



August 23, 2023

**VIA EMAIL ONLY**

California Gambling Control Commission  
Attn: Dolores Olivarez, Deputy Director  
Licensing Division  
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Sacramento, CA 95833-4231  
Email: [dolivarez@cgcc.ca.gov](mailto:dolivarez@cgcc.ca.gov)

**RE: CGCC August 24, 2023, Hearing: Agenda Item 3: Request to Support Option 2 Update Regulations Concerning Spousal Licensing**

Dear Ms. Olivarez,

The California Gaming Association (CGA) respectfully requests the California Gambling Control Commission (1) vote in favor of Option 2 on Agenda Item 3 to bring clarity to the use and interpretation of the Spousal Information form; and (2) suspend the requirement of licensure based on a community property interest until the rule making process is complete.

The current Spousal Information form requires uninvolved spouses of cardroom and Third-Party Providers of Proposition Players Service (TPPPS) owners to apply for and maintain state gambling licenses, a requirement that is overreaching, burdensome and not reasonably necessary to carry out the purpose of the Gambling Control Act. To date, interpretation of the form and its application has been inconsistent, and the industry would deeply appreciate clear, concise rules regarding licensure of uninvolved parties.

Finally, Option 2 is consistent with the comments made by the Commissioners during the October 19, 2022 meeting, at which they indicated their willingness to work cooperatively to resolve concerns raised by the industry.

**Burdensome and Unnecessary Spousal Requirements**

The Spousal Information form was created to consolidate six forms previously used to disclose the non-applicant spouse's relationship to the business. Those six forms were repealed, and the replacement Spousal Information form now provides an increased level of proof to substantiate an owner's separate property and requires all community property interest holders to submit to

full licensure, regardless of their intention or ability to influence or otherwise control the gambling interest.

Requiring the full licensure of all community property interest holders is a substantial change that adds new burdens and obligations on applicants and existing licensees not disclosed by the Commission in the Statements of Reasons that accompanied the 2020 Licensing Regulations. Furthermore, the rejection of previously accepted declarations for non-applicant spousal interests without guidance on new documentation requirements exacerbates this issue.

### **Uninvolved CPOI Spouses Did Not Require Full Licensure Prior to 2021**

The August 24, 2023 Memo to the Commission (“Memo”) included with the Notice of Hearing states on page 8 that "Notably, the previous processes for Uninvolved CPOI spouse of both cardroom and TPPPS owners required licensure of the Uninvolved CPOI spouse, consistent with the current process." This is not accurate.

Prior to 2021, licensing of TPPPS spouses was considered “on a case-by-case basis.” (See Initial Statement of Reasons at p. 47) With the enactment of the Spousal Information form, all applicants for initial and renewal TPPPS owner licenses are subjected to the same process as cardroom owner applicants. The Memo attempts to utilize the findings of the 2019 state Auditor’s report, which noted inconsistent treatment of applicants, to justify the new spousal licensing regime for TPPPS’s, however, audits cannot override statutory authority, and the Gambling Control Act clearly indicates that the Legislature intended to treat cardroom owners and TPPPS owners differently. (Compare Bus. & Prof. Code §§ 19850 and 19984.)

### **Over 200% Application Fee Increase**

Prior to 2021, a cardroom owner whose spouse had a community property interest but no involvement in the management or control of the business was only required to submit a brief application and pay a background deposit that was a fraction of that required of a full licensee.

The application and background process were less burdensome because the spouse was only required to get a license due to his/her community property interest and not due to any management or control of the business. The adoption of the new Spousal Information form and other license applications ignores the substantial differences between a person who may have an ownership interest due to community property laws and one who is actively engaged in the gambling business.

While not explicit in the 2020 Licensing Regulations, the repeal of the application form utilized for an uninvolved community property spouse has resulted in spouses being subject to the same background investigation process as an applicant spouse. As such, while the \$1,500 background investigation deposit for uninvolved community property spouses remains in regulation, these applicants are being charged higher amounts to allow the Bureau to complete a background investigation that had previously been reserved for owners with direct influence over the gambling operation. Nothing in the Memo or in the rulemaking file indicates that such an extreme difference in treatment of these applicants was intended or necessary.

## CGCC-2020-01-R and CGCC-2022-02-R Are Ineffective

It has become apparent over the course of several Commission meetings and follow up communications between applicants and the Bureau, that the regulatory actions which created and modified the Spousal Information form, CGCC-2020-01-R and CGCC-2022-02-R, have resulted in burdens on applicants that have been inconsistently applied. These include:

1. The Initial Statement of Reasons (ISOR) for Rulemaking CGCC-2020-01-R failed to explain that all uninvolved spouses with community property interests would henceforth require **full** licensure initially and every two years.
2. Rulemaking 2020-01-R failed to explain or provide any evidence of any benefits derived from the full licensure of an uninvolved spouse with only a community property interest in a gambling business.
3. The stated economic impact of the new Spousal Information form in Rulemaking 2020-01-R is without evidentiary support and fails to account for the increased costs of full background investigations.
4. Rulemaking 2020-01-R described no reasonable alternatives to the full licensure of uninvolved spouses with only community property interests, even though less burdensome background investigations had been performed for these spouses under the prior regulatory framework for years without issue.
5. The Final Statement of Reasons (FSOR) neither addressed nor cured the deficiencies in the ISOR.
6. The confusion wrought by the flawed rulemakings caused the Commission to issue "industry guidance" on May 8, 2023. However, the Bureau continues to reject as "insufficient" the precise documentation the Commission's guidance stated would be sufficient. Moreover, in so far as the industry guidance is intended to govern procedures applicable to the Spousal Information form, it is an invalid underground regulation and requires formal rulemaking before it can be enforced. (GC § 11340.5(a).)
7. Since January 1, 2021, the Commission has applied the requirements of the Spousal Information form to applicants for cardroom and TPPPS licenses inconsistently and without clear explanation. Inconsistent conditions have been imposed over the course of multiple meetings and, in some cases during the same meetings.

For these reasons, we respectfully request the Commissioners vote to approve Option 2, and direct staff to consider the comments and recommendations contained in letters previously submitted by CGA or on behalf of CGA's members.

We also ask that the Commission suspend all conditions that have been imposed on licensees resulting from the Spousal Information form since January 1, 2021 while the new rulemaking is pending. This will allow for uniform application and avoid the need for costly applications that

ultimately may not be necessary if changes are made to the licensing requirements for uninvolved community property spouses.

Thank you,

*California Gaming Association*

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