

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

COMMISSION MEETING

California Gambling Control Commission
2399 Gateway Oaks Drive
Suite 100
Sacramento, California 95833
THURSDAY, OCTOBER 29, 2009
10:00 A.M.

ORIGINAL

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

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APPEARANCES:

DEAN SHELTON
Chairman

STEPHANIE SHIMAZU
Commissioner

ALEXANDRA VUKSICH
Commissioner

PAM RAMSAY
Staff Services Analyst

TERRI A. CIAU
Executive Director

JOE DHILLON
Chief Counsel, Legal Division

Public Speakers:

Kelly Schmidt
Shannon George
Herb Bolz
James Allen
David Fried
Marty Horan
James Butler
Russ Shore
Ron Werner
Alan Titus
Robert Tabor

1 BE IT REMEMBERED, that on THURSDAY, OCTOBER 29, 2009,
2 commencing at the hour of 10:00 A.M., at the California
3 Gambling Control Commission, 2399 Gateway Oaks Drive, Suite
4 100, 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. I
12 believe it is time to call the meeting to order, please.
13 Stand for the Pledge of Allegiance.

14 (Pledge of Allegiance.)

15 CHAIRMAN SHELTON: Roll call, please.

16 PAM RAMSAY: Chairman Shelton?

17 CHAIRMAN SHELTON: Here.

18 PAM RAMSAY: Commissioner Shimazu?

19 COMMISSIONER SHIMAZU: Here.

20 PAM RAMSAY: Commissioner Vuksich?

21 COMMISSIONER VUKSICH: Here.

22 CHAIRMAN SHELTON: Who is going to --

23 KELLY SCHMIDT: You ready for me?

24 CHAIRMAN SHELTON: Ready. Got to look up to see
25 Mr. Allen.

1 KELLY SCHMIDT: I surprised you.

2 CHAIRMAN SHELTON: Yeah. Nice surprise.

3 JAMES ALLEN: Thank you.

4 CHAIRMAN SHELTON: I meant what I said.

5 KELLY SCHMIDT: Agenda Item Number 3 is the Commission
6 Review and Consideration of, and Approval For Commencement
7 of the Formal APA Rulemaking Process for the Portable
8 Personal Key Employee Licenses.

9 Good morning, Mr. Chairman and Commissioners. For the
10 record, my name is Kelly Schmidt, S-c-h-m-i-d-t; and I'm an
11 analyst in the Regulatory Actions Unit.

12 Agenda Item 3 concerns proposed adoption of
13 regulations in Title 4 of the California Code of
14 Regulations to implement the provisions in Senate Bill 730
15 as it relates to establishing a Portable Personal Key
16 Employee License Program.

17 Under the provisions of the bill, the 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 that the key employee terminates employment with
21 one gambling establishment before commencing work for
22 another.

23 As you're aware, on July 21st, 2009 the Commission
24 voted to initiate the formal rulemaking process for these
25 proposed regulations. Since then substantial changes were

1 made to the proposed text and forms. Therefore, staff has
2 redistributed the proposal for informal public comment and
3 is requesting Commission approval to initiate the formal
4 rulemaking process.

5 In your binders you were provided the proposed
6 regulation text and forms. These documents are also
7 available at the back table for the public.

8 Subsequent to the preparation of the documents for
9 this agenda item, Commission and Bureau staff identified
10 minor revisions to the supplemental background
11 investigation forms. These changes are non-substantive and
12 would be made prior to initiating the formal rulemaking
13 process.

14 Staff is recommending the Commission approve the
15 initiation of the formal rulemaking process for this
16 proposed regulatory action, including the non-substantive
17 revisions that have been identified by staff to establish a
18 Portable Personal Key Employee License Program in
19 regulation in accordance with the provisions of Senate Bill
20 730.

21 CHAIRMAN SHELTON: Commissioners?

22 COMMISSIONER SHIMAZU: No questions.

23 COMMISSIONER VUKSICH: No questions.

24 CHAIRMAN SHELTON: Public comment? Is there a sign up
25 here that says nobody can speak or anything? Move to adopt

1 staff's recommendation.

2 COMMISSIONER VUKSICH: Second.

3 CHAIRMAN SHELTON: Call for the vote.

4 PAM RAMSAY: Commissioner Shimazu?

5 COMMISSIONER SHIMAZU: Aye.

6 PAM RAMSAY: Commissioner Vuksich?

7 COMMISSIONER VUKSICH: Aye.

8 PAM RAMSAY: Chairman Shelton?

9 CHAIRMAN SHELTON: Aye.

10 PAM RAMSAY: Motion carries.

11 CHAIRMAN SHELTON: Thank you very much.

12 SHANNON GEORGE: Good morning, Mr. Chairman and
13 Commissioners.

14 For the record, my name is Shannon George,
15 G-e-o-r-g-e, and I'm an analyst in the Commission's
16 Regulatory Actions Unit.

17 Item 4 before you today is a next draft to what was
18 previously termed the "Closed Cardroom Regulation."

19 The text is included in your binder. A copy is
20 available at the back table as well. Also included are the
21 comments received regarding the text, staff's recommended
22 response and summary of staff's recommended changes to the
23 text prior to filing with OAL.

24 Staff recommends that the Commission approve
25 initiation of the formal rulemaking process and authorize

1 the recommended conceptual changes and any other
2 non-substantive changes to be made prior to filing with
3 OAL.

4 At the last Commission workshop held August 20th staff
5 presented the Commission with six possible options. Two
6 Commissioners supported Option 1, limiting the reopening of
7 closed cardrooms to the last licensed owner. One
8 Commissioner supported Option 6, disallowing the reopening
9 of closed cardrooms.

10 The draft text before you today attempts to strike a
11 balance between the two options. This draft allows anybody
12 with a currently expired license to reactivate the license
13 within twelve months of the effective date of the
14 regulation. Applicants to reactivate a license will be
15 required to submit specified information and to pay all
16 fees and deposits required for an initial application.
17 After the twelve-month deadline, the license will be
18 considered abandoned.

19 In the course of developing this regulation, it came
20 to light that the Commission has no way of addressing
21 lapsed, surrendered or expired licenses.

22 The Gambling Control Act provides no clear guidance
23 regarding a license that is not currently active.

24 In order to provide a more comprehensive solution, the
25 current draft of the regulation addresses not only the 48

1 cardrooms currently out of operation but also provides a
2 framework for any State gambling licenses that may fall out
3 of active status in the future.

4 Any license that is surrendered or expires without
5 being renewed in the future will be allowed twelve months
6 from the date of the license expiration to reactivate the
7 license. In order to reactivate the license, the applicant
8 will be required to submit all forms, fees and deposits
9 that would otherwise be required for a renewal application.

10 After the twelve-month deadline, the licenses would be
11 considered abandoned. This regulation also makes clear the
12 consequence of abandoning a license, including the
13 inability to sell the cardroom business and that the
14 cardroom will fall under the provisions of the Moratorium.

15 Staff has a few recommended changes to the text, which
16 I can enumerate during the discussion of each section.

17 Before we get into the specifics of the proposal, some
18 questions have been raised regarding the Commission's
19 authority to adopt these regulations, specifically in
20 regards to the reactivation of the expired or surrendered
21 licenses.

22 Mr. Herb Bolz, senior legal counsel, will provide an
23 overview of the Commission's authority in that regard.

24 HERB BOLZ: Mr. Chairman -- Mr. Chairman,
25 Commissioners, Herb Bolz, B-o-l-z. I'd like to hit two

1 points, if I could. There is the general Administrative
2 Procedure Act statutory guidance as to agency authority and
3 the second is what the Gambling Control Acts says in
4 particular.

5 And I'd like to pass out copies, if I could, of the
6 Administrative Procedure Act provision.

7 I -- what I'm looking at is Government Code Section
8 11342.2. We've got a copy for the Commissioners and staff
9 and we'll put it at the back table.

10 The basic issue that has arisen is -- the allegation
11 has been that unless an agency is given express -- unless
12 the statute expressly discusses something, such as
13 expiration of licenses, that the agency cannot adopt a
14 regulation on it.

15 The Administrative Procedure Act in Section 11342.2
16 states: Whenever by the expressed or implied terms of any
17 statute an agency has the authority to adopt, etcetera.

18 This recognizes that agency authority may be
19 implementing an express statutory term or it can be implied
20 from a statutory term from the statute as a whole. This
21 was discussed -- further, the explanation for this policy,
22 the statutory policy, is in a 1983 Appellate case Rich
23 Vision Centers, Incorporated vs. Board of Medical
24 Examiners, 144 Cal.AP.3d 110.

25 The key sentence is this: An agency's powers are not

1 limited to those expressly granted in the legislation. It
2 is well settled in this state that administrative officials
3 may exercise such additional powers as are necessary for
4 the due and efficient administration of powers expressly
5 granted by statute or as may be fairly implied from the
6 statute granting the powers.

7 That is the basic legal framework we're operating on.
8 We have the power. We have implied rulemaking power and
9 expressed rulemaking power.

10 In terms of the Gambling Control Act, there are a
11 number of sections that give us authority. And the
12 Commission has broader rulemaking authority than other
13 agencies do in general.

14 From my experience at the Office of Administrative
15 Law -- 15 years there - I read the enabling acts of maybe
16 40 or 50 state agencies, reviewed their rulemaking
17 authority sections. The Commission's rulemaking authority
18 is broader than any other agency I have ever encountered.
19 The legislature has written it to give our agency the power
20 and the flexibility to do whatever is needed to implement
21 the Act.

22 The use of the key sections I'm relying upon -- B&P
23 Section 19811: The Commission has jurisdiction over
24 cardrooms in California and over all persons and things
25 having to do with the operation of the cardroom.

1 Section 19824, BP -- Business & Professions Code
2 again -- The Commission has all powers necessary and proper
3 to enable it to fully and effectually carry out the
4 policies and the purposes of the Gambling Control Act.

5 B&P Section 19841: Commission regulations shall, one,
6 implement the provisions of the Gambling Control Act
7 relating to licensing and other approvals.

8 That is subdivision (c). Subdivision (o) of 19841:
9 Commission regulations shall restrict, limit or otherwise
10 regulate any activity that is related to the conduct of
11 controlled gambling consistent with the purposes of the
12 Gambling Control Act.

13 That is my presentation, Commissioners. If I can
14 answer any questions, I'd be happy to.

15 CHAIRMAN SHELTON: Commissioners?

16 COMMISSIONER SHIMAZU: No questions.

17 COMMISSIONER VUKSICH: No.

18 CHAIRMAN SHELTON: Thank you.

19 SHANNON GEORGE: Mr. Chairman, would you like to open
20 it for discussion or would you like me to go through the
21 recommended changes?

22 CHAIRMAN SHELTON: See what my Commissioners would
23 like to do.

24 You want to go section by section?

25 COMMISSIONER VUKSICH: Section by section.

1 COMMISSIONER SHIMAZU: Fine.

2 CHAIRMAN SHELTON: Section by section. That means
3 we'll go over one section and we'll take comments and try
4 to move on after we do that. So we'll do it in order so
5 people don't get confused. We won't do 14 and come back
6 and do 2 and come back and do 13. Keep my little brain
7 wrapped around it.

8 SHANNON GEORGE: Start with Section 12002, subsection
9 (j), the definition of "surrender." Staff has no
10 recommended changes to the text at this time.

11 If there is any public comment --

12 CHAIRMAN SHELTON: These are all definitions?

13 SHANNON GEORGE: Yes. The only change to the
14 definitions section is subsection (j). The rest of it is
15 all existing regulation text.

16 So that would be Page 2, lines 4 and 5.

17 CHAIRMAN SHELTON: Commissioners? Questions?

18 COMMISSIONER SHIMAZU: No.

19 CHAIRMAN SHELTON: Public comment?

20 SHANNON GEORGE: Okay. The next section is Section
21 12349, subsection (a), Page 2, lines 15 through 17.

22 Staff is recommending that the text be changed to
23 clarify that an owner/licensee may request a surrender and
24 we will also delete the phrase "at any time." So "an
25 owner/licensee may request to surrender a gambling license"

1 would be the first sentence.

2 And the second sentence would be changed accordingly.

3 CHAIRMAN SHELTON: Okay.

4 SHANNON GEORGE: And --

5 CHAIRMAN SHELTON: Section by section or let's do
6 12349 and come back.

7 SHANNON GEORGE: 12349 actually --

8 CHAIRMAN SHELTON: That is everything?

9 SHANNON GEORGE: Yes. Subsection by subsection.

10 CHAIRMAN SHELTON: I kind of like my idea. Public
11 comment?

12 SHANNON GEORGE: Okay.

13 COMMISSIONER VUKSICH: Mr. Titus is coming.

14 CHAIRMAN SHELTON: Mr. Titus is coming forward.
15 Couldn't stop Mr. Titus.

16 ALAN TITUS: Good morning. Alan Titus, T-i-t-u-s,
17 representing Artichoke Joe's.

18 And we had questioned whether the Commission has
19 authority to refuse a surrender. And I believe that the
20 answer of staff, which is going to come up with the next
21 part of this but these are very related, the answer was
22 that the Commission does have authority to refuse the
23 surrender but the specific example given was if there is
24 discipline pending and so you want to complete that
25 process.

1 I think that the regulation should be made clearer
2 that that is the one criteria where it might not be
3 accepted. Otherwise, it just looks very open that the
4 Commission at any time can just willy nilly refuse a
5 surrender. There is no criteria given here.

6 And just to complete the thought on this whole thing,
7 I'm assuming that if there was discipline pending and the
8 cardroom closed down and you're saying you're not going to
9 accept surrender of the license so you can complete your
10 proceedings, let's say there is a license fee that then
11 becomes due. So the place is closed. Are you going to
12 then amend the license to say it is licensed for zero
13 tables and then take away the fees? I can't imagine you
14 could say to someone: No, you can't surrender your license
15 but you now owe us half a million dollars.

16 CHAIRMAN SHELTON: I hear what you're saying. Would
17 you re-word section (a) to get to where you want to go?

18 ALAN TITUS: It is probably enough to re-word section
19 (b). I raise it now because (a) and (b) are very related.

20 CHAIRMAN SHELTON: Yeah.

21 ALAN TITUS: As you consider (a) I can raise it.

22 CHAIRMAN SHELTON: Any further comment on that
23 section?

24 Follow up, staff?

25 COMMISSIONER SHIMAZU: I thought, too, why don't we

1 not surrender a license? This example was brought forward.
2 I'm not completely sure it exhausts all of the
3 possibilities. I have not thought it all through.

4 But he brings up an interesting thing that if we say
5 you can't surrender, what do we do? Do we make you pay the
6 fees? There's additional questions.

7 I'm not sure if that is the only incidence where we
8 would deny surrender. It's the only one I can think of
9 that really makes sense but --

10 CHAIRMAN SHELTON: I think so. I think the reason
11 we're trying to hold on to that is so we can take the
12 negative action so that person has a record and is not
13 recognized as a good owner for another state or come back
14 to the state of California. So I think this is what we're
15 trying to accomplish.

16 COMMISSIONER SHIMAZU: Maintain jurisdiction so we can
17 keep the action.

18 SHANNON GEORGE: We can work on clarifying explanatory
19 language on that.

20 CHAIRMAN SHELTON: Good point. Anybody else?
21 Move to section (c) then.

22 SHANNON GEORGE: Section (c) staff has recommended
23 changes. That is on Page 2 beginning with line 24.

24 And we recommend clarifying that this subsection
25 applies to license surrenders or expirations that occur in

1 the future, not anything that has already occurred.

2 CHAIRMAN SHELTON: This is not retroactive?

3 SHANNON GEORGE: Right.

4 CHAIRMAN SHELTON: Why do we want to give them twelve
5 months? Is there a legal reason to do that or just being
6 nice or what do we want to do?

7 HERB BOLZ: Herb Bolz, senior legal counsel. The
8 thought underlying that was that people would be put on
9 notice that they have to act within twelve months.

10 CHAIRMAN SHELTON: Shouldn't they know that?

11 HERB BOLZ: There is no --

12 CHAIRMAN SHELTON: What I'm saying, if you let the
13 license expire and you don't renew it or you surrender it,
14 then why would we want to wait twelve months to say the
15 license is expired? I don't know. I'm asking.

16 HERB BOLZ: If I can answer further, right now it is
17 unclear if there is an outer deadline of when you can come
18 back. I think someone can look at the statute and say
19 there is nothing in here that poses any kind of deadline on
20 me.

21 CHAIRMAN SHELTON: That's where I'm getting to, where
22 I'm going. If it is expired, it's expired. If it's
23 surrendered, it's surrendered. It's gone.

24 HERB BOLZ: Well, the Commission has the power to
25 adopt interpretation in the form of regulations on all of

1 these points as part of that broad discretion thing I was
2 talking about.

3 What I would suggest is if -- the people need to be
4 put on notice of an interpretation that would adversely
5 affect them.

6 The staff's recommendation here is that some of these
7 things have been dragging on for a long time. This is to
8 say: We know the law has been unclear. We know it is not
9 clear whether if you surrender it and it can be taken back.
10 It's not clear what an expiration means. And we're going
11 to clarify it all here and now. We'll give you a
12 twelve-month window to come back. If you don't come back
13 within the twelve months --

14 CHAIRMAN SHELTON: I understand what you're saying.
15 Commissioners, am I --

16 COMMISSIONER VUKSICH: Believe me, I thought it was
17 too long.

18 COMMISSIONER SHIMAZU: Are we trying to put them on
19 notice that this is how we interpret it and we want to let
20 you know -- because it is not twelve months from the
21 effective date of the regs. It is twelve months from the
22 expiration of the license. It's effectively giving
23 everybody else -- letting them know it's twelve months
24 thereafter.

25 COMMISSIONER VUKSICH: I think it might be my issue

1 with this. If it's a clarity issue, then that is global
2 and not specific to a license. The twelve months from the
3 expiration of the license is to each license out there.

4 So if the intent here is to give clarity to the entire
5 community of gambling establishments, that would seem like
6 a one-time period and then this goes away, too. After this
7 day, expired is expired and surrendered is surrendered and
8 that is the way it is.

9 HERB BOLZ: Right. This would say -- we're on the
10 subsection that talks current licenses? I'm confusing the
11 two subsections. Pardon me if I'm being unclear.

12 It's two twelve-month deadlines. The first
13 twelve-month deadline is a license that is active right
14 now. You have a cardroom that is active. A license -- the
15 cardroom is operational. The license is active. We're
16 saying if your cardroom goes down, if your cardroom closes
17 and your license expires, you have twelve months to come
18 back and ask it be reinstated because there is no deadline
19 now. And it seemed like a reasonable deadline.

20 Once that deadline passes, there will be no moratorium
21 issues with current cardrooms. If a current cardroom right
22 now goes out of business and the license expires with this
23 regulation in effect, things will be definitively settled
24 within twelve months and they have to come back within
25 twelve months.

1 CHAIRMAN SHELTON: I understand. I think we're
2 opening Pandora's Box. And we're going to be right back in
3 the same bucket we're in now trying to get things out. If
4 you surrender your license, let it expire, it's gone.
5 Everybody knows it. I think you can clarify that in the
6 statement.

7 Now, that is the way I feel. Commissioners may feel
8 differently.

9 TERRI CIAU: Mr. Chairman, Commissioners, Terri Ciau.

10 I think because in the past what we've experienced
11 with renewals is that a license can expire but the statute
12 actually says they can come in and just pay the fees and
13 there is no penalty. Whereas with other licenses, you have
14 a delinquent period and a cancel period.

15 What staff is trying to do here is actually establish
16 some timelines if that license expires after twelve months.
17 Twelve months may be too long. You may think it is too
18 long. Because we've been running into this. They can come
19 in at any time. The statute was never written to provide
20 these other administrative actions if they allow it to
21 expire.

22 COMMISSIONER VUKSICH: Doesn't notice to the licensee
23 that either affirming that the license has been determined
24 to be surrendered or notifying them that the license has
25 expired, isn't that sufficient to create that clarity?

1 This action has been taken. It is done. And according to
2 the regs you have no recourse at this point.

3 TERRI CIAU: That's what we're trying to clarify. Am
4 I right? The statute says they can come in and pay a
5 renewal fee and then they're valid. They could have been
6 expired for months.

7 COMMISSIONER VUKSICH: The way I'm reading this is
8 let's say it is 2010 or 2011 and this process begins. I
9 would have twelve months to come back and say: Oh, never
10 mind. I've changed my mind.

11 TERRI CIAU: I see your -- which they can do now on
12 expired licenses.

13 COMMISSIONER VUKSICH: I'm looking for something that
14 is more: I've done this and there's no changing your minds
15 now.

16 COMMISSIONER SHIMAZU: Are you trying to kind of
17 create kind of a grace period for people who did not pay
18 their fees on time or --

19 SHANNON GEORGE: Since the statute is so vague, we
20 wanted to, you know, obviously provide an outer deadline of
21 when you can come back. Right now there is no outer
22 deadline.

23 The Commission has the authority to determine whatever
24 deadline they want it to be. We picked twelve months. We
25 thought it was a reasonable split between what it is now

1 and -- and nothing so -- but we can amend the text
2 according to however the Commission --

3 JAMES ALLEN: I think one of the problems is the
4 statute that we're dealing with implies that a license can
5 be renewed after it expires. It says, in effect, that if a
6 license is not renewed before the expiration date the
7 Commission may order all gambling operations to cease until
8 the license is renewed. That implies that you have some
9 ability after expiration to renew.

10 And what we're trying to do is set some deadline for
11 that renewal after which you can't renew.

12 CHAIRMAN SHELTON: I think we're on board on that. I
13 think we understand that. And I think we're saying we
14 don't want to give any time. And if we can have the
15 authority to set twelve months, do we not have the
16 authority to set zero?

17 If somebody does not want to pay for the license and
18 it expires, isn't that kind of a shabby business owner?

19 JAMES ALLEN: Well, that is a good point.

20 CHAIRMAN SHELTON: I get my driver's license renewed
21 on time. I know when my taxes are due. I pay those.

22 I just think that by just patching this -- and I
23 appreciate where staff is coming from and I know you're
24 trying to help the Commission to get where we're trying to
25 get. Every time we do something like this we open

1 Pandora's Box and we're back in and it is all fuzzy and
2 nobody understands what is expected of them and can we get
3 away with this or that.

4 I think you renew or you don't. You pay your fees by
5 a certain day. If you don't, the license goes away.

6 COMMISSIONER SHIMAZU: Just by having this discussion,
7 putting it in a reg, it's giving them notice so they know
8 definitively: Oh, I don't have a chance to come back. I
9 better pay everything on time and get everything in on
10 time.

11 JAMES ALLEN: I don't know. We'll have to look at the
12 consequence of that in terms of consistency with the
13 statute. If the statute implies that you can --

14 CHAIRMAN SHELTON: Statute says we can give twelve
15 months?

16 JAMES ALLEN: No but it implies that you can renew
17 after the expiration. So I'm not sure if we can say that
18 you can't renew after expiration if the statute implies you
19 can.

20 CHAIRMAN SHELTON: Okay.

21 JAMES ALLEN: That is my question.

22 CHAIRMAN SHELTON: Good question.

23 MARTY HORAN: Good morning, Commissioners, Marty
24 Horan, H-o-r-a-n, Bureau of Gambling Control.

25 Just to mention another concern the Bureau would have

1 on this topic, it is not necessarily limited to just the
2 twelve-month period. For instance, there is an example in
3 the comments that if the license is issued for a two-year
4 period and six months into the license the owner decides to
5 surrender that license, they actually have two and a half
6 years now in order for that to be reactivated, I guess.
7 That would be a concern, also. It is dragging out even
8 further this twelve-month period depending on when the
9 license is surrendered, if that was the case.

10 CHAIRMAN SHELTON: I agree.

11 DAVID FRIED: Good morning, Commissioners, David
12 Fried, F-r-i-e-d.

13 I just wanted to suggest that maybe in the section
14 surrendered licenses and expired licenses might be treated
15 differently.

16 If someone voluntarily surrenders a license, I don't
17 see why they should have any time at all to revisit that
18 decision. If you decide for whatever reason -- I'm not
19 familiar with the situation staff is talking about that
20 there needs to be a short window of time to deal with
21 expired licenses somehow through inadvertence or something
22 else, I think it can be treated differently than surrender.

23 CHAIRMAN SHELTON: We've had -- in the past we've had
24 some small cardrooms who don't have administrative
25 assistance and maybe the husband forgets to do it and the

1 wife is supposed to do it and nobody knew what to do and
2 the fees did not get in. I think they're trying to protect
3 that.

4 You may have a good point, good suggestion of what to
5 do with expired versus -- not twelve months.

6 COMMISSIONER VUKSICH: My question was going to be at
7 what point is expired considered to abandoned?

8 SHANNON GEORGE: Under the regulation as drafted, it
9 is twelve months. After twelve months, if you don't renew
10 within your --

11 COMMISSIONER VUKSICH: Then would I get some sort of a
12 notification from the Commission saying: Your license will
13 have been deemed abandoned if we don't hear from you in the
14 next number of days?

15 SHANNON GEORGE: That is the process we would set up
16 but probably yes.

17 CHAIRMAN SHELTON: Let's address Mr. Horan's concern
18 on wording where it could be two, two and a half years.

19 Is there some word-smithing we can do on that?

20 SHANNON GEORGE: Yes, we could. If you wanted to keep
21 surrenders and expirations as the same, we could say twelve
22 months from the date of surrender -- whatever deadline we
23 set -- from the date of surrender if you surrender it; then
24 twelve months from the date of expiration, if it expires.

25 COMMISSIONER SHIMAZU: Maybe you're kind of -- if we

1 do separate them out, surrender would just be surrender
2 regardless of how much time is left on the license.

3 Is that, Mr. Horan, what you're talking about? It
4 would cut off there. If you surrender and you have six
5 months left, it is the date you brought it in. I think
6 that is good. You're taking an action, affirmatively doing
7 something to get rid of the license.

8 With respect to the expired, I mean, I'd like to take
9 the hard line. No. There's limits. It is expired. But I
10 know there have been people coming in and said, "I'm sorry.
11 Children were sick." There was something in there. Don't
12 want to be -- maybe -- I don't know -- couple months.
13 Separate them out?

14 SHANNON GEORGE: Okay. So we want to look at once it
15 is surrendered it is abandoned. And perhaps 90 days, 60
16 days for expiration as a grace period.

17 TERRI CIAU: Can we maybe clarify when it is
18 surrendered it will be the date it is approved by the
19 Commission? It is going to only be a request. We don't
20 know at that point if we're going to accept the request for
21 surrender.

22 CHAIRMAN SHELTON: Good point. Thank you.

23 SHANNON GEORGE: Catch up on my notes here and
24 then --

25 CHAIRMAN SHELTON: Move into what, Number 8?

1 ALAN TITUS: Excuse me. Can I make a comment on (c)?

2 CHAIRMAN SHELTON: Sure.

3 ALAN TITUS: So I am not clear exactly where you're
4 going in all of this. But it seems to me there is a
5 difference.

6 I'm Alan Titus, Artichoke Joe's, for the record.

7 To me, there is a distinction between the cardroom
8 that is late getting in their payment, late getting in
9 their materials versus a cardroom that is closed. That is
10 really the real life distinction. Once it is closed, that
11 should be treated very differently from someone who is
12 tardy getting something in.

13 As far as the tardy person, that is up to you what
14 kind of policy you want to have about someone like that. I
15 can tell you, I think most cardrooms understand it is very
16 important to get this stuff in; that the whole point of
17 control over gambling is we're expected to jump through all
18 of the hoops and do it well. And that has been my
19 experience going way back that when the date comes for
20 getting materials in, there is a date set up. All of the
21 officers and I are gathered together. We're putting stuff
22 together. It's a lot of work. But, you know, you schedule
23 that appropriately and get your papers in. It is
24 important.

25 But you'll set the policy on that. I do understand

1 that.

2 CHAIRMAN SHELTON: I think that is what we're doing.
3 Mr. Fried's guidance to me was very helpful.

4 We're saying if it's expired, you have 90 days grace
5 period. If it is surrendered, you have no days. It's
6 surrendered.

7 ALAN TITUS: Even after the 120 days? You're supposed
8 to get everything in in 120 days. So 120 plus 90 is what
9 you're really giving someone. There, I am not sure you can
10 do that because the statute says you have to get it in in
11 120 days early.

12 CHAIRMAN SHELTON: Well, we'll research it. I'm not
13 an attorney. I don't know. I think from the reading we
14 got at the beginning we -- rules are kind of up to the
15 Commission.

16 HERB BOLZ: Mr. Chairman, Herb Bolz. I think the
17 Commission does have a lot of discretion. But we do have
18 to work within the framework of 19876(e) which indicates
19 the license can be renewed after they miss the deadline.

20 We will draft a grace period -- a brief grace period.

21 CHAIRMAN SHELTON: You realize I'm all for deleting
22 the 90 days, of course.

23 ALAN TITUS: I would like to comment on 19876(e). I
24 don't believe that it says that there needs to be a grace
25 period. And I don't believe Mr. Allen said it. He said

1 there is an implied -- something implied in that because it
2 mentions that you may consider it surrendered. I don't
3 believe that that means that there has to be a grace period
4 at all. In fact, I detailed for you the legislative
5 history behind the sentence. And it is very interesting.
6 That was put in when there was a 30-day grace period that
7 was going to be provided. And that was then -- that 30-day
8 sentence was then taken out but the other sentence was what
9 I think was mistakenly left in. It does not provide any
10 grace period in itself. It might imply there was going to
11 be one. But without one in the statute, I don't think
12 there is one you can follow.

13 SHANNON GEORGE: Just so we're all on the same page,
14 I'll briefly read what the statute says: If an
15 owner/licensee fails to renew the gambling licenses
16 provided in the chapter, the Commission may order the
17 immediate closure of the premises and the cessation of all
18 gambling activities therein until the license is renewed.

19 So the statute just says we can order it closed and
20 they cannot operate until they renew. The legislative
21 history we did receive from Mr. Titus but that is not in
22 the statute. That was just draft language. We're working
23 with what is written down now.

24 ALAN TITUS: The fact is that section there does not
25 say that you can renew after expiration. Just does not say

1 that. If the legislature was going to put that in, they
2 would need to put in some sentence saying that.

3 HERB BOLZ: One more comment, if I may. I think we
4 have the authority to say they have to get it in 30 days
5 before expiration. The statute says there is 120 days in
6 advance, right. I think we can adopt the regulation that
7 says they have a grace period of 60 days from day 120 to
8 day 60 and at day 60 it is too late.

9 CHAIRMAN SHELTON: Well, research it.

10 HERB BOLZ: We'll work on it.

11 CHAIRMAN SHELTON: Give us some legal authority on
12 that.

13 HERB BOLZ: Okay.

14 SHANNON GEORGE: Subsection (d), Page 2B and line 28.

15 This is the section that addresses the licenses that
16 have been surrendered or expired prior to the effective
17 date of this regulation in the last twelve months from the
18 effective date for any of those owners to come back and
19 reactivate their license. And it sets up a fairly lengthy
20 list of criteria and documentation they have to submit.
21 This is the same information that has been required in all
22 versions of this draft. I think everyone is pretty
23 familiar with it by now.

24 So we don't have any recommended changes to the text
25 of this section at this time.

1 CHAIRMAN SHELTON: Commissioners?

2 COMMISSIONER SHIMAZU: Public comment?

3 CHAIRMAN SHELTON: Okay. Public comment?

4 JAMES BUTLER: Reverend James Butler, B-u-t-l-e-r,
5 from the California Coalition Against Gambling Expansion.
6 Thank you, Commission, for this opportunity.

7 This raises the same question that we've dealt with in
8 the past and that is a license that has previously expired
9 or been surrendered or abandoned -- the various language
10 one chooses to use -- is now being given the opportunity
11 after possibly many years to reapply. And even if we adopt
12 the definition that is above that we approved -- considered
13 already, that something that is surrendered means there is
14 no legal right or interest in the license or permit we've
15 now almost by this implication given them legal right
16 and/or slash interest; that they are now having a legal
17 right to come before the Commission on a license that
18 however one chooses to define has been surrendered,
19 abandoned or expired. So I'm wondering if that is really
20 the right direction to go.

21 I also want to have some points of clarification.
22 I've been trying to read this and understand it as I can.
23 Does this have to be the original owner or owners or entity
24 that makes that application? A license is issued in 2000.
25 It has not been in operation since 2002. It is now 2010.

1 Does it have to be the original owner or if it was an owner
2 team or entity, an LLC of some description, to whom that --
3 to whom the application must be made? I guess that is just
4 a point of clarification. That will help me better
5 understand.

6 SHANNON GEORGE: Yes. That is the intent of the -- a
7 State gambling license is issued to a person, whether
8 natural person or business entity. That person's name is
9 on the license. In order to reactive a license, it would
10 have to have been issued to you in the first place.

11 JAMES BUTLER: I -- I guess I don't see that language
12 really clearly stated in this section. And that is
13 probably just the way I read it.

14 COMMISSIONER SHIMAZU: Others have said it, too.

15 JAMES BUTLER: If you just put the original holder or
16 something, that gives it that point of clarification.

17 Also, within the twelve-month period I had some points
18 of clarification on this already that that twelve months
19 means the process has to commence. It has to begin.

20 But I'm also wondering does that have -- does that
21 mean there needs to be a completed application within
22 twelve months or can a partial application be submitted
23 that would in essence qualify for the twelve months but not
24 necessarily have to be completed within that time frame?

25 As you can see there is a number of --

1 CHAIRMAN SHELTON: I think your assumption is we're
2 going to approve renewing licenses back to a period of
3 time.

4 JAMES BUTLER: I'll tell you --

5 CHAIRMAN SHELTON: That is -- I haven't -- I don't get
6 to talk to my Commissioners. I don't know where they're
7 coming from. I'm not there.

8 JAMES BUTLER: I will say I'm not certain that that is
9 my assumption but it certainly is my fear and concern.

10 That is why I'm trying to clarify it at this point.
11 I've already been told once the applications are submitted
12 there is no time restriction on when it has to be
13 processed. That can take a number of years for the
14 investigative Bureau to accomplish their work.

15 So my concern is if a partial application is
16 acceptable within twelve months, that this whole process
17 whether it be approved or not could last four or five years
18 all of this kicking around.

19 And I finally wanted to just -- again, a point of
20 clarification. I think I understand it from the previous
21 section and that is that these licenses that have expired
22 prior to the regulation, it is my understanding that they
23 may not be sold or transferred.

24 Is that a correct understanding?

25 COMMISSIONER VUKSICH: A license cannot be sold or

1 transferred.

2 JAMES BUTLER: Or transferred?

3 COMMISSIONER VUKSICH: No.

4 SHANNON GEORGE: The Gambling Control Act prohibits
5 the sale or transfer of a license. And if the original of
6 the last licensee has to come back, if it's your name on
7 the license, you're the one that has to reactivate that
8 license.

9 After you reactivate your license, then the question
10 for the Commission is going to be whether they approve the
11 sale of it.

12 JAMES BUTLER: It has to be the original owner/entity.
13 They cannot transfer it?

14 SHANNON GEORGE: Right.

15 JAMES BUTLER: Until after it was reactivated?

16 SHANNON GEORGE: After it was reactivated, then that
17 would be subject to come before the Commission.

18 JAMES BUTLER: I guess it -- is it -- the
19 clarification from the -- or the understanding -- would the
20 application that is submitted within that twelve-month
21 period, does it have to be a complete application with all
22 of the items that are identified completed or does it just
23 have to be an application that has begun the process? I
24 don't have clarity on that.

25 SHANNON GEORGE: That is something we would have to

1 look into further at this point that we can further explain
2 as we get along in the process, if we need to. I'm not
3 sure.

4 COMMISSIONER SHIMAZU: It does say "may be
5 reactivated." It's implying the whole deal will be done.
6 Would it come before us?

7 JAMES BUTLER: It will take longer. The reason is if
8 it is not required to be a completed application, knowing
9 it may take twelve months, I would encourage that perhaps
10 the process commence or begin within 90 days. And then
11 they would have the remaining nine months to finish the
12 process. But that would at least -- if it does not have to
13 be completed in twelve months, then I think the process
14 should begin more quickly, not give them 364 days to turn
15 in one sheet of paper that says: I'm prepared to start.

16 That is why I wanted to see if it needed to be
17 completed or just begun. If it does not need to be
18 completed, I would suggest we shorten the twelve-month
19 period to begin the process to 90 days and give them twelve
20 months total to complete it. That lets them submit their
21 documents to say: Yes, I'm reapplying. Whatever you
22 determine does not have to be completed.

23 That is because I'm not certain whether it has to be
24 completed -- the application, not the process -- but the
25 application completed in 12 days or just begun -- in twelve

1 months rather. That's what I have.

2 And if some of these might be addressed for
3 clarification, I'd appreciate it. Thank you.

4 TERRI CIAU: I think part of that twelve months is
5 because they have to get approval from the local
6 ordinances. We can't put a timeline of 12 days on the
7 locals to approve an ordinance if they have to or support
8 that, I think. Wasn't that part of our concern? We've
9 experienced that on another program we were trying to
10 establish.

11 SHANNON GEORGE: I don't think the intent was to send
12 us their name on 364 days.

13 Now, the definition of the completed application may
14 take some work but it is not just going to be the
15 notification that "I'd like to come back."

16 It would have to be some substantive documentation.

17 JAMES BUTLER: Okay. And maybe that will be discussed
18 when you get to section, I believe, (f) where you look at
19 some of those various deals.

20 But like I said, that is what my concern was. I
21 realize the process may take twelve months because you go
22 to the City Council and the law enforcement authority.
23 That is for a completed application if it -- it's the whole
24 thing. If it is just partial, then that is a whole
25 different issue. I think 90 days may be enough for a

1 partial. That notifies the Bureau and the Commission this
2 is the intent and then they would have the remaining nine
3 months to finish and complete the process.

4 SHANNON GEORGE: I'm being told -- forgive me, I'm not
5 quite as familiar with the licensing process -- that we do
6 have a definition of "deemed complete" that is existing
7 Commission practice.

8 So I'm not familiar with what that is but we do have
9 it in place right now.

10 JAMES BUTLER: Perhaps that can be that the completed
11 application could be identified. Thanks.

12 CHAIRMAN SHELTON: Commissioners? I'm always out by
13 myself. There is going to have to be a lot of convincing
14 for me to resurrect any of these abandoned licenses.
15 Everything I've read to go along with the Gambling Control
16 Act and what the legislators have done, I'm not prepared
17 to.

18 So we're talking about forms and time limits for
19 people to apply and building up a lot of hope and I don't
20 ever see it coming to fruition.

21 I open the floor.

22 COMMISSIONER VUKSICH: I would probably agree with you
23 if it were not for the language of 19963. I just think it
24 muddies the water for us and I think we have to address
25 those dates and that specific language in there before we

1 can move on to a world where we've got a clean subject,
2 predicate and direct object in a sentence.

3 CHAIRMAN SHELTON: This does not do it. Do you have
4 any ideas how to do that?

5 COMMISSIONER VUKSICH: I think this gets there better
6 than anything we've seen so far. I don't know how we get
7 there without some provision for people who fall between
8 these dates to come back in here.

9 There -- to me, this is sort of a -- somebody correct
10 me if I'm going down a wrong path here -- sort of like
11 purgatory or limbo for people who are in the licensing
12 process.

13 We can't assume -- Reverend Butler was bringing up --
14 he was synonymously using "surrender," "abandoned,"
15 "expired." I take the three words to mean very different
16 things.

17 If I surrender a license, I have to proactively hand
18 it to someone saying, "I surrender it." If I abandon it, I
19 walk away from it. Those are two actions taken by me. If
20 it expires and I do nothing, that is a third action taken
21 by me.

22 I don't view them all of the same at all. I have no
23 way to assume someone has surrendered or abandoned or
24 simply the paperwork got stuck somewhere or they forgot,
25 like I said before, or were abducted by aliens for ten

1 years.

2 I don't know how we sift through all of that other
3 than to do something like this, give it three months, six
4 months to sift out and then shut the door on it. But I
5 don't know how we get past this paragraph.

6 Commissioner Shimazu? Help me out.

7 COMMISSIONER SHIMAZU: If you read 19963, people have
8 different interpretations of what it means. One extreme
9 is, you know, if it's done, it's over. The other extreme
10 is that, no, everyone can come back and those things are
11 still available.

12 I know depending on who you are you have a different
13 interpretation. I could not get my brain around the first
14 one where anyone can come in and the 48 are open to
15 everybody. I suppose people can interpret the language
16 that way. It was not somewhere I could go.

17 This is kind of, for me, almost like a middle ground.
18 I can read it in the statute and I think this is -- it's
19 supported by the language itself.

20 But you're right. It is -- we need to get through the
21 issue. We need to cap the time limit. We need to put all
22 of these -- like you said, it's a very lengthy list of what
23 you need to submit and have in order to get this through.
24 That is okay with me. It's people who are really serious.

25 I think it is probably going to eliminate -- there's

1 not going to be a huge rush of people coming in, those
2 original licensees and those that can meet all of these
3 criteria. Then in twelve months close the door. We're
4 done and move on.

5 CHAIRMAN SHELTON: Just not going to get there. We're
6 not agreeing at all here.

7 COMMISSIONER VUKSICH: Maybe you can explain to me how
8 you can get past --

9 CHAIRMAN SHELTON: We say you -- the license is not
10 yours. Issue a license but it is not yours. You pay for
11 it. You use it while you have a business. But you can't
12 sell the license. You can sell the business, not the
13 license.

14 Now we're turning around and saying: You're the only
15 one that can come in because you had the license in your
16 name and renew it and somebody else can't. Now I'm under
17 the impression we did sell it like that person did have the
18 license and they could sell it because they're resurrecting
19 the business to sell to somebody else.

20 COMMISSIONER VUKSICH: How do we know that? We don't
21 know. We don't know they're going to sell the license --
22 the business. They may.

23 But I have the license. I want to resurrect the
24 license. Maybe I want to re-own or restart a club. Maybe
25 it's dusty and all I have to do is unlock the door. Bingo.

1 I have a club again.

2 CHAIRMAN SHELTON: I have a license, the Pony Club. I
3 abandoned the license. I pass away. Can my family then
4 come in? Do they have -- can they resurrect the license?

5 COMMISSIONER VUKSICH: Is their name on it? No.

6 CHAIRMAN SHELTON: I think it's very far reaching.

7 COMMISSIONER VUKSICH: The license goes with the body.

8 COMMISSIONER SHIMAZU: I think that was one of the
9 issues people were bringing up, too, on some of the letters
10 talking about the heirs and giving time appropriate.

11 We're not allowing any of the heirs, only the specific
12 person listed on the license. Then like the Bureau's
13 comment about how do you know from those -- the list of
14 licensees who gets it? Let the locals decide?

15 Mr. Horan, that was maybe the Bureau's thought. You
16 have multiple people on the license. Say you have a
17 partnership and two people want to come in. It would be
18 the locals to decide and say who they're giving their
19 blessing to.

20 Hello, Mr. Tabor.

21 ROBERT TABOR: Mr. Chairman, Commissioners, Robert
22 Tabor, T-a-b-o-r, on behalf of various interests.

23 I think all of the Commissioners have raised really
24 good points about 19963 and the regs being considered.

25 As I've expressed before, I come -- tend to come down

1 on the side that Mr. -- Chairman Shelton was mentioning as
2 a possibility, one that he might not agree with but as a
3 potential interpretation of the statutes, which is that I
4 believe that the former licensees aren't really the owners
5 of that license. The license does not exist anymore other
6 than it is a license that is controlled by the city or the
7 local jurisdiction to originally grant and then thereafter
8 or simultaneously for this Commission to grant the State
9 license on that particular license.

10 I think the idea that where I would go with it, as I
11 mentioned before, is that anybody should be able to come in
12 and apply to the local jurisdiction, if the local
13 jurisdiction had a license that was issued on December 31st
14 of 1999 or applied for by September 1st of 2000.

15 I know the Commissioners aren't going that route but
16 that is where I come down on it.

17 But given the regulation we're considering here today,
18 I would have a couple comments on the sections we're
19 talking about here, which is this whole idea of
20 reactivation and how soon they have to do it. One has to
21 remember a number of these -- if we go the route where only
22 the prior named licensee is permitted to quote/unquote
23 reapply or reactivate the license, we have to remember
24 these are not generally -- these are former, actually,
25 mom-and-pop-type operations. Many of them -- many of which

1 are older citizens. And they don't have the lawyers like
2 Mr. Titus and officers and directors to come and put all of
3 their documents together. There is going to be a period of
4 time they need, whether it ends up being twelve months or
5 some other time. That does need to be taken into
6 consideration. These are not -- frequently not
7 sophisticates that will have all of their financial
8 documents ready to go. I think that is an issue that needs
9 to be considered.

10 Commissioner Vuksich, I tend to agree if we're going
11 to look at 19963 and its plain language at an absolute
12 minimum it needs to be the former applicant that can apply.
13 I think it should be everybody but at an absolute minimum
14 it would have to be the former applicant.

15 An important issue to consider and this gets into
16 language that is a little down the road in the statute or
17 regulation is: Does it actually need to be the named
18 applicant that was on the prior license who applies?

19 And what I'm suggesting here is the prior applicant
20 might have been a sole proprietor who decides now they --
21 if this reg is passed and they're going to come in and
22 reactivate their license, maybe they are smart and they've
23 gone to a lawyer or have done some reading on their own and
24 decide they don't want to incur any potential for personal
25 liability. They want to come forward as a corporation or

1 limited liability company or other corporate form to take
2 ownership of this license and this new business. I think
3 the regulation needs to allow for that applicant to be a
4 member of an LLC or shareholder in a corporation. As long
5 as that is the case, then they are permitted to
6 quote/unquote reactivate the license; otherwise, what this
7 Commission will be doing is condemning any future
8 applicants to a real risk of personal liability against all
9 of their assets that they have outstanding. Because it
10 would require them, if they were sole proprietorship, to
11 refile as a sole proprietor.

12 COMMISSIONER SHIMAZU: That they can come in with and
13 others can be in the corporation? They can bring along --
14 that would be my concern. I'm going to be bringing in all
15 of these other people now so -- this guy really wants to
16 buy it.

17 COMMISSIONER VUKSICH: They can --

18 ROBERT TABOR: What if the person is --

19 COMMISSIONER VUKSICH: -- sale or name change later on
20 in the event somebody actually does deal with it. You
21 brought up a point that has me going off on a little mental
22 riff here. And that is looking again at 19963, can we --
23 this is a little intellectual exercise -- can we make the
24 assumption that had these people been paying attention,
25 they would now be in that expired license world; therefore,

1 we don't really have to pay attention to those dates?

2 COMMISSIONER SHIMAZU: You've lost me.

3 SHANNON GEORGE: Not sure I follow.

4 COMMISSIONER VUKSICH: In my brain it works but in my
5 mouth it does not come out right.

6 Can we just consider these people -- and I know this
7 is where you are, I think. They have abandoned their
8 license because they've done nothing proactively during
9 this whole period of time. And I've been having a problem
10 accepting that because this language seems to anticipate
11 people that would be in this little world of, oops, I
12 forgot, the mom and pops out there.

13 But at the point that someone does raise their hand
14 and say "I want to reactivate that license," once they come
15 in can we say, "Oh, I'm sorry but it is expired"?

16 SHANNON GEORGE: I think the problem that we are
17 running into is that we can't retroactively impose a
18 condition on "expiration" or "surrender" that didn't exist
19 at the time that the license expired or surrendered. We're
20 putting restrictions in place that people didn't know about
21 when they had that action.

22 So we can say that from now on we can look at that but
23 we do have to address those that have closed in the
24 meantime and didn't know what the consequences would be for
25 that closure.

1 JOE DHILLON: Commissioners, Joe Dhillon, chief
2 counsel.

3 One of the things new to this draft, we added a
4 section which does address the fact that the Commission
5 will consider in reviewing applications that come up under
6 this section. I think it is very clear. It's simply not a
7 question of: Are you eligible? Therefore, you get a
8 license.

9 It reflects the statutory responsibility to therefore
10 scrutinize, to ensure that applicants to be granted have to
11 demonstrate that it would be public interest to do so.

12 CHAIRMAN SHELTON: You're saying that is necessary
13 because we cannot go retroactive like what we're doing with
14 the previous sections. The license --

15 JOE DHILLON: I'm saying we've added it to get it
16 consistent with the Commissioners desire, I believe. As to
17 whether it is necessary, I believe it goes to the earlier
18 question of having a date certain to where it is clear that
19 because of the lack of clarity of the entire statutory
20 framework, specifically on 19963, we think it is most fair
21 and appropriate to say: This is the date, do it now, or
22 just be done.

23 ROBERT TABOR: If I may, Commissioners, getting back
24 briefly to the idea of who can file for this and what form
25 they can file for these licenses, I think it's a matter of

1 public policy. It is required really and certainly good
2 for the public that the applicants have the financial
3 wherewithal to open a cardroom that is going to be
4 successful and has the financial wherewithal to a place
5 that is going to be good for the local jurisdiction.

6 Some of these folks on the named applicants here may
7 not have those kinds of finances may wish to still open up
8 a cardroom. By allowing them to have the corporate form,
9 you protect their personal assets, as I said; but you also
10 allow them to bring in potential investors who have the
11 money to build a place that was appropriate, whether it is
12 a two-table cardroom or ten-table cardroom as most of the
13 smaller, old licenses or expired ones were.

14 I think the idea of allowing an applicant to be a
15 member of a company protects that person's assets and
16 ensures or at least makes it much more likely that a future
17 cardroom will be successful, will bring in employment,
18 taxes and everything else in the local jurisdiction.

19 COMMISSIONER VUKSICH: I think it stretches the
20 intent. You're coming back, regrouping and basically --
21 yeah, no. I just -- I can't get my head around that one.

22 COMMISSIONER SHIMAZU: I was thinking of situations
23 where this person maybe does not want to but somebody looks
24 it up. You've got the person's name. Now, how can we
25 manipulate it or work it so, you know, now I can have this

1 cardroom, bring them along and --

2 COMMISSIONER VUKSICH: Joe Mack who is 93, he has no
3 idea what is going on here.

4 COMMISSIONER SHIMAZU: It has to be tied to the
5 original person. If now we're letting everybody in, it is
6 concerning. It concerns me the language of the reg to make
7 sure it is really -- it is tight and it has limits. I
8 don't know if bringing up these other issues maybe it has
9 to be even more -- the language has to be tighter.

10 Probably was not your intent but now I've got my brain
11 working.

12 ROBERT TABOR: It is to protect people's assets. Most
13 people don't like going into business where you're serving
14 the public and somebody trips and falls and now you get
15 sued for more than what the club is worth. They're going
16 after your personal savings.

17 COMMISSIONER VUKSICH: I think you're going outside of
18 the intent of this particular regulation, which is set up
19 to take care of the issue of abandoning and surrendering
20 licenses and taking care of this little group of people,
21 again, that is between the dates, the dashes.

22 ROBERT TABOR: It is 48 closed cardrooms, I believe.
23 How many will end up applying? Who knows?

24 But I disagree with -- respectfully it is going
25 outside of the intent of the regulation. The regulation is

1 to allow whatever number of people it is to reactivate
2 their licenses. And this Commission, I know, wants to make
3 sure those people have successful businesses that will be a
4 benefit to the local jurisdiction. That most easily
5 happens by having sufficient resources and having the
6 applicants have the common business sense of having safety
7 for their personal assets.

8 CHAIRMAN SHELTON: I think we're there.

9 ROBERT TABOR: Thank you.

10 CHAIRMAN SHELTON: Thank you. You've been very
11 patient, sir.

12 RONALD WERNER: Good morning, Commissioners. My name
13 is Ronald Werner, W-e-r-n-e-r, representing Bay 101 in San
14 Jose, California.

15 First, I would like to say that Bay 101 formally
16 adopts the position written in the letter dated October 28,
17 by Falk & Sharp which represents Hawaiian Gardens as far as
18 their viewpoints on this issue.

19 Secondly, there have been many questions raised today.
20 And I do think that if you were to define the terms
21 "abandonment," "expiration" and "surrender," those could
22 have common meanings and those definitions could be
23 applied, I believe, retroactively or prospectively to
24 resolve many of the issues that have been brought before
25 the Commission today.

1 I think most people of ordinary intelligence would
2 understand that in 1998 when the Gambling Act was passed
3 that -- in 1997 it was passed. When January 1, 1998 rolled
4 around and they had a time certain with which to file an
5 application with the State of California to renew their
6 license that if they did not do that there would be severe
7 consequences with that. That just follows from common
8 sense.

9 If you have a driver's license and you don't renew it
10 by the date it is due to be renewed, you're no longer
11 licensed to drive in the state of California. I would
12 assume the same would be true under the Gambling Control
13 Act in any court of law within this state. Speaking --
14 this is my opinion as a lawyer in this state.

15 I do think there are some open issues here. You talk
16 about what people may or may not do. I do not know how
17 many people in how many cardrooms or how many individuals
18 or how many corporations that have or operated a closed
19 cardroom within the past ten years have come forward during
20 this ten-year period of time and filed an application to
21 reopen a cardroom that is closed or inactive.

22 I would certainly urge the Commission to look at --
23 look whether or not a cardroom has been closed or inactive
24 for a twelve-month period as to whether or not that is a
25 criteria to deem them not eligible to reopen the cardroom

1 based upon existence of the State Moratorium.

2 And I am very opposed to the State Moratorium.

3 However, it is the law of the state. And what applies to
4 one should apply to all, whether they're active, inactive,
5 expired, abandoned or deemed one of those.

6 Finally, there is the issue of corporate ownership.
7 It may be that we have a cardroom that was existing as a
8 corporation that had a license in the corporate name. The
9 cardroom is now closed. The stock of the corporation could
10 be closed. Some -- you could have a new group of owners.
11 They can come forward in the name of the corporation and
12 apply for ownership or reactivation of the license held by
13 the corporation, even if the ownership has changed. And I
14 don't know if the Commission has addressed that.

15 Those are the points that Bay 101 wishes to raise in
16 addition to the issues raised in the Keith Sharp letter.

17 Thank you very much. I'm available for questions.

18 CHAIRMAN SHELTON: Thank you.

19 RUSS SHORE: Good morning, Commission. My name is
20 Russ Shore, R-u-s-s, S-h-o-r-e.

21 I represent Kings & Queens Poker Room, which I'm
22 trying to open in Nipomo. Unfortunately for me, my
23 attorney is not here, Rod Blonien. I'm sure you all know
24 he is enjoying a wedding on Saturday. His son is getting
25 married in Texas.

1 In November 2007 when I called the Commission's
2 office, I spoke to a gentleman by the name of Cy Rickards
3 and asked him what I had to do in order to apply for a
4 license when I heard that you were going to reissue
5 licenses of dormant licenses and expired licenses.

6 He told me what to do so I did it in order. I got
7 local approval by the people in Nipomo. I got approval by
8 the County -- San Luis Obispo County. And I applied in
9 January of 2008, sent my application along with a check for
10 \$9,000 to the Commission which was immediately returned,
11 less \$108 dollars for fingerprints. And I didn't
12 understand why after following the rules and regulations.

13 I obtained approval and then I was told to wait. The
14 Commission would be approving regulations for dormant
15 licenses.

16 Now a year and a half later I have spent a great deal
17 of money, \$110,000 of my own savings so far mostly paying
18 rent on a property and paying utilities and lobbyists and I
19 still don't have a license.

20 It seems to me that when citizens are advised by the
21 government to follow a course of action and they do, the
22 government should not change the rules on the course.

23 I have been damaged severely by this change of course
24 by the Commission. I want a license to operate a lawful
25 business. I cannot imagine that the medical board, the

1 dental board or any other professional licensing entity
2 could change the rules for a licensing of those businesses.
3 The public wouldn't stand for it and I don't stand for it.
4 Yet the Commission, in essence, has done that.

5 It seems to me that refusing to accept my application
6 and a few others until you draft regulation to efficiently
7 change the rules that you're running afoul and the ex post
8 facto law of the United States Constitution. Laws cannot
9 be changed and enforced retroactively but it is what you
10 are doing.

11 Please accept my application and grant me a license
12 and adopt your proposal regulations and apply them
13 prospectively, which are filed in the future.

14 The delay by this Commission has severely impacted me
15 and my wife. This small business, which the United States
16 of America was built on, will employ 14 to 16 people who
17 will pay taxes, who will help enhance other business in the
18 area contribute to the state and local communities and earn
19 \$40- to \$80,000 per year.

20 With employment at 12 percent or more in California
21 and the private individual such as me willing to invest my
22 own money, create jobs, you would think that the State
23 would look at this positively.

24 There is nothing like a person working and getting a
25 paycheck at the end of a pay period to pay his bills, take

1 the family out to dinner once in a while, and start saving.

2 Just this morning on TV President Obama made a speech
3 saying that 65 percent of small businesses in the past year
4 and a half lost 2.3 million jobs.

5 I'm a small businessman. I suggest -- I would like to
6 suggest to the Commission that you rethink your decisions.

7 Thank you for listening to me.

8 CHAIRMAN SHELTON: Thank you, sir. I have to comment
9 on that. I'm sorry. I just can't let it go.

10 I don't know what Mr. Rickards told you. I've been
11 here over five years and it's been a -- to bring this
12 regulation forward has been talked about. So anyone who
13 would go out and invest on a proposition that they might
14 get a license is ill-advised to say the least.

15 I appreciate what you've said. I respect what you've
16 said. I agree with most of what you've said. We're not
17 there and -- we're getting there. I think you're here to
18 listen to what we have to say and how we form the
19 regulations. It's a pretty open meeting, very democratic.
20 We do listen to the input. Some we agree with and some we
21 don't. That is the way it works.

22 So I -- for your benefit, I hope things work out your
23 way. I don't think in my way of thinking of what is going
24 on here today and what is being said and the more I hear
25 and the more I listen is you're opening Pandora's Box if

1 you go back and revisit these and you open up 40 something
2 licenses to come back before this Commission. And I will
3 promise you there will be people out there trying to
4 resurrect the licenses as a business investment that had
5 nothing to do with the license or really want to be back in
6 the business if they were ever in the business. You'll
7 find somebody whose name is on a license. I may be wrong.
8 I have been several times in the past 70-something odd
9 years.

10 I just foresee a lot of disappointed folks coming up
11 to the table expecting they're going to get licenses and it
12 probably isn't going to happen. Probably not going to
13 qualify as the time goes by. I'm still open. I'll still
14 listening.

15 RUSS SHORE: Commissioner, with all due respect, in
16 May -- when we had a workshop in May, you had made a
17 suggestion that the successor of interest didn't have to be
18 the previous owner or the heirs. It could be anyone who
19 owned a successor of interest would qualify to submit an
20 application. It would qualify to get a license.

21 CHAIRMAN SHELTON: Sir, you have to realize, what you
22 said at the beginning is "a workshop."

23 RUSS SHORE: Workshop.

24 CHAIRMAN SHELTON: If you attend the workshops, you'll
25 find I throw a lot of things up against the wall to see if

1 it's going to stick or not. It's not a regulation. We
2 haven't voted. I throw things out for thought to get
3 people thinking and get comments rejuvenated in these
4 hearings.

5 RUSS SHORE: You had a meeting in June which I
6 attended and that changed.

7 CHAIRMAN SHELTON: Yeah.

8 RUSS SHORE: That left me out.

9 CHAIRMAN SHELTON: It will probably change again.
10 We're still here. Means we're open-minded and listening.

11 Don't come to a workshop and think because one
12 Commissioner says something -- it takes three votes. Wish
13 it would take five but we don't have the fifth.

14 We're thinking just like everybody else is in the
15 room. We're trying to come to a final conclusion and
16 agreement that works for the citizens and works for the
17 State and the business community.

18 So I'm sorry if you took that to the bank but you
19 shouldn't have.

20 RUSS SHORE: Well, I really didn't but I felt good
21 about it in May. I did not feel so good about it in June.

22 CHAIRMAN SHELTON: I hear you.

23 RUSS SHORE: And --

24 COMMISSIONER VUKSICH: We're changing again today.
25 This is where we air out our thoughts.

1 RUSS SHORE: When this all started I was 74. Today
2 I'm 76. In December I'll be 77.

3 CHAIRMAN SHELTON: I'm chasing you.

4 RUSS SHORE: I'll tell you the truth, if it goes on
5 any longer, you're all invited to my funeral.

6 CHAIRMAN SHELTON: I hope that does not happen. Where
7 were we before I took us off on the side?

8 SHANNON GEORGE: Not sure.

9 CHAIRMAN SHELTON: Any further comments? Are you with
10 us? You know where we're at?

11 SHANNON GEORGE: Yes, I know where we're at.

12 HERB BOLZ: Can I add one thing? The recommended
13 action is simply to publish the 45-day notice beginning the
14 Administrative Procedure Act public comment period.

15 If the 45-day notice is published with the text
16 following what has been discussed today, many, many more
17 stages are necessary before anything happens for the
18 benefit of the public. This is the first of six or seven
19 steps.

20 CHAIRMAN SHELTON: Again, if we publish this, it would
21 be like this gentleman here believing that is where it is
22 going.

23 COMMISSIONER SHIMAZU: I don't think I'm ready for
24 45 --

25 CHAIRMAN SHELTON: Not ready to do that. I want a

1 little more solidification in the direction we're going
2 before we say: Yeah, that is good, let's put it out for
3 consideration.

4 How about you?

5 COMMISSIONER VUKSICH: I don't think we've beat the
6 horse dead yet. I'm sure most of you hope we did but we
7 haven't. And I'm not quite sure how we get to -- again, I
8 love the clarity and cleanliness of where you are. I think
9 we need some assistance with how to get there that will
10 hold muster.

11 CHAIRMAN SHELTON: I appreciate what Mr. Bolz said.
12 This is giving us an opportunity for staff to talk. They
13 do. They talk to Commissioners individually. We don't
14 know what the other Commissioners are doing individually.
15 They talk to you and your input. Hopefully something will
16 solidify and come out of that and before us that the three
17 of us can agree on and give us direction.

18 COMMISSIONER SHIMAZU: The kind of the concept in this
19 one is as far as I can go. But all of the issues that it
20 bring up makes me -- just concerns me. There is all of
21 these issues to deal with. I'm not sure what is the best.
22 If we keep building on it, keep trying to build in these
23 safety nets and restrictions or at some point is it just
24 not going to get us where we are.

25 So sorry. Kind of sounds like waffling. Some of the

1 issues that got brought up gets you thinking again about
2 what may happen, things we don't intend on happening but it
3 could so -- but I appreciate all of staff's work.
4 Excellent job on drafting it.

5 CHAIRMAN SHELTON: Well, if I hear no more, I think
6 everybody knows we have a lot of homework to do and
7 studying to do. I'll bring it to a conclusion.

8 ROBERT TABOR: If I may, Mr. Chairman, Commissioners,
9 Robert Tabor, T-a-b-o-r.

10 One last point I'd like to bring up goes to subsection
11 (f) items or numbers 5, 6, and 7 which requires a 90-day or
12 notices from local jurisdictions -- officers from local
13 jurisdictions saying they basically approve of the opening
14 of the cardroom.

15 90 days may seem like a lot of time but in my
16 experience we're talking about three different local
17 entities that -- in each jurisdiction you're talking about
18 here and trying to get all of the three folks on board and
19 more with the council is somewhat problematic.

20 I would suggest to extend it out to 180 days. It can
21 be very difficult to get those kind of people on board and
22 have them sign the documents within a certain period of
23 time.

24 SHANNON GEORGE: That is actually 90 days prior to the
25 submission they have to be dated. There is no restriction

1 on -- basically it's twelve months and you have nine months
2 to get it done.

3 ROBERT TABOR: I understand that but if there -- if I
4 get the City Council to sign off on June 1, I may not get
5 the sheriff to sign off until sometime in August. Then
6 I'll apply in say September/October so that my first one is
7 now more than 90 days out.

8 SHANNON GEORGE: We can look at the timeframes. We
9 wanted to make sure it was not the City Council from three
10 years ago approving it.

11 ROBERT TABOR: I understand the concern. Thank you.

12 SHANNON GEORGE: Mr. Chairman, is there any specific
13 direction you would like to give staff? Do you want us to
14 take it back and work with what we've got?

15 CHAIRMAN SHELTON: I've been pretty blunt from my
16 statements. I'd refer that to the Commissioners.

17 COMMISSIONER SHIMAZU: I think I would imagine we
18 would talk individually with staff and try to hash out some
19 issues.

20 CHAIRMAN SHELTON: Not a lot of help but we will
21 motion to adjourn.

22 COMMISSIONER SHIMAZU: Move to adjourn.

23 CHAIRMAN SHELTON: Second. Call for the vote.

24 PAM RAMSAY: The motion was -- I can't --

25 COMMISSIONER SHIMAZU: I moved to adjourn.

PAM RAMSAY: Oh, I'm sorry. Okay.

COMMISSIONER SHIMAZU: Nothing important.

CHAIRMAN SHELTON: Having a really good time up there.

Call for the vote.

PAM RAMSAY: Commissioner Shimazu?

COMMISSIONER SHIMAZU: Aye.

PAM RAMSAY: Commissioner Vuksich?

COMMISSIONER VUKSICH: Aye.

PAM RAMSAY: Chairman Shelton?

CHAIRMAN SHELTON: Aye.

PAM RAMSAY: Motion carried.

CHAIRMAN SHELTON: Thank you everybody for coming and
your patience.

(End of proceedings.)

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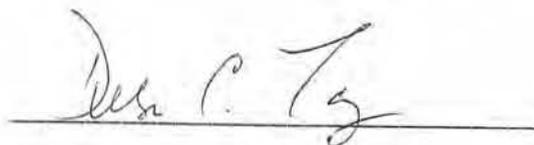
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OF
CERTIFIED SHORTHAND REPORTER

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 11.17.09



Desiree C. Tawney

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