16 I don't know how many complaints we've got over the
17 years of people calling: So-and-so is sitting down playing
18 in the game and he is wearing a badge. You know, I think
19 I'm being cheated. You know, I never win.

20 How do you, you know, disprove those allegations? You
21 know, if you completely take the house funds out of the
22 game, then at least you have that -- you don't have the
23 opportunity for -- or less of an opportunity for collusion
24 or having an interest in the outcome of the game.

25 CHAIRMAN SHELTON: Thank you. Commissioners?

1 COMMISSIONER VUKSICH: I actually do have a different
2 issue. And that is with the Section F.

3 CHAIRMAN SHELTON: Did you have any more?

4 AARON WONG: No.

5 COMMISSIONER VUKSICH: Section F has to do with
6 personal checks and the bounced check issue. And I -- I am
7 having a level of discomfort with the way this is written
8 and I am still not quite sure of why this particular
9 industry should be treated differently than others.

10 Bounced checks cause a lot of pain in business. I
11 used to work for a chain of grocery stores and I used to
12 process the bad checks. So this is an issue that is
13 particularly sensitive to me.

14 Why should a patron be allowed to replace a bounced
15 check and there is no mention anywhere here of paying costs
16 incurred by the business?

17 When a check bounces, both sides of that transaction
18 get a bank fee. There is nothing in here that mentioned
19 that fees will be recovered.

20 What I don't want to encourage in this very, very bad
21 economic time or any economic time is people using the cage
22 at their local card club as their bank. And you can -- if
23 I am reading this correctly, I can very happily go to the
24 Oaks Card Club, open up a little credit account, play every
25 once in a while and use the place as my bank and float

1 checks for a couple days.

2 And tell me if that is incorrect. That is kind of the
3 way I'm reading this. I know you do things as courtesies
4 to your clients but --

5 CHAIRMAN SHELTON: I've got the same notes written
6 down.

7 COMMISSIONER VUKSICH: You do?

8 CHAIRMAN SHELTON: I do.

9 COMMISSIONER VUKSICH: Plus, as the problem gambling,
10 all of it combined, there is something here that is not --
11 it is not a standard business practice in other retail or
12 entertainment venues.

13 Mr. Fried, take it away.

14 DAVID FRIED: I think the issue you raise is a good
15 one. It would be addressed in the internal house policies.

16 The internal house policy may say: As a condition of
17 being approved for check cashing, if a check is dishonored,
18 we'll give you the opportunity to replace it but you'll
19 have to pay our fee from the bank.

20 COMMISSIONER VUKSICH: How many of those do you do
21 before you say: "You're not allowed credit anymore"?

22 DAVID FRIED: That is up to the owner. The owner is
23 taking a credit risk. The owners -- we did a survey back
24 in 2007 at the request of the Commission. Chuck Helman
25 sent out an e-mail survey to the members of the

1 association. Let me see if I have it with me. If not,
2 it's in my folder.

3 Here it is. Of the 18 clubs that responded, two were
4 Tier 5, two were Tier 4 and 14 were Tier 1 through 3.
5 Seven do neither check cashing or credit. Six do check
6 cashing only and five had check cashing and had credit
7 procedures.

8 All of these owners operate in different
9 circumstances. There are a couple clubs within ten miles
10 of the tribal casino where the restrictions might be
11 different. There are some clubs that compete against bus
12 trips to Reno or Las Vegas or someplace else.

13 The owners are taking a general credit risk even when
14 they're issuing credit. It's not like a house bank game.
15 It is not like a house bank game where in Vegas, if
16 Harrah's gives somebody \$500 of credit to play blackjack
17 and they lose the \$500, Harrah's actually has the money.
18 They're now trying to collect \$500 they loaned out.

19 Here, the owners are not banking the game. They're
20 taking a genuine credit risk. In their internal policies,
21 they address a number of issues that go beyond a minimum
22 standard you're being asked to consider.

23 The reason I think this language is in the regulation
24 is unlike any other business, there would be no regulation.
25 Furniture stores, appliance stores can take a check to

1 replace a dishonored check at any time. But since the
2 Commission has specified in the regulations that three days
3 after a check is issued it can't be replaced, we had to
4 write in this exception for dishonored checks and then the
5 rest of that process is up to the internal procedures that
6 the cardroom is establishing that goes beyond the minimum
7 standards.

8 The card room says: Here is our procedure for check
9 cashing. Our procedure is if you dishonor a check, you
10 have to pay our \$25 fee from the bank as well or something
11 else. If you do it four times, we'll take you off the
12 check cashing list or something like that. That is all
13 part of the internal procedures that goes beyond the
14 minimum standard you're looking at.

15 COMMISSIONER VUKSICH: I think maybe my discomfort
16 would be mitigated a bit if I saw some sort of language in
17 here just covering that possibility that establishments
18 have a policy in place without saying exactly what it is
19 because right now it is silent on it and it looks like
20 we've ignored it.

21 DAVID FRIED: Again, I'm of two minds. The regulation
22 says this is a minimum standard and you need to adopt an
23 internal standard that addresses among other things
24 repayment terms, extension of credit and changes in credit
25 and how you handle check cashing.

1 So I understand saying that the customer should pay
2 the bounced check fee. After all, they have a different
3 incentive. They're paying their side of the fee anyway to
4 the bank.

5 I think it is something that could be covered in the
6 internal procedures of the club rather than amending the
7 regulations to say you can only take the dishonored check
8 if you also collect the fee at the same time.

9 Let's say the fee is \$25 and the bounced amount is
10 \$500. It seems to me a reasonable business owner wouldn't
11 refuse the \$500 check because the \$25 fee is missing. They
12 would say: Give me the \$500 check and you owe us the \$25
13 on the bounced fee. Or if you do it again, the second time
14 you do it, I'll charge you that additional \$25 fee.

15 Seems to me to be something that would be up to the
16 business owner.

17 CHAIRMAN SHELTON: See, my concern is not that. My
18 concern is I give you a bad check. Give you another check
19 in two days. That is a bad check. Two days later, give
20 you another bad check.

21 COMMISSIONER VUKSICH: That is part of the concern.

22 CHAIRMAN SHELTON: There is no limitation in how many
23 checks we can go through.

24 DAVID FRIED: We --

25 COMMISSIONER VUKSICH: Check marker.

1 DAVID FRIED: We had written a letter suggesting at
2 some point months ago that you should be able to replace a
3 check once.

4 CHAIRMAN SHELTON: That does it for me, if we do that.

5 DAVID FRIED: As I read it, "dishonored," you know
6 again, I have some confidence business owners who are
7 taking the credit risks are not going to act foolishly.

8 Why would you take from somebody else the same check
9 over and over again if they keep bouncing it? What
10 interest do you have in doing that?

11 Same thing in terms of setting a responsible credit
12 limit. Nobody would approve somebody for an unlimited
13 amount of credit, go home and go to bed and let someone in
14 the cage hand out as many chips as they want.

15 COMMISSIONER VUKSICH: I think the real estate
16 industry did that very well. People do go home and sleep
17 on that.

18 DAVID FRIED: But they have a separation of duties.
19 The guys writing the appraisals and initiating the loans
20 weren't keeping them. Here the owners are --

21 COMMISSIONER VUKSICH: We can argue this for quite a
22 long time but yes.

23 DAVID FRIED: I think as a minimum standard this
24 suffices. If you did not have Section F at all, which is
25 the ordinary case for other business owners, it would be

1 left to business judgment. You have gone beyond that for
2 the cardrooms. You've said: You cannot take another check
3 unless the first one was dishonored.

4 COMMISSIONER VUKSICH: I just see a loophole here for
5 somebody who is -- who -- there are people, we had one last
6 meeting, who continued to write bad checks. Some of them
7 are third-party player problem folks. And I can just see
8 this going on and on and it being okay with the cage as
9 long as at some point they get the money back; but again,
10 you're floating. It is a marker. The IRS has decided
11 those are securities. You're moving from credit into
12 securities. And there has got to be some sort of language
13 here that just indicates, as a minimum, you need to be --
14 you need to have some sort of an internal business practice
15 or policy that addresses those issues.

16 DAVID FRIED: I -- again, I -- conceptually, I don't
17 have a problem. We did make the suggestion you could
18 replace a check once. But we've gone through a seven-month
19 process now since January of waiting for amendments. And
20 the countervailing interest is there is other things in
21 here we would like to see adopted.

22 We would like to get to the point of having these
23 regulations in final form because when we sat down in June
24 to write the procedures, we had to write a procedure memo
25 that says: As of July 8 you can do this but once the regs

1 are amended you can do this.

2 It is hard to train employees that way. It is much
3 better to train the employee and say: This is the
4 procedure you need to follow.

5 I don't have a conceptual problem with what you're
6 suggesting but I think either solution would be adequate.
7 Either say you can replace a check once or to say that at
8 least that issue is going to be left to the internal
9 policies of the club.

10 EVELYN MATTEUCCI: Commissioners, good morning.
11 Evelyn Matteucci.

12 Perhaps Mr. Allen can provide a little more
13 information on this. It looks to me like under (g) I think
14 it is (4) and (5) there is some indication there about what
15 to do with dishonored checks.

16 JAMES ALLEN: Right.

17 EVELYN MATTEUCCI: Go ahead.

18 JAMES ALLEN: Page 4 of the text beginning line 17,
19 there are provisions there that deal with dishonored checks
20 and persons who write bad checks and requires that they be
21 prohibited from cashing additional checks until the amount
22 owed is paid in full. But it allows them to replace
23 dishonored checks in accordance with the policies of the
24 licensed gambling establishment.

25 CHAIRMAN SHELTON: Mr. Allen, we've read that before.

1 COMMISSIONER VUKSICH: Still open-ended.

2 CHAIRMAN SHELTON: Would it be kind enough to insert
3 the words "only once"?

4 JAMES ALLEN: Pardon?

5 CHAIRMAN SHELTON: The words "only once." You can
6 retrieve the bounced check only one time so it can't
7 continue on. Let's see. I think I hear Mr. Fried agreeing
8 to that, too.

9 DAVID FRIED: Well, with --

10 COMMISSIONER VUKSICH: In concept. How about --

11 CHAIRMAN SHELTON: He wants these out. We want to get
12 it going.

13 DAVID FRIED: Any change is going to trigger another
14 notice.

15 COMMISSIONER VUKSICH: I would be amenable to going
16 ahead with what you've got today but putting everybody on
17 notice that we're going to be taking a look at this
18 particular section.

19 And what I would like to do is perhaps have our
20 regulation folks sit down with some banking people and
21 figure out how this is done responsibly out in the business
22 world.

23 DAVID FRIED: We can ask our banks as well.

24 COMMISSIONER VUKSICH: Given new parameters that are
25 being instituted in banks right now. Credit is not easy

1 nor should it be.

2 DAVID FRIED: I don't want ever to say to an owner:
3 Somebody owes you money and they've come in with a check
4 and you can't even send it to the bank.

5 COMMISSIONER VUKSICH: You should be able to take the
6 check. But somebody who is continually doing this, maybe
7 got problems at home, got other things going on, the spouse
8 does not even know they're cashing checks at a club, that
9 is a different issue.

10 DAVID FRIED: That is a different issue. It's a
11 little more complex as I think about it.

12 Suppose in February someone comes in with a bad check.
13 They come in a week later and replace it and the second
14 check is bad. But three months later they come back and
15 the check can be a good check. You should still be able to
16 take it. I actually think the interest --

17 COMMISSIONER VUKSICH: You don't know until you've
18 taken it.

19 DAVID FRIED: But why say you can't take it. At least
20 you take it, send it to the bank.

21 COMMISSIONER VUKSICH: Go to the bank and get your
22 cash and come back.

23 DAVID FRIED: We're not talking about rolling checks
24 over, my handing you a check and you holding it and then
25 giving you another check and taking that one back. We're

1 talking about a check --

2 COMMISSIONER VUKSICH: No, just continually writing
3 checks that bounce.

4 CHAIRMAN SHELTON: I'm not going to vote for this
5 until we know that check is only going to be retrieved one
6 time. It puts it -- you in a turmoil and I understand
7 that. If you want my vote, I think you need it to get the
8 amendments here. Somebody is going to have to bend a
9 little bit.

10 I want that changed and I want to go back and accept
11 the Bureau's recommendation.

12 DAVID FRIED: May I address the Bureau's
13 recommendation?

14 CHAIRMAN SHELTON: Sure.

15 DAVID FRIED: There were words tossed out in
16 connection with that issue like "banking" and "collusion,"
17 etcetera.

18 There may be issues there but I want to be clear at
19 least as to what I think the issues may be as opposed to
20 what they're not.

21 I don't think it's a banking issue, nor ever could be.
22 Poker is not a banking game. It is played in a round
23 format. There is no player/dealer position. Everyone bets
24 into a common pool. There is plenty of Court of Appeal
25 decisions saying it is not a banking game.

1 However somebody comes to the table with money, it
2 can't be house banking. That is why the change was made.
3 Because if you're concerned about house banking, you're
4 only talking about player/dealer games.

5 The second is, yes, disgruntled poker players talk
6 about collusion all of the time. I heard somebody talk
7 recently about how the World Series of Poker was fixed. I
8 don't know.

9 COMMISSIONER VUKSICH: Never landed on the moon
10 either.

11 DAVID FRIED: Right. And there were TV cameras both
12 times. So who knows.

13 The issue of people taking money out of the cage is an
14 accountability issue. Any time money leaves the cage it
15 has to be accounted for and for a proper purpose and dealt
16 with. So if there is somebody taking money out of the
17 cage, that has to be dealt with as an internal procedure
18 issue, whether they sit at a poker table with it or whether
19 they walk out of the door with it or whether they claim a
20 promotional expense and take eight friends to a restaurant
21 with it. Any time money leaves the cage whether it is in
22 the hands of an owner or anybody else, even a patron, it
23 has to be accounted for and for a legitimate purpose. To
24 me, that is a different issue than saying that someone who
25 is employed to sit in a house game cannot have credit.

1 Last time we were here, we talked about the issue of
2 why you would want to extend credit to a house proposition
3 player. It has to do with a whole litany of issues of
4 follow-home robberies, people carrying cash at the club.
5 All of the generic issues we talked about before as to why
6 credit, extension of credit and check cashing is
7 permissible to begin with in a cardroom. We talked
8 specifically about employment issues and problem gambling.
9 I can refresh from my notes as to what we talked about at
10 the last workshop on all of these issues.

11 I don't think it is fair to characterize it as a
12 banking issue or collusion issue. If somebody is taking
13 money out of the cage and it is not being accounted for,
14 they're violating a whole host of other regulations that
15 have nothing to do with how they're using the money.

16 If you want me to talk about all of the issues I can
17 but I'll leave that at your discretion.

18 COMMISSIONER VUKSICH: How common are the types of
19 robberies you just described?

20 DAVID FRIED: I don't think they're common. I've
21 always felt they were the most serious issue. We talk at
22 these meetings a lot about regulations of how cardrooms
23 deal with internal procedures.

24 In terms of public safety, when we looked at the Oaks
25 police reports at the Oaks renewal, there were -- you know,

1 three or four robberies in there, you know, in the parking
2 lot, some of which the police or security prevented.

3 That has always been the most serious patron issue is
4 somebody getting robbed.

5 COMMISSIONER VUKSICH: When this is brought up at
6 regular meetings with incident reports, this topic never
7 comes up. It is: Oh, that happened. It was something out
8 in the parking lot. It was not -- they're never
9 characterized that way so --

10 DAVID FRIED: But they are robberies. They do usually
11 happen outside of the four walls of the club. They happen
12 in the parking lot and they happen in what are called
13 follow-home robberies. I know I've mentioned it before
14 where someone can get followed home from a club. We talked
15 about it in connection with checks and credit, why having
16 player bank accounts, check cashing and credit is
17 preferable to people carrying cash in and out. The club
18 can only protect them so far.

19 COMMISSIONER VUKSICH: Are they any more prevalent
20 than following someone home from an ATM or --

21 DAVID FRIED: I don't know. I just know that there is
22 a limit on what you can take out on an ATM. You may have a
23 good day and you may have a lot more in your pocket than --

24 COMMISSIONER VUKSICH: There might be some character
25 in the card club who is sort of keeping tabs on who is

1 getting what?

2 DAVID FRIED: Yeah. To me, we deal with minutia and
3 the complexity of regulations. That has always been the
4 most serious public safety issue of not having people
5 carrying a large amount of cash, coming in and out for
6 their own safety.

7 COMMISSIONER VUKSICH: If you won a large amount of
8 cash, can I go to the cage and get a check?

9 DAVID FRIED: You could. I believe you could. I'd
10 have to confirm it. I believe that is possible as a
11 customer service. You can also deposit in a player
12 account.

13 COMMISSIONER VUKSICH: There are other ways to
14 mitigate that problem?

15 DAVID FRIED: What do you do about the person coming
16 in, you know, who is bringing cash because they can't cash
17 a check or because they know they can't get 3- or \$400 in
18 credit once they're there?

19 To me, those two issues have always been related
20 issues. It is true for employees who are going to show up.
21 And they sit on the side and have coffee until there is a
22 game, a seat opens up and they try to keep the game going.
23 They need to sit in the game and play.

24 If they're actual employees that are going to be there
25 three or four days a week, all of the more reason to make

1 it easy on them and not require them to bring cash in and
2 out.

3 COMMISSIONER SHIMAZU: If they win, they go home and
4 you follow them home and do a robbery. But coming in, I
5 don't see it as an issue.

6 DAVID FRIED: Coming in, if you're targeting somebody,
7 you can -- it really requires an extra layer of planning
8 and then following somebody home. It still can be an
9 issue. Somebody in a parking lot can get robbed.

10 There was in the Oaks incident report a woman had a
11 purse snatched on her way in to a club. She parked her car
12 and was coming. A guy came off the sidewalk to grab her
13 purse and security ran out to help her. So --

14 COMMISSIONER SHIMAZU: I understand the difference
15 between the house bank and non-house bank. We talked about
16 it last time.

17 I hoped maybe some of the procedures in place would
18 alleviate some of the Bureau's concerns in terms of how the
19 employees would have to follow the procedures and fill out
20 forms and have to be -- adhere to the same things as
21 everyone else. It sounds like they were not alleviated.
22 There is still maybe a perception problem that people see
23 the employee going to the cage and getting money out
24 and -- and that is -- so I do see the difference between
25 the types of games but that -- that kind of perception

1 issue is still out there.

2 DAVID FRIED: I understand the perception but it is
3 the same perception if you sit down to play poker -- and
4 they use props in Las Vegas, Atlantic City. It is the same
5 perception. You're playing with somebody who has a badge
6 on. Even if I came later and I don't know where the money
7 came from and I just know they went to the cage and came
8 back with chips, however it happened, and you're playing
9 with somebody who has a badge on, you're thinking to
10 yourself, this is somebody who is working at this
11 professionally. It is also commonly seen and done. And
12 people don't have a problem with seeing people wearing a
13 badge.

14 Even the prop services who sit 24 hours in shifts on
15 the player/dealer games have badges and chips they get out
16 of a podium and cage and people understand that.

17 CHAIRMAN SHELTON: Anything further?

18 COMMISSIONER SHIMAZU: I wanted to clarify though the
19 Bureau does not have a problem with the first part with
20 respect to the third-party prop players. It is the second
21 sentence, right, just for the employees or the licensee?
22 Just talking about that?

23 AARON WONG: Yeah. The Bureau's opposition is
24 basically on the proposed draft, Page 1, line 28 and 29,
25 where we feel the sentence should simply end after the word

1 "game" instead of continuing on with specifying what type
2 of game.

3 DAVID FRIED: If I can add one thing, there are other
4 players at the table who may have credit. It is given out
5 sparingly. Let's say two or three percent of the players
6 do have it. I think you're right. We're telling the
7 employees, you're going to have to follow the same
8 procedures.

9 There are other people who do have the ability to go
10 to the cage. We don't want to make these people
11 independent contractors just so they can have credit. It
12 is better to have them as employees. Thank you very much.

13 CHAIRMAN SHELTON: Thank you.

14 ROBERT BURGE: Good afternoon. Robert Burge. I'm
15 investigative supervisor for the Bureau of Gambling Control
16 in Los Angeles.

17 CHAIRMAN SHELTON: Spell your last name for the
18 record.

19 ROBERT BURGE: B-u-r-g-e.

20 CHAIRMAN SHELTON: Thank you.

21 ROBERT BURGE: I want to bring up maybe some issues we
22 see in the field regarding this issue, give you a little
23 more of an awareness for what goes on.

24 On the extension of credit, for instance, or writing
25 checks, we've seen it out in the field a prop player comes

1 in and writes a check and gives it to the cage but the
2 check will never be cashed. It will sit there. We've seen
3 it wide up to \$50,000 at a time, \$25,000 at a time, right
4 up toward an outstanding debt that's \$400,000. And at the
5 end the house writes it off as a bad debt/bad loss.

6 So the idea that we should let all of the clubs handle
7 these things independently through their policies and
8 procedures it is great, if everybody has the same interests
9 and has the same desires. But different people extend
10 credit or allow check cashing for different reasons. In
11 this particular case, you know, had a different reason.
12 Why would they let the one prop player run up a debt for
13 \$400,000. It does not make sound business practice but
14 from a marketing perspective, it's another type of idea
15 that might make sense to the particular owner. The idea is
16 you allow the flexibility where they don't have to cash a
17 check, there is no criteria on how much is going to be
18 outstanding, just like Commissioner Vuksich brought up.
19 There is no real fundamental walls.

20 By giving the clubs all of this flexibility, they can
21 manipulate it for various reasons and in different ways.
22 And also on what Aaron brought up on the banking issue,
23 it's not necessarily we're saying there is a banking issue.
24 What we're saying is the house has an interest in the game
25 if the pocket is the house's fund. That is the deepest

1 pocket in the cardroom.

2 If an owner can go back and keep taking house money
3 and bring it to the table, theoretically, the house is
4 banking them to an extent that is above and beyond what a
5 normal player would have at his disposal.

6 I think what Aaron was saying is the interest and the
7 availability of the house funds and not, per se,
8 technically house banking; but we're saying that dynamic in
9 itself can cause some type of appearance issues or actually
10 issues that can, I guess, work on the solvency of the card
11 club.

12 I agree that, you know, each club should have some
13 flexibility. I think we should tighten it up a little bit
14 and have a minimum and not allow such a wide gambit of
15 opportunities but more discretion for the card clubs.

16 I wanted to let you know that is some type of practice
17 happening out there now that would be addressed by our
18 regs.

19 COMMISSIONER VUKSICH: Can I ask you a basic question?
20 Is it still considered an illegal act to knowingly write a
21 check when you know there are no funds to cover it?

22 ROBERT BURGE: I guess we'd have to ask Aaron.

23 AARON WONG: That would be covered under fraud or
24 writing a non-sufficient fund check.

25 ROBERT BURGE: With the idea in itself in the

1 particular case I'm referring to that the individual might
2 have \$25,000 to write the check up front and then what
3 happens in practice, you know -- in theory, unless the
4 cardroom tries to prosecute this person for writing bad
5 checks, there is never a crime.

6 In this particular case, you're extending credit to
7 this individual to a huge sum of money for different
8 reasons. Like I'm saying, it might be a marketing
9 perspective. This is a way of getting around it. I can't
10 extend the credit. I'll write the losses off at the end of
11 the period. But I'll have them give me a check. By him
12 giving me a check, I don't have to put him through this
13 filter you normally have to put them through.

14 It is a tactic that can be exploited.

15 COMMISSIONER SHIMAZU: I -- I need to clarify. My
16 brain is not working this morning.

17 The two examples you gave, with respect to the
18 third-party prop player, right now we're only looking at
19 the second sentence that has to do with the employees and
20 the licensees. Do you have problems with the sentence that
21 comes before?

22 And also I note you had talked about the owner going
23 and getting the funds. Here we are talking about the
24 employees of the licensee. Now I'm a little confused.

25 ROBERT BURGE: I wanted to clarify the situation what

1 Aaron is bringing up. He classified it as a banking game.
2 The issue is it is not a banking game. He has an interest
3 in the game and he has the house's backing behind it. That
4 is his concerns.

5 COMMISSIONER SHIMAZU: Uh-huh.

6 AARON WONG: The prop players issue he is talking
7 about is probably because of the lack of different words we
8 have chosen to use from way back: The house prop players
9 versus third-party prop players.

10 COMMISSIONER SHIMAZU: Okay.

11 AARON WONG: When you talk about prop players, could
12 have multiple meanings. House prop players are house
13 employees using house funds, you know. And the other one
14 is prop -- third-party prop players.

15 COMMISSIONER SHIMAZU: I was getting confused. Okay.

16 AARON WONG: Just got a couple of things to add to
17 that subsection (f) credit. Let's see.

18 The Bureau originally brought up the concern dealing
19 with the way it is written because it appeared that it kind
20 of circumvents for the jurisdictions that do not allow for
21 extension of credit to allow this procedure of buying back
22 the checks within three days to kind of circumvent the
23 extension of credit prohibition.

24 Does that make sense? For instance, if I'm in the
25 city of San Jose, if I'm not allowed to get credit to

1 gamble but yet I can write a check all day long as long I
2 come back within three days and buy back that check, in
3 essence, that is basically allowing me to get credit for at
4 least three days. You know, if you're allowed to continue
5 to keep doing it, keep buying back, buying back the check,
6 it defeats the purpose of prohibiting the extension of
7 credit.

8 CHAIRMAN SHELTON: Mr. Allen --

9 JAMES ALLEN: Yes.

10 CHAIRMAN SHELTON: Did I miss something? When they
11 accept a check, do they not have to have a credit report on
12 file to cash the check?

13 JAMES ALLEN: The customer has to be approved for
14 check cashing. And I don't believe that is the same as
15 being approved for credit.

16 CHAIRMAN SHELTON: For credit. I was under the
17 assumption that if I wanted to cash a check, I already had
18 a credit report filed and approval for how much I can write
19 the check for saying how much money I can draw or borrow
20 from the casino. I guess I missed something.

21 COMMISSIONER SHIMAZU: Does the licensee have to have
22 their own internal policies and procedures?

23 JAMES ALLEN: Yes.

24 COMMISSIONER SHIMAZU: Kind of left it to the owner to
25 decide how they're going to --

1 JAMES ALLEN: Yes.

2 CHAIRMAN SHELTON: Well, it would appear to me that it
3 would take care of all of the problems if we had to be
4 cleared for credit to even cash a check. That is what I
5 thought we were doing but I apologize for not understanding
6 it. Not that there was anything else to read; but, again,
7 can we do that? Can we impose that regulation for check
8 writing, too?

9 JAMES ALLEN: I think we probably could do that.

10 CHAIRMAN SHELTON: Can we put a caveat in there that
11 we don't overrule the local jurisdictions' laws like the
12 State's so prone to do in my career? I certainly don't
13 want to be a friend to that.

14 JAMES ALLEN: No, I don't think there -- I don't think
15 there is any intention here to override any of the local
16 jurisdictions.

17 CHAIRMAN SHELTON: I don't think there is either. I
18 think I was not aware the local jurisdictions had more
19 restrictive --

20 JAMES ALLEN: There are some local jurisdictions, as I
21 understand it, that prohibit extensions of credit. And I
22 think there may be some that prohibit check cashing.

23 CHAIRMAN SHELTON: What we're doing with our
24 regulations for those jurisdictions are overwriting them?

25 JAMES ALLEN: I thought we had indicated when we first

1 adopted this regulation that it did not supercede the local
2 jurisdictions' authority.

3 CHAIRMAN SHELTON: That is what I want to hear.

4 JAMES ALLEN: I think it was done in the final
5 Statement of Reasons, I believe, which is part of the
6 record.

7 CHAIRMAN SHELTON: Mr. Fried, refresh my memory.

8 DAVID FRIED: If I can address the issue, the
9 structure of the Gambling Control as well as the
10 regulations says local jurisdictions can always go further.
11 There is no preemption on your regulations --

12 CHAIRMAN SHELTON: You're right.

13 DAVID FRIED: -- even in the Gambling Control Act.
14 San Jose has always been more restrictive. And there never
15 has been a preemption issue. If it had been, the one in
16 Garden City would have raised the issue ten years ago.

17 CHAIRMAN SHELTON: Takes care of that problem.

18 DAVID FRIED: If you'd like, I can address the other
19 issues that just came up or not.

20 I would say this: Check cashing and extension of
21 credit are different. Businesses that check -- that cash
22 checks will often simply check for sufficient funds. All
23 of the other procedures you've written for approval of
24 credit is a whole different ball of wax. I don't think --

25 CHAIRMAN SHELTON: I think we know it. We're in a

1 ballpark here where we have more responsibilities to
2 problem gamblers. I think all three of us sit here and in
3 the back of our mind the easier we make it on the check
4 cashing, the more opportunity for problem gamblers to not
5 be able to feed their family. I know you have that
6 concern.

7 DAVID FRIED: We do. And the survey we took revealed
8 that half the clubs don't do check cashing. Those that do
9 it is approved for 10 percent or fewer of the patrons,
10 people that have been reliable or often present or
11 well-known to the owner. The owners are sensitive to that.
12 They don't want to get stuck with bad checks.

13 They can -- if they do take a check that is
14 dishonored, they want to be able to take any check that is
15 a replacement. What they should be prohibited from doing
16 and prohibit themselves from doing is cashing a different
17 check.

18 So if somebody comes in and there is a \$250 check that
19 is dishonored, they're not going to let them come in and
20 write a check for \$300 and leave with cash. Talking about
21 them taking only a replacement check but not giving any
22 cash back for it. They should -- I have to amend what I
23 said earlier. I think they should be able to take the
24 replacement check as often as it is offered, so long as
25 they're not giving any money back. As long as the only

1 money they gave back or chips they gave back was for the
2 original check.

3 If someone comes in six months later and I know I
4 bounced a check, I bounced two checks six months ago but
5 here is a check and I hope it will be -- I hope it will set
6 things right and I'll try to make it good. Or here is a
7 check for 200 of the amount. Or there is a court
8 judgement. The judgment says pay the cardroom. The guy
9 shows up with a check to pay the cardroom.

10 CHAIRMAN SHELTON: I don't think that is what we're
11 dealing with. We're dealing with a second bite of the
12 apple to replace the check in three days. If the money is
13 not there, they're given another bad check but I'm sorry
14 that is part of business. If they want to come back six
15 months later and give a certified check, make it right.

16 DAVID FRIED: Fine. The other issues about the bad
17 checks and the cage. I did clarify with the gentleman who
18 spoke that those checks were issued for someone that was
19 playing in player/dealer games, as well as poker games.

20 Apparently, I think what is new about the regulation
21 and useful is you're clarifying that the house has to have
22 limits, has to set credit limits, has to have a policy for
23 dishonored checks, has to treat people the same. Even if
24 it is an employee playing for credit, they go through the
25 same process. And that the regs will prohibit the

1 extension of credit in any player/dealer game even to a
2 prop service. All of those are useful.

3 I understand that you're concerned about rolling over
4 dishonored checks. It is a concern we always acknowledge
5 and on --

6 CHAIRMAN SHELTON: I also have the concern what the
7 gentleman was talking about if you run checks for that size
8 there is the strong opportunity for money laundering to
9 take place, as I recall. Hard for me to remember all of
10 the police stuff after all these years.

11 DAVID FRIED: The clubs are required to file
12 transaction reports on any transaction, even aggregated
13 transactions.

14 CHAIRMAN SHELTON: If they're complying with the law,
15 we don't have that problem.

16 DAVID FRIED: The same is true for jurisdictions that
17 prohibit them from taking checks at all.

18 CHAIRMAN SHELTON: Not arguing against you. Okay.

19 AARON WONG: May I make one suggestion about buying
20 back of check? I know you have concern about maybe
21 limiting just one time of writing another check to buy back
22 the bad or bounced check. Maybe put in there they must
23 redeem the bad check with a cashier's check or certified
24 check.

25 CHAIRMAN SHELTON: I think this covered it pretty

1 good. I really do. Everybody has lost if the check is not
2 valid. I like the suggestion but I don't think we want to
3 go for it. I'll make a motion and --

4 COMMISSIONER SHIMAZU: Please.

5 CHAIRMAN SHELTON: I'd like to -- line 28 and 29, Page
6 1, I'll take the Bureau's suggestion and put a period in at
7 "game" and eliminate that as "player/dealer position."

8 Hoping the wording on the one time three-day
9 acceptance of a second check for the bad check.

10 With that, I make a motion with those changes to
11 approve staff's recommendation.

12 COMMISSIONER SHIMAZU: Second. We have to have the
13 staff figure out the best way to word the --

14 CHAIRMAN SHELTON: Yeah. Then --

15 COMMISSIONER SHIMAZU: -- (f)?

16 CHAIRMAN SHELTON: -- they will do that but I'm sure
17 we can have input from the industry -- and is that okay?
18 Can we do that?

19 EVELYN MATTEUCCI: Yes. We'll have to go back out for
20 15 days.

21 CHAIRMAN SHELTON: Yes. Sorry.

22 JAMES ALLEN: That's okay.

23 CHAIRMAN SHELTON: Call for the vote.

24 JOY CALKIN: Commissioner Shimazu?

25 COMMISSIONER SHIMAZU: Aye.

1 JOY CALKIN: Commissioner Vuksich?

2 COMMISSIONER VUKSICH: Aye.

3 JOY CALKIN: Chairman Shelton?

4 CHAIRMAN SHELTON: Aye.

5 JOY CALKIN: Motion carried.

6 CHAIRMAN SHELTON: Item Number 4.

7 KELLY SCHMIDT: Good morning, Chairman and
8 Commissioners.

9 For the record my name is Kelly Schmidt,
10 S-c-h-m-i-d-t. I'm an analyst in the Regulations Actions
11 Unit.

12 The Agenda Item Number 4 concerns the proposed
13 adoption of the regulations of Title 4 of the California
14 Code of Regulations and implements the provisions to Senate
15 Bill 730, as it relates to establishing the Portable
16 Personal Key Employee License Program.

17 Under the provisions of the bill, a key employee
18 license entitles the holder to work as a key employee in
19 any key employee position at any gambling establishment
20 provided the key employee terminates employment with one
21 gambling establishment and before commencing work for
22 another.

23 In your binders we've provided an overview of the
24 proposed action and the proposed regulation text. These
25 documents are also available at the back table for the

1 public.

2 Subsequent to the preparation of the documents for
3 this agenda item, Commission and Bureau staff agreed upon a
4 modification to the language in Section 12345 (a)(4) and
5 12351(c)(4) concerning reports and recommendation from the
6 Bureau relating to the license renewals.

7 The modifications including an explanation were
8 provided to you earlier and are also on the back table for
9 the public.

10 Staff is recommending the Commission include the
11 initiation of this formal rulemaking process for this
12 proposed regulator action including the recent modification
13 to establish a Portable Personal Key Employee License
14 Programming Regulation in accordance with the provisions of
15 Senate Bill 730.

16 CHAIRMAN SHELTON: Public input?

17 DAVID FRIED: Hi. Good morning. David Fried again.
18 Can I ask what the two changes were you just referred to?

19 KELLY SCHMIDT: In the proposed text, under Section.
20 12345(a)(4) --

21 DAVID FRIED: Slow down.

22 KELLY SCHMIDT: I'm sorry.

23 DAVID FRIED: That's okay. 45(a)(4).

24 KELLY SCHMIDT: And there is under the section for the
25 renewal time periods there was a reference to the Bureau

1 providing a recommendation on the renewal.

2 We're just asking for a written report which may
3 include a written recommendation.

4 It is the same under Section 12351(c)(4). It is the
5 same language but it will apply to the key employees.

6 DAVID FRIED: Thank you very much. I do have one
7 comment on the proposed regulations.

8 First of all, this is just the initiation of the
9 process. I don't have any detailed comments that will go
10 out for notice of public comment. No reason not to do it
11 today.

12 There's one thing I noticed in looking at the
13 regulations. I wanted to call your attention. It starts
14 on Article 3 of what I have at the bottom of Page 7. And
15 it lists the time period for processing an application. It
16 starts with the 20-day period for the Commission to
17 determine the application is complete. 10 days to forward
18 it to the Bureau. 45 days for the Bureau to see if the
19 information is complete. Then there is 6 months for the
20 Bureau to investigate the application and 4 months for the
21 Commission to review afterwards.

22 If you total it up, it adds up to 375 days in all.
23 And since I've worked on licenses in other jurisdictions, I
24 was asking is there some way to make this more efficient
25 knowing the Bureau and Commission staff needs adequate time

1 to work on the applications.

2 I had one suggestion for you to consider for these
3 regs and for all of the other licenses you do.

4 You know, California has this odd situation of having
5 two agencies involved in reviewing these applications.
6 Whereas in another state it is usually a single agency. In
7 each agency the application goes through levels. Someone
8 will review and then a supervisor will look at it and
9 possibly another supervisor and then ultimately it ends up
10 before you.

11 The suggestion I had, I'm wondering if it is possible
12 one agency did the completeness review. Seems to make
13 sense that the Bureau does the investigation that perhaps
14 they do the initial review to see if the application is
15 complete.

16 So maybe the applicant would dual file the
17 application. Send the full application to the Bureau with
18 all of the attachments and tax returns and send just the
19 two or three-page cover form, a copy of this to the
20 Commission on the same day so it is initiated in both
21 places. Or even they could send it to the Bureau and the
22 Bureau could notify the Commission and send them the cover
23 application. I don't know what kind of havoc that is going
24 to cause. I don't know your internal procedures.

25 It seems to me if the Bureau looked at the application

1 within 30 days to see if it is complete, that would shave a
2 month and a half off of the process and you would not have
3 the time going back and forth at the outset between the
4 agencies.

5 Whether or not there is opportunity to shave the
6 process at the other end, I can't speak to. Seems to me
7 one way to make the process a little simpler.

8 CHAIRMAN SHELTON: We'll ask the director to look into
9 that.

10 DAVID FRIED: Thank you.

11 CHAIRMAN SHELTON: Anything further? What do you
12 want, Jim?

13 Want a motion to move on?

14 JAMES ALLEN: Motion to proceed with the formal APA
15 process.

16 CHAIRMAN SHELTON: Staff's recommendation. I move to
17 approve staff's recommendation.

18 COMMISSIONER VUKSICH: Second it.

19 CHAIRMAN SHELTON: Call for the vote.

20 JOY CALKIN: Commissioner Shimazu?

21 COMMISSIONER SHIMAZU: Aye.

22 JOY CALKIN: Commission Vuksich?

23 COMMISSIONER VUKSICH: Aye.

24 JOY CALKIN: Chairman Shelton?

25 CHAIRMAN SHELTON: Aye.

1 JOY CALKIN: Motion carried.

2 CHAIRMAN SHELTON: Ends our agenda for the day. Thank
3 you very much.

4 Thank you, Mr. Fried. You had to carry the water
5 today.

6 DAVID FRIED: I did. Everybody else is on vacation.

7 (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 Commission meeting was taken before me at the time and place therein set forth;

That the testimony of the public and all objections made at the time of the hearing 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 August 21 2009.

Desiree C. Tawney

Desiree C. Tawney

Certificate Number 12414

