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1 California Gambling Control Commission
2 SPECIFIC LANGUAGE OF PROPOSED REGULATIONS
3 APPLICATION WITHDRAWALS AND ABANDONMENTS, AND HEARING PROCEDURES
4 CGCC-GCA-2013-0#-R
5

6 CALIFORNIA CODE OF REGULATIONS

7 TITLE 4. BUSINESS REGULATIONS.

8 DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.

9 CHAPTER 1. GENERAL PROVISIONS.

10 Article 1. Definitions and General Procedures.

11 **§ 12002. General Definitions.**

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

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

22 (b)(a) “BCII” means the Bureau of Criminal Identification and Information in the California
23 Department of Justice.

24 (c)(b) “Bureau” means the Bureau of Gambling Control in the California Department of
25 Justice, acting as “the department” as provided in section 19810 of the Business and Professions
26 Code. ~~For the filing of any information, reports or forms, Bureau refers to the Sacramento office~~
27 ~~of the Bureau of Gambling Control.~~

28 (d)(e) “California ~~g~~Games” means controlled games that feature a rotating player-dealer

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1 position, as described in Penal Code section 330.11.

2 (e)(d) “Commission” means the California Gambling Control Commission.

3 (f)(e) “Conviction” means a plea or verdict of guilty or a plea of *nolo contendere*,
4 irrespective of a subsequent order of expungement under the provisions of Penal Code section
5 1203.4, 1203.4a, or 1203.45, or a certificate of rehabilitation under the provisions of Penal Code
6 section 4852.13. Any plea entered pursuant to Penal Code section 1000.1 does not constitute a
7 conviction for purposes of Business and Professions Code section 19859, subdivisions (c) or (d)
8 unless a judgment of guilty is entered pursuant to Penal Code section 1000.3.

9 (g)(f) “Deadly ~~w~~Weapon” means any weapon, the possession or concealed carrying of which
10 is prohibited by Penal Code section ~~12020~~16430.

11 (h) “Employee ~~or Agent~~ of the Commission” means the staff employed at the Commission
12 including the Executive Director and all staff under the direction of the Executive Director.

13 (i)(e) “Executive Director” means the executive officer of the Commission, as provided in
14 Business and Professions Code section 19816 or his or her designee. If the Executive Director
15 position is vacant, the “Executive Director” means the officer or employee who shall be so
16 designated by the Commission.

17 ~~(j) “Final action by the Bureau” or “final action” means a final determination by the Chief of~~
18 ~~the Bureau regarding his or her recommendation to the Commission on any application.~~

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

21 (k)(~~h~~)(h) “GCA ~~h~~Hearing” means an evidentiary hearing referred to as “the meeting” pursuant to
22 Business and Professions Code sections 19870 and 19871.

23 (l)(~~m~~)(m) “Interim ~~I~~License” means a license issued by the Commission for some interim period
24 which includes an interim renewal license issued pursuant to Section 12035, ~~and~~ an interim
25 gambling license issued pursuant to Section 12349, and an interim key employee license issued
26 pursuant to Section 12354.

27 (m)(~~n~~)(n) “Member of the Commission” means an individual appointed to the Commission by
28 the Governor pursuant to Business and Professions Code sections 19811 and 19812, and does not
29 include an employee ~~or agent~~ of the Commission.

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1 (n) “Primary report” means a final determination by the Chief of the Bureau regarding his or
2 her recommendation to the Commission on any application as defined in Business and
3 Professions Code section 19869 as “final action by the department.”

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

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

7 (q) “Temporary ~~L~~icense” means a preliminary license issued by the Commission, prior to
8 action on an initial license application, with appropriate conditions, limitations or restrictions
9 determined on a case by case basis.

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

13 14 § 12006. Service of Notices, Orders and Communications.

15 (a) When service of any notice or other written communication is specifically required to be
16 made pursuant to this ~~S~~ection, service shall be made by certified mail, addressed to the
17 residence address, address of record or mailing address of the applicant, licensee, or designated
18 agent as last reported to the Commission, ~~unless a different address is otherwise designated by~~
19 ~~the applicant, licensee, or designated agent.~~

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

21 Note: Authority cited: Sections 19811, 19824 and 19840, Business and Professions Code. Reference: Section 19811,
22 19824 and 19840, Business and Professions Code

23 24 § 12012. Ex Parte Communication.

25 (a)⊕ “~~E~~x parte” means a communication without notice and opportunity for all parties to
26 participate in the communication. When the ex parte provisions of subsections (b) or (c) apply,
27 the following communications shall not be considered *ex parte*: ~~Ex parte communication does~~
28 ~~not include any of the following:~~

29 (1)⊕ ~~A~~ Communications related to procedure and practice that are not based upon the merits
30 of an application or those made on the record at a public meeting or hearing concerning a
31 properly ~~agendized~~noticed matter.

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1 (2)(B) The Bureau or applicant providing information or documents based upon the merits of
2 an application pending disposition before the Bureau or Commission to an employee or agent or
3 member of the Commission which is simultaneously provided to the Bureau other party.

4 (3) The Bureau providing information or documents based upon the merits of an application
5 pending disposition before the Commission to an employee or member of the Commission which
6 is simultaneously provided to the applicant.

7 (4)(C) Any other interested person providing information based upon the merits of an
8 application pending disposition before the Bureau or Commission to an employee or agent of the
9 Commission which is simultaneously provided to both the Bureau and the applicant.

10 (5)(D) The Bureau providing confidential information or documentation upon the merits of
11 an application pending disposition before the Commission to an employee or member of the
12 Commission pursuant to Business and Professions Code section 19822, subdivision (b), but that
13 is not provided to the applicant pursuant to Business and Professions Code section 19821,
14 subdivision (d), and section 19868 subdivisions (b)(3) and (c)(2) as long as that information is
15 first provided to both an employee or member of the Commission and applicant in a redacted
16 format. If an employee or member of the Commission again requests the confidential
17 information, the Bureau shall provide the unredacted information only to an employee or
18 member of the Commission, but only after notice has been provided to the applicant, pursuant to
19 Section 12006, with at least 14 days for the applicant to object and pursue any necessary judicial
20 steps appropriate to challenge the request and seek a judicial in camera review of the
21 information.

22 (b) The limitations on ex parte communication imposed by Business and Professions Code
23 section 19872, subdivisions (a) and (b) shall apply when an application is submitted to pending
24 disposition the Bureau for investigation until the Bureau issues its primary report and the
25 communication is upon the merits of the application. For purposes of Business and Professions
26 Code section 19872:

27 (c) The limitations on ex parte communication imposed by Business and Professions Code
28 sections 19872, subdivisions (a) and (c) shall apply when the Bureau issues its primary report to
29 the Commission until a decision is final pursuant to Section 12066 and the communication is

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1 upon the merits of the application.

2 (d)(a) The limitations on *ex parte* communication imposed by Government Code sections
3 11430.10 through 11430.80 shall apply from when a proceeding is pending. For purposes of
4 Government Code section 11430.10, a proceeding is pending when one of the following occurs:

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

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

9 (3) The Bureau has filed an accusatory pleading under Section 12554 or Business and
10 Professions Code section 19930 until any decision is final pursuant to Government Code section
11 11519.

12 ~~(1) Pending disposition shall mean the time after an application has been filed with the~~
13 ~~Bureau, including while the Bureau performs a background investigation pursuant to Business~~
14 ~~and Professions Code section 19826, up to when the Commission's decision is final pursuant to~~
15 ~~Section 12066; and,~~

16 (e)(e) If an applicant, the Bureau or other interested person communicates directly or
17 indirectly on an *ex parte* basis with a member of the Commission, including indirectly through
18 submission of information or documentation to an employee or agent of the Commission, then:

19 (1) All information and documentation shall immediately be provided to the Bureau,
20 applicant or Bureau and applicant.

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

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

26 (f)(1)(e) A member of the Commission who communicates on an *ex parte* basis with an
27 applicant, the Bureau, or interested persons must publicly disclose the communication, and
28 provide notices to both the applicant and Bureau pursuant to Section 12006. The notice shall
29 contain any information or document(s) conveyed and shall be provided to the applicant and

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1 the Bureau as soon as possible so that they may participate in the communication. Any meeting
2 or hearing following the provision of this communication may be delayed as necessary to allow
3 for the full participation of all parties. The member of the Commission may ~~be~~
4 ~~disqualified~~ voluntarily withdraw from consideration of an application as long as the withdrawal
5 would not prevent the existence of a quorum qualified to act on the particular application.

6 (2) A member of the Commission who has participated in an *ex parte* communication may be
7 excluded from consideration of an application by ~~Disqualification may take place by: (1) The~~
8 ~~member's determination that withdrawal is warranted. (2) A~~ an order ~~motion~~ of the Commission
9 ~~upon~~ made at the request of the applicant.

10 (g) ~~(e)~~ An employee ~~or agent~~ of the Commission may communicate and convey information
11 or documents upon the merits of an application ~~pending disposition~~ as long as it is
12 simultaneously conveyed to both the applicant and the Bureau so that they may participate in the
13 communication.

14 ~~(f) Where a proceeding is pending under both subsections (a) and (b), the more stringent~~
15 ~~relevant rule or remedial measure contained herein, under the Act or under Chapter 4.5~~
16 ~~(commencing with section 11400) of Part 1 of Division 3 of Title 2 of the Government Code,~~
17 ~~shall apply.~~

18 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, and 19872, Business and Professions Code;
19 Sections 11400.20, 11410.40, 11415.10, and 11415.20, Government Code. Reference: Sections 19821, 19822,
20 19825, 19868, 19870, 19871, 19872, and 19930, Business and Professions Code; Sections, 11425.10, 11430.10,
21 11430.20, 11430.30, 11430.50, and 11430.60, Government Code.

22

23 § ~~12047~~ 12015. **Withdrawal of Applications.**

24 (a) A request by an applicant to withdraw the submitted application may only be made ~~at any~~
25 ~~time~~ prior to the ~~final action by the~~ Bureau issuing its primary report ~~taking final action by~~
26 ~~issuing a recommendation on the application.~~ The request shall be made in writing to the Bureau
27 ~~and the~~ Commission. ~~The Commission, pursuant to Business and Professions Code section~~
28 ~~19869, may deny the request or may grant the request, with or without prejudice. Upon receipt~~
29 ~~of the request to withdraw, Commission staff shall send written confirmation of receipt pursuant~~
30 ~~to Section 12006. This written confirmation shall include a non-exhaustive list of possible~~
31 ~~consequences of withdrawal.~~ The Bureau shall stay its background investigation pursuant to

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1 Business and Professions Code section 19868 and the Executive Director shall place the request
2 and any information provided by the Bureau, before the Commission at a regularly scheduled
3 meeting for consideration under Section 12054.

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

11 ~~(c)(a)~~ (c) If a request for withdrawal is granted ~~without prejudice~~, any unused portion of a
12 background investigation deposit shall be refunded by the Bureau ~~Commission as soon as~~
13 ~~possible.~~

14 ~~(d)(b)~~ (d) If a request for withdrawal is granted with prejudice, the applicant shall not be eligible
15 to apply again for licensure or approval until after the expiration of one year from the date the
16 request for withdrawal is granted. ~~Any unused portion of the background investigation deposit~~
17 ~~shall be refunded by the Commission.~~

18 ~~(e)(e)~~ (e) If the request for withdrawal is denied, the Bureau shall proceed with the investigation
19 of the applicant and provide a recommendation ~~to the Commission for action on the application~~
20 pursuant to Business and Professions Code section 19826.

21 Note: Authority cited: ~~Business and Professions Code~~ Sections 19811, 19823, 19824, 19840, 19841, 19869, 19893,
22 and 19951 Business and Professions Code. Reference: ~~Business and Professions Code Sections~~ 19859, 19867,
23 19869, 19880, 19881, 19890, 19891, 19951, and 19984 Business and Professions Code.

24

25 **§ ~~12048~~ 12017. Abandonment of Applications.**

26 ~~At any time prior to final Commission action, the Executive Director may preliminarily~~
27 ~~determine that the application is abandoned. Such preliminary determination may be based upon~~
28 ~~recommendation of the Bureau, failure of the applicant to respond to Bureau or Commission~~
29 ~~inquiries, or notification by the applicant that the application is no longer being pursued. If the~~
30 ~~determination is not based upon applicant's notice to the Commission, then notice will be sent to~~

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1 ~~the applicant, with a copy to the applicant's employer by certified mail indicating that unless the~~
2 ~~applicant contacts the Commission within 30 days from the date of the letter, the application~~
3 ~~shall be deemed abandoned. An abandoned application cannot be reactivated.~~

4 (a)(1) At any time before the Bureau has issued ~~taken~~ its primary report ~~final action~~, the
5 Chief of the Bureau may deem an application abandoned based upon the following:

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

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

10 (2) If an application has been deemed abandoned, notice shall be sent to the applicant,
11 pursuant to Section 12006, with a copy to the Commission, stating the reasons for abandonment
12 of the application, ~~and a non-exhaustive list of the possible consequences of abandonment~~ and
13 that the Bureau will consider the application abandoned unless the applicant contacts the Bureau
14 within 30 days from the date of the notice.

15 (3) A refund of any unexpended portion of a background investigation deposit shall be made,
16 if possible.

17 (b)(1) At any time after the Bureau has issued ~~taken~~ its primary report ~~final action~~ and either
18 by ~~recommended~~ing approval or ~~made~~ issued a report containing no recommendation, the
19 Executive Director may deem an application abandoned based upon the following:

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

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

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

26 (2) Where the Bureau has issued ~~taken~~ its primary report ~~final action~~, the Commission may
27 deem an application abandoned at its discretion, taking into consideration those criteria listed
28 under subsection (a). ~~The~~ A refund of any unexpended portion of a background investigation
29 deposit shall be made, if possible ~~determined at the Commission's discretion.~~

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1 (3) If an application has been deemed abandoned, notice shall be sent to the applicant,
2 pursuant to Section 12006, with a copy to the Bureau, stating the reasons for abandonment of the
3 application, ~~and a non-exhaustive list of the possible consequences of abandonment~~ and that the
4 Commission will consider the application abandoned unless the applicant contacts the
5 Commission within 30 days from the date of the notice.

6 (4) A refund of any unexpended portion of a background investigation deposit shall be made,
7 if possible.

8 Note: Authority cited: ~~Business and Professions Code~~ Sections 19811, 19823, 19824, 19840, 19841, 19893, and
9 19951, ~~Business and Professions Code~~. Reference: ~~Business and Professions Code~~ Sections 19859, 19867, 19869,
10 19880, 19881, 19890, 19891, and 19951, ~~Business and Professions Code~~.

~~ARTICLE 2. INTERIM RENEWAL LICENSES.~~

§ 12035. Issuance of Interim Renewal Licenses.

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

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

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

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

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

24 (1) An interim renewal license shall be issued with the same conditions, limitations, or
25 restrictions, if any, as existed for the previous license, except for any condition that by
26 Commission decision has ~~ve~~ been determined to be satisfied and no longer applicable. This
27 paragraph does not preclude the Commission from applying additional conditions with the
28 consent of the applicant.

29 (2) An interim renewal license shall be valid for a period of two years from the date the

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1 previous license expires, or until a decision is final under Section 12066, whichever is earlier
2 ~~sooner,~~ and is not subject to renewal. The Commission may issue additional interim renewal
3 licenses if the hearing process has not been, or will not be concluded by the expiration date of the
4 current interim renewal license.

5 (3) The holder of an interim renewal license ~~for a state gambling license~~ shall pay all
6 applicable annual fees associated with that ~~state gambling~~ license.

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

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

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

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

18 19 ~~§ 12050. Hearing Procedures; Appeal of Denial of or Imposition of Conditions on~~ 20 ~~application for license, permit, or request for finding of suitability.~~

21 ~~(a) If the Bureau, after an investigation pursuant to Business and Professions Code section~~
22 ~~19826, subdivision (a), issues a recommendation to deny, limit, restrict, or condition a license,~~
23 ~~permit, or finding of suitability, the Bureau shall provide the applicant with a copy of the~~
24 ~~Bureau's final report as described in Business and Professions Code section 19868, subdivision~~
25 ~~(b), which includes a detailed factual and/or legal basis for any recommendation as well as the~~
26 ~~Bureau's recommendation to the Commission and any supplemental documents provided to the~~
27 ~~Commission at the time of the report and recommendation. Any applicant for any license,~~
28 ~~permit, or finding of suitability for whom Commission staff has issued a recommendation of~~
29 ~~denial or imposition of conditions shall be given notice by certified mail of the Commission~~

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1 meeting at which the application is scheduled to be heard and the Commission staff
2 recommendation at least 10 days prior to the meeting. The applicant shall be afforded the
3 opportunity to: (1) Address the Commission by way of an oral statement at a noticed
4 Commission meeting, and/or may submit documents in support of the application, or (2) Request
5 an evidentiary hearing.

6 (b) If the applicant requests an evidentiary hearing or the Commission elects to have an
7 evidentiary hearing, the Executive Director shall set the matter for hearing pursuant to Business
8 and Professions Code sections 19870 and 19871, or pursuant to Business and Professions Code
9 section 19825 (conducted pursuant to Chapter 5 (commencing with section 11500) of Part 1 of
10 Division 3 of Title 2 of the Government Code).

11 (1) If the hearing is to proceed pursuant to Business and Professions Code section 19825
12 (Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the
13 Government Code; California Code of Regulations, title 1, section 1000 et seq.), the hearing
14 shall be before an administrative law judge sitting on behalf of the Commission. Notice shall be
15 effected pursuant to Government Code section 11500 et seq.

16 (2) If the hearing is to proceed pursuant to Business and Professions Code sections 19870
17 and 19871, notice shall be effected by the Commission, and the hearing before the Commission
18 shall be conducted pursuant to Business and Professions Code section 19871:

19 (A) The Bureau or Commission staff or Deputy Attorney General or other representative
20 presenting the case (Complainant) shall provide the applicant, at least 30 calendar days prior to
21 the hearing, a list of potential witnesses with the general subject of the testimony of each witness
22 and shall disclose and make available copies of all documentary evidence intended to be
23 introduced at the hearing and not previously provided, reports or statements of parties and
24 witnesses and all other writings containing relevant evidence, including all evidence made
25 available to the Commissioners. The applicant shall provide Complainant with similar
26 information to be introduced at the hearing and not previously provided at least ten calendar days
27 prior to the hearing. The Commissioners may prohibit testimony of a witness that is not
28 disclosed and may prohibit the introduction of documents that have not been disclosed.

29 (B) Nothing in this section confers upon an applicant a right to discovery of the

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1 (3) At the hearings described in subsections (b)(1) and (2) above, the burden of proof rests
2 with applicant to demonstrate why a license, permit, or finding of suitability should be issued or
3 not conditioned. The applicant may choose to represent himself, herself, or itself, or may retain
4 an attorney or lay representative at his, her, or its own expense. A representative of the Bureau
5 shall present the reasons why the license, permit, or finding of suitability should not be granted
6 or should be granted with conditions imposed. In the event that the Bureau does not present the
7 case, the Commission may seek outside representation or one or more Commission staff
8 members shall be segregated and present the case.

9 (e) If the application is denied or conditions imposed:

10 (1) The Commission's decision shall provide the effective date of the decision and may
11 include further directions as to stay provisions or orders to divest.

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

16 (3) If the denied applicant is an officer or director of a corporation licensed, registered, or
17 found suitable by the Commission, the corporation shall immediately remove that person from
18 office and shall so notify the Commission in writing. If the denied applicant is an employee,
19 agent, representative, or independent contractor of a corporation licensed, registered, or found
20 suitable by the Commission, the corporation shall terminate its relationship with that person
21 pursuant to the date specified in the decision and shall so notify the Commission in writing. The
22 denied applicant and the corporation licensed, registered, or found suitable by the Commission
23 shall comply with Business and Professions Code section 19882.

24 (4) If the denied applicant is a general or limited partner in a general or limited partnership
25 licensed, registered, or found suitable by the Commission, the denied applicant shall resign as
26 partner. If the denied applicant is an owner or holder of an interest in a limited partnership
27 licensed, registered, or found suitable by the Commission, the denied applicant and the limited
28 partnership shall comply with Business and Professions Code section 19892 and shall so notify
29 the Commission in writing.

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1 (5) If the denied applicant is a principal in a business entity not otherwise described above
2 which is licensed, registered, or found suitable by the Commission, the denied applicant shall
3 resign his or her position within that entity and divest whatever interest is held in that entity
4 pursuant to the timelines and instructions specified in the decision, and shall so notify the
5 Commission in writing. The business entity shall remove the denied applicant from any
6 principal role in the business entity and shall so notify the Commission in writing.

7 (6) An applicant denied a license, permit, registration, or finding of suitability, or whose
8 license, permit, registration, or finding of suitability has had conditions imposed upon it may
9 request reconsideration by the Commission within 30 days of notice of the decision. The request
10 shall be in writing and shall outline the reasons for the request, which must be based upon either
11 newly discovered evidence or legal authorities that could not reasonably have been presented
12 before the Commission's issuance of the decision or at the hearing on the matter, or upon other
13 good cause for which the Commission in its discretion decides merits reconsideration. The
14 Commission Chair may delegate to the Executive Director the authority to determine whether to
15 place requests for reconsideration on the Commission agenda or to act on them at the
16 Commission staff level. If placed on the Commission agenda, the applicant requesting
17 reconsideration shall be notified of the date and time of the agenda item. The granting or denial
18 of reconsideration is at the discretion of the Commission. The Commission shall notify the
19 applicant requesting reconsideration whether or not reconsideration is granted or denied within
20 30 days of the applicant's request. If the Commission grants reconsideration, the effective date
21 of the decision shall be stayed or vacated, at the Commission's discretion, while the decision is
22 reconsidered.

23 (d) An appeal of a denial or imposition of conditions by the Commission shall be subject to
24 judicial review under Code of Civil Procedure section 1085 (pursuant to Business and
25 Professions Code section 19870, subdivision (e)). Neither the right to petition for judicial review
26 nor the time for filing the petition shall be affected by failure to seek reconsideration.

27 (e) Proceedings to revoke, suspend, or discipline a license, registration, permit, finding of
28 suitability, or other approval shall be pursuant to Chapter 10 of these regulations.

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1 ~~Note: Authority cited: Sections 19804, 19870 and 19872, Business and Professions Code. Reference: Sections~~
2 ~~19868, 19870, 19879, 19883, 19892, Business and Professions Code.~~

3
4 ARTICLE 23. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS ~~Procedures and~~
5 ~~Decisions.~~

6 § 120502. Bureau Recommendation and Information ~~Commission Staff Recommendation.~~

7 (a) When the Bureau issues ~~taken~~ its primary report ~~final action~~ with a recommendation to
8 deny, limit, restrict, or condition a license, permit, finding of suitability, renewal, or other
9 approval, as described in Business and Professions Code section 19868, subdivisions (b) and (c):

10 (1) The Bureau shall provide to the applicant a copy of the following:

11 (A) The ~~final~~ primary report which shall include any Bureau recommendation to the
12 Commission.

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

14 (C) Any supplemental documents provided to the Commission.

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

16 (2) The Bureau need not provide any documents or information that ~~is~~ are inconsistent with
17 Business and Professions Code section 19868, subdivisions (b)(3) and (c)(2).

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

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

26
27 § 120520. Commission Meetings; General Procedures; Scope; Rescheduling of Meeting.

28 (a) Nothing in this ~~A~~ article is intended to limit the manner in which the Commission~~'s~~
29 ~~authority or discretion under the Act or this division including, without limitation, the way it~~
30 reviews an application, or otherwise limit its authority or discretion under the Act.

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

5 (c) An applicant for any license, permit, finding of suitability, renewal, or other approval
6 shall be given notice of the meeting at which the application is scheduled to be heard ~~and a copy~~
7 ~~of any Commission staff report and any recommendation~~ at least 10 days prior to the meeting
8 date. Notice shall be given pursuant to Section 12006.

9 ~~(1) If the application is to be scheduled as a consent item the notice shall inform the applicant~~
10 ~~of the following:~~

11 ~~(A) The date, time and location of the Commission meeting at which the application is~~
12 ~~scheduled to be heard;~~

13 ~~(B) That the item will not be discussed but may be rescheduled as an agenda item at a~~
14 ~~subsequent meeting at the discretion of a the Commissioner or the Executive Director.~~

15 ~~(2) If the application is to be~~ scheduled as an agenda item, the notice shall inform the
16 applicant of the following:

17 ~~(A) The date, time and location of the Commission meeting at which the application is~~
18 ~~scheduled to be heard;~~

19 ~~(B)~~ That the applicant will be afforded the opportunity to:

20 1. Address the Commission by way of an oral statement, written statement, or both; and,

21 2. Submit documents in support of the application; ~~provided however, that~~ documents which
22 are not provided to the Commission and Bureau with sufficient time for consideration may result
23 in the documents not being considered or the application being continued, at the Commission's
24 discretion.

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

27 ~~(C)(D)~~ Any testimony may be required to be sworn.

28 ~~(2)(3)~~ If the application is to be scheduled at an evidentiary hearing, pursuant to subsections
29 (a) or (b) of Section 12060, the notice of hearing shall inform the applicant of the following:

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

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

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

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

8 1. Address the Commission by way of an oral statement, written statement, or both;

9 2. Submit documents in support of the application;

10 3. Call, examine, cross-examine and impeach witnesses; and,

11 4. Offer rebuttal evidence.

12 (E) That a Notice of Defense, CGCC-ND-002 (New 10/13), which is attached in Appendix A
13 to this chapter, will be included unless already provided by Commission staff or the Bureau.

14 (F) That the waiver of an evidentiary hearing may result in a default decision being issued by
15 the Commission based upon the primary report, any supplemental reports by the Bureau and any
16 other documents or testimony already provided or which may be provided to the Commission, or
17 that the hearing may be held as originally noticed without applicant participation.

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

23 (e) Individuals who provide testimony at a Commission meeting may be sworn in by a
24 member of the Commission~~ers~~ or the Executive Director ~~as they deem appropriate.~~

25 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
26 Reference: Sections 19816, 19823, 19824, 19834, 19856, 19870, 19871, 19876 and 19930, Business and
27 Professions Code.

28 § 12054. Approval; Commission Elected Hearings.

29 (a) At a Commission meeting, the Commission may take, but is not limited to taking, one of
30

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1 the following actions:

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

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

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

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

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

15 (6) Make a finding of abandonment pursuant to paragraph (2) of subsection (b) of Section
16 12017.

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

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

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

27 § 12056. Evidentiary Hearings.

28 (a) If the Commission elects to hold an evidentiary hearing, the hearing will be a GCA
29 hearing conducted pursuant Section 12060, unless the Executive Director or the Commission

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1 determines the matter should be conducted as an APA hearing pursuant Section 12058.~~The~~
2 ~~applicant may supply information in support of either a GCA or APA hearing.~~

3 (b) Nothing in this section, Section 12058 or Section 12060 confers upon an applicant a right
4 to discovery of the Commission's or Bureau's confidential information or to require production
5 of any document or the disclosure of information which is otherwise prohibited by any provision
6 of the ~~Gambling Control~~ Act, or is privileged from disclosure or otherwise made confidential by
7 any other provision of law. Documentary evidence may be redacted as needed to prevent the
8 disclosure of confidential information. Exculpatory or mitigating information shall ~~not be~~
9 ~~withheld from~~ provided to the applicant, but any confidential information may be redacted by the
10 Bureau.

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

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

19 § 12058. APA Hearing.

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

25 (b) The burden of proof is on the applicant at all times to prove his or her qualifications to
26 receive any license or other approval under the Act.

27 (c) The Bureau shall prepare and file a Statement of Issues according to Government Code
28 section 11504~~regardless of any recommendation.~~

29 (d) The Bureau is not required to recommend or seek any particular outcome, unless it so
30 chooses, but rather to simply ~~to~~ present the facts and law related to the applicant and the

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1 Bureau's background investigation so that the Commission or an Administrative Law Judge can
2 make an informed decision on whether the applicant has met his or her burden of proof.

3 (e) At the conclusion of the evidentiary hearing, when the Commission is hearing the matter,
4 the members of the Commission shall take the matter under submission, may discuss the matter
5 in a closed session meeting, and may schedule future closed session meetings for deliberation.

6 (f) The evidentiary hearing shall proceed as indicated in the notice, unless and until the
7 Executive Director or Commission approves ~~cancellation or any continuance or removal.~~

8 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
9 Reference: Sections 19816, 19823, 19824, 19825, 19868, ~~19870, 19871,~~ and 19876, Business and Professions
10 Code; Section 11512 and 11517, Government Code.

11 12 § 12060. GCA Hearings.

13 (a) If the Executive Director determines it is appropriate, he or she may set an application for
14 consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. The
15 Executive Director shall give notice to the applicant, pursuant to paragraph (2) subsection (c) of
16 Section 12052~~Section 12006,~~ and to the Office of the Attorney General and Bureau no later than
17 60 days in advance of the GCA hearing. ~~(1)~~ The Executive Director's decision will be based on
18 information contained in the Bureau's report or other appropriate sources including, without
19 limitation, a request from the Bureau or applicant as well as the Commission's operational
20 considerations. The Commission retains the authority to refer the matter to an APA hearing
21 pursuant to subsection (a) of Section 12056 or hear the matter at a Section 12054 meeting if the
22 Commission deems it appropriate.

23 ~~(2) Any item pursuant to subsection (e) must be exchanged at least 30 days prior the GCA~~
24 ~~hearing.~~

25 (b) When ~~If the Commission has elected~~ ~~elects to hold an evidentiary hearing pursuant to~~
26 ~~paragraph (2) of subsection (a) of Section 12054, and that evidentiary hearing is~~ a GCA hearing,
27 the applicant shall be provided a notice of hearing pursuant to paragraph (2) subsection (c) of
28 Section 12052, no later than 60 days in advance of the hearing date ~~the hearing shall be~~
29 ~~scheduled a minimum of 30 days following the action.~~

30 ~~(1) If the applicant, the Bureau or the applicant and the Bureau indicate to the presiding~~

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1 ~~officer or the Commission that they will present items to the Commission that would require an~~
2 ~~exchange pursuant to subsection (e), a continuance shall be granted. The continuance shall be of~~
3 ~~sufficient time to allow the exchange of items pursuant to (e) at least 30 days prior to the revised~~
4 ~~hearing date.~~

5 (c) The Executive Director shall designate a presiding officer which shall be:

6 (1) A ~~properly segregated~~ member of the Commission's legal staff; or,

7 (2) An Administrative Law Judge.

8 (d) The applicant, the Bureau, or the applicant and Bureau, may request a continuance in
9 writing to the Executive Director stating the reason for the continuance and any proposed future
10 hearing dates. The Executive Director or Commission may approve the request.

11 (e) The Bureau and applicant shall exchange the following items at least 30 days prior to the
12 GCA hearing:

13 (1) A list of potential witnesses with the general subject of the testimony of each witness;

14 (2) Copies of all documentary evidence intended to be introduced at the hearing and not
15 previously provided;

16 (3) Reports or statements of parties and witnesses, if available; and

17 (4) All other written comments or writings containing relevant evidence.

18 (f) In advance of the GCA hearing, upon a motion of a party or by order of the presiding
19 officer, the presiding officer may conduct a pre-hearing conference, either in person, via
20 teleconference, or by email exchange, subject to the presiding officer's availability and shall
21 issue a pre-hearing order if appropriate or requested by either party. The pre-hearing conference
22 and order may address the following:

23 (1) Evidentiary issues;

24 (2) Witness and exhibit lists;

25 (3) Alterations in the Bureau recommendation;

26 (4) Stipulation for undisputed facts including the admission of the Bureau's report; and

27 (5) Other issues as may be deemed appropriate to promote the orderly and prompt conduct of
28 the hearing.

29 (g) The Commission may, at any time upon a showing of prejudice by the objecting party:

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1 (1) Prohibit the testimony of any witness or the introduction of any documentary evidence
2 that has not been disclosed pursuant to subsection (e); or

3 (2) Continue~~Delay~~ any meeting or hearing as necessary to mitigate any prejudice.

4 (h) The Bureau shall present all facts and information in the Bureau's report, the results of its
5 background investigation, and the basis for their recommendation already filed with the
6 Commission according to Business and Professions Code sections 19868 so that the Commission
7 can make an informed decision on whether the applicant has met his or her burden of proof. The
8 Bureau is not required to recommend or seek any particular outcome during the evidentiary
9 hearing, unless it so chooses.

10 (i) The burden of proof is on the applicant at all times to prove his or her qualifications to
11 receive any license or other approval under the Act.

12 ~~(j) The Bureau is not required to recommend or seek any particular outcome during the~~
13 ~~evidentiary hearing, unless it so chooses, but rather simply to present the facts and law related to~~
14 ~~the applicant and the Bureau's background investigation, along with any recommendation~~
15 ~~already filed with the Commission according to Business and Professions Code sections 19868~~
16 ~~so that the Commission can make an informed decision on whether the applicant has met his or~~
17 ~~her burden of proof.~~

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

20 (k)(~~h~~) Except as otherwise provided in subsection (g), the Bureau and applicant shall have the
21 right to call and examine witnesses under oath; to introduce relevant exhibits and documentary
22 evidence; to cross-examine opposing witnesses on any relevant matter, even if the matter was not
23 covered in direct examination; to impeach any witness, regardless of which party first called the
24 witness to testify; and to offer rebuttal evidence. If the applicant does not testify on his, her or its
25 own behalf, the applicant may be called and examined, under oath, as if under cross-
26 examination.

27 (l)(~~m~~) The GCA hearing need not be conducted according to technical rules of evidence.
28 Any relevant evidence may be considered, and is sufficient in itself to support findings if it is the
29 sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious

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1 affairs, regardless of the existence of any common law or statutory rule that might make
2 improper the admission of that evidence over objection in a civil action. A presiding officer
3 shall rule on the admissibility of evidence and on any objections raised except for objections
4 raised under subsection (g). ~~A presiding officer shall rule on the admissibility of evidence and~~
5 ~~on any objections raised but for subsection (g).~~

6 (m)(~~n~~) Oral evidence shall be taken upon oath or affirmation, which may be administered by
7 the Executive Director, a member of the Commission, or the presiding officer, if an
8 Administrative Law Judge.

9 (n)(~~o~~) At the conclusion of the evidentiary hearing, the members of the Commission shall
10 take the matter under submission, may discuss the matter in a closed session meeting, and may
11 schedule future closed session meetings for deliberation.

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

16 § 12062. Issuance of GCA Hearing Decisions.

17 (a) Within 30 days of the conclusion of a GCA hearing, the presiding officer shall prepare
18 and submit to the Commission a proposed decision ~~containing a detailed statement of its reasons,~~
19 ~~including:~~

20 ~~(1) Findings of fact;~~

21 ~~(2) Conclusions of law; and,~~

22 ~~(3) An order.~~

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

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

29 (d) Only members of the Commission who heard the evidence presented in the hearing are
30 eligible to vote on a decision and may vote by mail or by another appropriate method unless such

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1 a requirement would prevent the existence of a quorum qualified to act on the particular
2 application. In that event, a member of the Commission who has not heard the evidence may be
3 allowed to vote after a review of the complete record and any additional briefing or hearing the
4 Commission believes necessary.

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

8 § 12064. Requests for Reconsideration.

9 (a) After the Commission issues a decision following a GCA hearing conducted pursuant to
10 Section 120560, an applicant denied a license, permit, registration, or finding of suitability, or
11 whose license, permit, registration, or finding of suitability has had conditions, restrictions, or
12 limitations imposed upon it, may request reconsideration by the Commission within 30 days of
13 service of the decision, or before the effective date specified in the decision, whichever is sooner.

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

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

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

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

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

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

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1 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
2 Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section
3 11521 Government Code.

4 5 § 12066. Final Decisions; Judicial Review.

6 (a) A Commission decision is final following a GCA or APA hearing, subject only to judicial
7 review:

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

11 (2) If a request for reconsideration has been granted under Section 12064, immediately upon
12 the Commission's affirmance of its decision or issuance of a reconsidered decision~~Immediately~~
13 ~~after the Commission affirms its decision or issues a reconsidered decision if reconsideration has~~
14 ~~been granted under Section 12064;~~

15 ~~(b) A waiver under paragraphs (1) and (2) of subsection (a) does not relieve an applicant of~~
16 ~~their obligation to pursue any and all administrative remedies prior to waiver before seeking~~
17 ~~judicial review.~~

18 ~~(e)~~ An appeal of a denial or imposition of conditions by the Commission shall be subject to
19 judicial review under Code of Civil Procedure section 1085 [pursuant to Business and
20 Professions Code section 19870, subdivision (e)]. Neither the right to petition for judicial review
21 nor the time for filing the petition shall be affected by failure to seek reconsideration.

22 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code.
23 Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section
24 11521 Government Code.

25 26 § 12068. Decisions Requiring Resignation or Divestiture.

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

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

5 (b)(1) If the denied applicant is an officer or director of a limited liability company or
6 corporation that is licensed, registered, or found suitable by the Commission, the limited liability
7 company or corporation shall remove that person from office according to the date specified in
8 the Commission's decision and shall so notify the Commission in writing.

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

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

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

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

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

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

29 (2) The business entity shall remove the denied applicant from any principal role in the

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1 business entity and shall so notify the Commission in writing.

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

6 CHAPTER 2.1. THIRD-PARTY PROVIDERS OF PROPOSITION PLAYER SERVICES:

7 REGISTRATION; LICENSING.

8 ARTICLE 3. LICENSING.

9 ~~§ 12218.5. Withdrawal of Request to Convert Registration to License.~~

10 ~~(a) A request for withdrawal of a request to convert a registration to a license may be made at~~
11 ~~any time prior to final action upon the request by the Chief by the filing of a written request to~~
12 ~~withdraw with the Commission. For the purposes of this section, final action by the Bureau~~
13 ~~means a final determination by the Chief regarding his or her recommendation on the request to~~
14 ~~the Commission.~~

15 ~~(b) The Commission shall not grant the request unless the requester has established that~~
16 ~~withdrawal of the request would be consistent with the public interest and the policies of the Act~~
17 ~~and this chapter. If a request for withdrawal is denied, the Bureau may go forward with its~~
18 ~~investigation and make a recommendation to the Commission upon the request, and the~~
19 ~~Commission may act upon the request to convert as if no request for withdrawal had been made.~~

20 ~~(c) If a request for withdrawal is granted with prejudice, the requester thereafter shall be~~
21 ~~ineligible to renew its request until the expiration of one year from the date of the withdrawal.~~
22 ~~Unless the Commission otherwise directs, no payment relating to any request is refundable by~~
23 ~~reason of withdrawal of request.~~

24 ~~Note: Authority cited: Sections 19840, 19841 and 19984, Business and Professions Code. Reference: Sections~~
25 ~~19869 and 19984, Business and Professions Code.~~

27 CHAPTER 2.2. GAMBLING BUSINESSES: REGISTRATION; LICENSING.

28 ARTICLE 3. LICENSING.

29 ~~§ 12234. Withdrawal of Request to Convert Registration to License.~~

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1 ~~(a) A request for withdrawal of a request to convert a registration to a license may be made at~~
2 ~~any time prior to final action upon the request by the Chief by the filing of a written request to~~
3 ~~withdraw with the Commission. For the purposes of this section, final action by the Bureau~~
4 ~~means a final determination by the Chief regarding his or her recommendation on the request to~~
5 ~~the Commission.~~

6 ~~(b) The Commission shall not grant the request unless the requester has established that~~
7 ~~withdrawal of the request would be consistent with the public interest and the policies of the Act~~
8 ~~and this chapter. If a request for withdrawal is denied, the Bureau may go forward with its~~
9 ~~investigation and make a recommendation to the Commission upon the request, and the~~
10 ~~Commission may act upon the request to convert as if no request for withdrawal had been made.~~

11 ~~(c) If a request for withdrawal is granted with prejudice, the requester thereafter shall be~~
12 ~~ineligible to renew its request until the expiration of one (1) year from the date of the withdrawal.~~
13 ~~Unless the Commission otherwise directs, no payment relating to any request is refundable by~~
14 ~~reason of withdrawal of request.~~

15 ~~Note: Authority cited: Sections 19840, 19841 and 19853(a)(3), Business and Professions Code. Reference: Sections~~
16 ~~19853(a)(3) and 19869, Business and Professions Code.~~

17

APPENDIX A

(Add Form CGCC-ND – 002 (New 10/13))



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

NOTICE OF DEFENSE CGCC – ND – 002 (New 10/13)

In the Matter of:

CGCC No. _____

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

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

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

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

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

Signature: _____

Date: _____

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