

California Gambling Control Commission  
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MINUTES OF FEBRUARY 9, 2006  
COMMISSION MEETING

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**OPEN SESSION**

Chairman Shelton called the meeting of February 9, 2006, to order at 10:00 a.m., with Commissioners Cruz, Sasaki, and Vuksich present.

Staff Participating: Steve Giorgi, Executive Director, Cyrus Rickards, Chief Counsel, Heather Hoganson, Staff Counsel, and Herb Bolz, Senior Legal Counsel and Regulations Coordinator, Legal Division.

**SPECIAL ORDER OF BUSINESS – 10:00 a.m.**

Proposed Disciplinary Regulations – Draft to Begin Formal APA Notice and Comment Period

Chairman Shelton and the Commissioners Cruz, Sasaki and Vuksich agreed that the best way to approach the proposed disciplinary regulations was to address, open to the public for discussion, and approve for comment, each proposed regulation individually.

Staff Counsel Heather Hoganson presented the latest draft and stated that once approved by the Commission, the draft will be prepared for public notice and comment, with an initial statement of reasons and notice, and a public hearing date will be set. Counsel Hoganson stated the public will have 45 days to send comments or to voice their concerns at the public hearing and should any substantive changes be made, a 15-day comment period will run for input on the changed sections. Counsel Hoganson added that after the cycle of changes and comment periods concludes, staff will return with a final draft for the Commission to review and final adoption. Staff Counsel Hoganson emphasized that this is still early in the commenting process and is not the end point. The proposed regulations are incorporated into these minutes as Attachment A.

In response to Chairman Shelton's inquiry, Counsel Hoganson stated that the proposed regulations are not being adopted today, they are just being approved for comment and stated that Commission approval is not necessary to begin the APA process.

Chief Counsel Rickards indicated that several members of the industry could not be here today and that they requested that this meeting be postponed, however the Chief Counsel emphasized that the Commission has worked extensively with the industry throughout the drafting process of these regulations.

Chairman Shelton thanked the Chief Counsel for his comments and indicated that not everyone from the industry would be available at all of the meetings and with a 45-day response time the industry should have sufficient time submit their requests or concerns.

#### Section 12550. Purpose and Scope

Staff Counsel Hoganson presented Section 12550, Purpose and Scope, and stated that Option A, requested by Golden State Gambling Association (GSGA) was being presented for possible incorporation into the proposed draft but it is not required. In response to Commissioner Sasaki's inquiry, Ms. Hoganson indicated that the GSGA recommendation was not incorporated because the Division currently has authority to withdraw a notice of violation.

Joy Harn, Legal Counsel for Bicycle Casino, acknowledged and thanked the Commission and staff for their effort and commitment in working with the industry in the regulation process. Ms. Harn suggested that minor easily corrected violations should be addressed without a formal process and fines and penalties imposed should be appropriate for the severity of the violation. Ms. Harn stated that she provided the Commission with a summary of their areas of concern.

Commissioner Cruz indicated that the language, "*minor*" and "*easily corrected violations*", is subjective and could lead to different interpretations as to what is minor and what is easily corrected, and may add to further conflict.

The Commissioners determined that the suggested language (lines 16-20) on Page 2 of the draft regulations was unnecessary and directed staff not to incorporate it in the draft regulations.

#### Section 12552. Settlements in Lieu of the Formal Hearing Process

Staff Counsel Hoganson presented Section 12552, Settlements in Lieu of the Formal Hearing Process, and stated that there were two major options being presented and indicated the staff recommendation is more pared down than the GSAG's option, which was more structured and rigid. Ms. Hoganson advised that staff took the "less

is more" approach and added that staff incorporated the language from Section 12570, Settlements, and consolidated it into this Section. Staff Counsel Hoganson stated that in both options the Commission has sole and separate authority to approve a settlement and only the Commission can approve a settlement.

Commissioner Cruz questioned the 60-day deadline for formal hearing.

Staff Counsel Hoganson stated that both options provides for a 60-day deadline and indicated that if there are no settlement deadlines, settlement negotiations could go on forever.

In response to Commissioner Sasaki's inquiry, Matt Campoy, Deputy Director, Division of Gambling Control, stated that the Division sent correspondence to the Commission outlining what the Division advocates and were advocating agreement with the staff recommendation for Section 12552.

Ms. Harn stated that the industry's proposal provides for a better road map and guidelines for future industry, Commission, and Division staff.

Commissioner Cruz agreed that a road map was a valuable tool for resolving disputes but was concerned that imposing a strict formal road map may hinder the Division in the event they were unable to meet the deadlines provided for in GSGA recommendation. Commissioner Cruz recommended that the GSGA option could possibly be used as protocol.

Chairman Shelton reiterated that these proposals are not written in stone and may be brought back.

Deputy Director Campoy stated that the Division would draft corresponding policies and procedures for implementation of these regulations.

The Commission having reached a consensus directed staff to use the Staff Option for section 12552 and not to incorporate the option proposed by GSGA.

Section 12554, Formal Hearing Process, subsection (c)

Staff Counsel Hoganson indicated that there were two staff options for Section 12554 (c), Formal Hearing Process, proposed by GSGA, which relates to the duties of an Administrative Law Judge after an accusation has been filed. Staff Counsel Hoganson indicated that the first option was not originally included in the staff draft because it is redundant and is already required by the Administrative Procedure Act, but added that it could be included – although the Office of Administrative Law may not approve it, which could cause a 15-day change.

Chief Counsel Rickards explained that this option was omitted because the Office of Administrative Hearings does this routinely, by law.

Chairman Shelton stated that he did not oppose this option but did not want to duplicate the effort.

Commissioner Cruz voiced concerns about the 15-day delay referred to by Counsel Hoganson.

By consensus of the Commission, staff was directed to include the staff recommended first option for Section 12554 (c).

Staff Counsel Hoganson presented the second option for Section 12554 (c), proposed by GSGA concerning whether felony conduct would have a higher standard of proof than any other conduct and indicated that staff research indicated a preponderance of evidence is the legal standard unless the Commission chooses to have a higher standard.

Chairman Shelton indicated that he felt the standards are fine the way they are.

Commissioner Cruz indicated that the Commission is protecting the public and its standard should be the preponderance of evidence.

Chief Legal Counsel Rickards clarified that the Commission is recommending adding the first option on page 5, lines 12-14, and recommending against the second option on lines 20-24.

Tom Williams, Designated Agent for the Limelight Cardroom, spoke in favor of the option proposed by GSGA.

Commissioner Cruz thanked Mr. Williams for his comments and advised that the purpose of the Commission is to protect the public and also assured Mr. Williams that the Commission and Division would conduct thorough investigations.

Chairman Shelton added that he believed Commissioner Cruz was speaking for the whole Commission.

The Commission directed staff not to include in the regulation draft the option proposed by the GSGA requiring a higher standard of proof for violations, which might constitute felony conduct.

Section 12554, subsection (d)

Staff Counsel Hoganson presented two options for Section 12554 (d) and stated the Division recommended the addition of the wording, "*gambling establishments*".

Counsel Hoganson stated that the GSGA option narrows the focus and the Division recommendation broadens that focus and could include local ordinances or labor codes and added that this was another instance where the original language presented followed the "less is more" principle.

Ms. Harn stated that the addition of the wording "*gambling establishments*" could allow the Commission or Division to pursue violations not under their jurisdiction and stated this language narrows the scope of the Gambling Control Act. Ms. Harn also stated the Commission and Division should focus on gambling issues.

Deputy Director Campoy stated that the Division supports the adding of "*gambling establishment*" which broadens the language. Deputy Director Campoy also advised that any violations not under the Gambling Control Act would be brought to the attention of not only the Commission but also the proper administrative body.

By consensus of the Commission, staff was directed to include Option 2 in the draft regulations Section 12554 (d).

Section 12554, subsection (7)(a)

Staff Counsel Hoganson presented the following three options for Section 12554 (7)(a), concerning monetary penalties, and indicated that staff is leaning towards a fixed formula based on the gross gambling revenues.

- Option 1. Twenty-five percent...less a downward adjustment of no more than ten-percent of the average daily gross gaming revenue for state and local fees
- Option 2. Twenty-five percent
- Option 3. Fifty-percent...but not less than \$500.00

Chairman Shelton inquired as to which of the three was the staff recommendation.

Chief Counsel Rickards stated that staff agrees with Option 3 but added this was the Commission's decision.

Commissioner Cruz recommended that the formula for fixing a penalty be the cap and stated he was leaning towards Option 2 with a cap of not less than \$500.00. Commissioner Cruz also stressed that the intention is not to cause a hardship on the employees by having fines so steep it would take their operating revenue, but enough to punish the owners and the best way is to take away their profit.

Deputy Director Campoy stated the Division supports Option 3, however, the Commission maintains discretion of lowering the fine percentage. Commissioner Cruz

clarified that the Commission only has the discretion to lower the number of days of suspension.

Chief Counsel Rickards indicated that in administrative adjudications you do not have the discretion that a judge in a court has in terms of the fines, and further indicated that in administrative adjudication the abuse of discretion is always looked at closely. Chief Counsel Rickards added that working with the Division, their concern was finding some reasonable level for the wide range in size of the card rooms so that fines are not too heavy-handed for the smaller establishments and it did not simply become the price of doing business for the larger ones.

Chairman Shelton and Commissioners Sasaki and Vuksich were in agreement to include Option 3 in Section 12554 (7) (A) of the draft regulations, and Commissioner Cruz felt Option 2 with a \$500 minimum, was more reasonable.

Section 12554, subsection (7)(B)

Staff Counsel Hoganson presented two options for Section 12554 (B) and stated Option B is amended to read the "*sum of \$500 plus the total of \$500*".

Tracy Buck-Walsh, Counsel for Network Management indicated that the purpose of this regulation is to give the Third-Party Provider of Proposition Players Services (TPPPS) incentive to comply with the law and recommended making Option A, "(i)" and Option B, "(ii)" and inserting the following language after "third-party provider of proposition player services":

*If the violation is one involving a fraudulent, expired, borrowed, or stolen badge or involves a non-registered or non-licensed employee of the Third-Party Provider of Proposition Player Services owner then the monetary penalty shall be...*

Ms. Buck-Walsh recommended Option A for any other violation.

Chairman Shelton and Commissioner Cruz stated they liked Ms. Buck-Walsh's suggestion.

Commissioner Sasaki asked about the staff use of the term "*person's*" on Page 8, line 28 rather than an individual or business entity. Counsel Hoganson responded that, as a defined term in statute, it meets the clarity standard for this regulation.

Chief Counsel Rickards clarified the Commission's recommendation by stating that both options would be retained for the 45-day comment period, and a change would be considered for a future 15-day comment period.

Staff Counsel Hoganson requested clarification on the \$1000 "sum" amount in both Options A and B.

Chairman Shelton stated that the industry had requested the "sum" be lowered to \$500 for both Option A and B and the Commissioners were in agreement with the industry recommendations.

Section 12554, subsection (k)

Staff Counsel Hoganson presented the industry suggestion for Section 12554 (k) and stated that the recommended wording was established in law and redundant but did recommend that the wording could be added to the settlement section.

Chairman Shelton and Commissioner Sasaki agreed that it should be added to Section 12552, Settlements.

Section 12556, proposed subsections (q) through (v)

Staff Counsel Hoganson presented the six options for Section 12556, Factors in Mitigation or Aggravation, and stated that subsection (p) indicates that a respondent may bring in "*any relevant evidence*" which is designed to be a catch-all provision and also indicated that that the industry's recommendations were drawn from Nevada which has more discretion, by law, than California's Gambling Control Commission

Commissioner Cruz stated there is nothing currently stopping the respondent from presenting any evidence relevant in mitigation.

Staff Counsel Hoganson stated that Commissioner Cruz was correct, and these options are more of a "pro-per's guide" to an administrative hearing. She added that she did not believe that the industry-suggested options would work logistically which is why they were not included in the previous staff draft.

Commissioner Cruz indicated that there are some subjective terms that invite scrutiny of any decision the Commission makes, and places an unnecessary burden on the Commission.

Joy Harn agreed that the list is long but suggested that the Administrative Law Judge having not previously addressed the gambling establishment disciplinary regulations, would have these regulations for support.

After discussion regarding suggested subsections (q) through (v) of section 12556, Chief Counsel Rickards clarified that the Commission is in agreement with the staff recommendation that this additional language was not necessary.

Section 12558, Disciplinary Guidelines for Holders of Work Permits

Staff Counsel Hoganson presented the Division's recommendation for Section 12558, to change on Page 12, Line 3, "*the minimum penalty of a five day suspension*" to "*three day penalty*".

By consensus the Commission directed staff to use the industry's recommendations for Section 12558.

Section 12560, Disciplinary Guidelines for Third-Party Providers of Proposition Player Services Licenses or Registrants

Staff Counsel Hoganson presented three options recommended by the Division for Section 12560 (a), and stated there was an attempt to set penalties on a graduated basis.

Tracy Buck-Walsh Attorney for Network Management Corporation spoke against the Division options and recommended a flat fee between \$50 and \$10,000 that is not based on the number persons employed by the establishment. Ms. Buck-Walsh also stated that one of the rationales behind the annual fees was to create an incentive to comply.

Deputy Director Campoy spoke in favor of the Division's recommendations.

Chief Counsel Rickards recommended the Commission ask for a written submission and request a 15-day change.

Senior Counsel Bolz indicated that the intent of the annual fees was not to deter misconduct.

Commissioner Vuksich advised that she was in favor of consistency and not comfortable with the how much an establishment can pay.

Chairman Shelton added that his concern was for fairness and consistency and further indicated that due to the size of some business, the larger establishments could pay larger amounts while smaller fines could be implemented for the smaller establishments.

After discussion, the Commission agreed to leave the suggested language of Section 12560, Pages 12, and 13, and Section 12562, Page 17 lines 26-28, open for a future 15-day change, after conferring with the Division and the industry, and reviewing whatever comments were received during the 45-day comment period.

Section 12560, subsection (b)(12)

Staff Counsel Hoganson presented Section 12560.

Commissioner Sasaki requested, without Commission objection, that the following wording be added to the Disciplinary Regulations", "*or has instructed or induced another to cheat*", (Penal Code section 337y).

Counsel Hoganson agreed that could be done before the 45-day comment period.

Section 12560, saubsection (b)(19)

Staff Counsel Hoganson presented the Division's option for Section 12560, subsection (b)(19), page 14, lines 31-32, which the Commission agreed to incorporate regarding playing books.

Commissioner Sasaki requested, without objection, that the language in Section 12560 (c)(2), lines 12-14, be mirrored throughout the regulations.

Counsel Hoganson agreed that could be done before the 45-day comment period. In addition, the Commission agreed that on page 16, lines 24-26, a "*badge from another establishment*" should also be included.

Counsel Hoganson presented the suggestion from industry for section 12560 (c)(8), and mirrored at 12562 (c)(8), which was accepted by the Commission.

Section 12566, subsection (a), line 28 was amended to include "*any local ordinance*", in addition to the Gambling Control Act or regulation, Section 12566, subsection (b)(6), line 22 which was amended to include "*key employee status*".

Counsel Hoganson also acknowledged that page 21, line 36, and page 22, line 22, contained a typographical error and stated that the "and" should be an "or". Staff Counsel Hoganson thanked Limelight Designated Agent Tom Williams for recognizing the error.

Commissioner Sasaki inquired when the formal APA process would begin.

Counsel Hoganson responded that she would endeavor to have the revised draft to the Office of Administrative Law within a week, but that the Office of Administrative Law would need ten days to prepare the Notice Register, and indicated the first Friday in March would be the earliest that comment could begin. Counsel Hoganson then repeated the details of the formal APA process and encouraged comments during that time.

Chairman Shelton thanked the industry and staff for their time, patience and the professional manner in which this process has been conducted.

Chairman Shelton announced that the Commission would recess until 1:30 p.m. At 12:05 the Commission recessed.

## RECONVENE

Chairman Shelton reconvened the meeting of February 9, 2006, at 1:30 p.m., with Commissioners Cruz, Sasaki, and Vuksich present.

Staff Participating: Steve Giorgi, Executive Director, Cyrus Rickards, Chief Counsel, Heather Hoganson, Staff Counsel, and Herb Bolz, Senior Legal Counsel and Regulations Coordinator, Legal Division, and Terri Ciau, Deputy Director, Licensing Division.

Upon motion of Commissioner Sasaki, seconded by Commissioner Cruz and carried in the roll-call vote with Chairman Shelton and Commissioners Cruz and Sasaki voting yes, Commissioner Vuksich abstaining, the Commission adopted the July 21, 2005 meeting minutes with amendments to page 4, paragraph 3: spelling correction of the word "forward" and page 8, paragraph 1: add "three-month conditional".

Upon motion of Chairman Shelton seconded by Commissioner Cruz and carried in a roll-call vote with Chairman Shelton and Commissioners Cruz and Sasaki voting yes, Commissioner Vuksich abstaining, the Commission adopted the September 8, 2005 meeting minutes.

Terri Ciau, Deputy Director, Licensing Division advised that there was a numbering error in need of correction on page two of the agenda, items six and seven.

## DECISION ITEMS

### 1. Applications for Work Permit:

- a. The 101 Casino:  
DeBoer, Dustin  
Esparza, Hanson

Deputy Director Ciau indicated that both the Division of Gambling Control and Commission staff recommend approval of the applications for a work permit for Dustin DeBoer and Hanson Esparza, Item 1.a. Upon motion of Commissioner Sasaki, seconded by Chairman Shelton and unanimously carried in a roll-call vote with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved the applications for a work permit for Dustin DeBoer and Hanson Esparza.

2. Application for Key Employee License – Request for Withdrawal:
  - a. Palomar Card Club:  
Khiaw, Chantha

Deputy Director Ciau indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for a key employee license, request for withdrawal, without prejudice, for Chantha Khiaw, Item 2.a. Upon motion of Commissioner Cruz, seconded by Commissioner Vuksich and unanimously carried in a roll-call vote with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved the request for withdrawal, without prejudice, of the key employee license for Chantha Khiaw.

3. Request to Purchase Existing Gambling Establishment:
  - a. Gold Rush Gaming Parlor: Cal-Pac Grass Valley LLC

Senior Legal Counsel Bolz presented the request to purchase the existing gambling establishment, Gold Rush Gaming Parlor, from Cal-Pac Grass Valley LLC Item 3.a. Senior Counsel Bolz advised that the proposed sales agreement has been reviewed by the Legal Division and is now in compliance with the Act, and that staff recommends approval.

Chairman Shelton stated that the Commission was in receipt of documents from the Division indicating a pending investigation.

Matt Campoy, Division of Gambling Control, stated that the Division is completing an accusation involving numerous violations against Gold Rush Gaming Parlor and owner Sue Barrows, and stated that the Indian Gaming Law Section within the Attorney General's Office has indicated the investigation would take two to four weeks for completion and submission to the Commission.

Commissioner Sasaki questioned page 37 of the sales agreement, which states: "*Seller may currently be under investigation by the Division of Gambling Control*".

Mr. Bolz, asked Mike Owen, Designated Agent for Cal-Pac Grass Valley, if they would be agreeable to amend the sales agreement to read "*is currently under investigation.*"

Mr. Owen stated Cal-Pac Grass Valley would be agreeable.

Chairman Shelton stated it was his understanding that there was an escrow account in the amount of \$50,000 that would be held over to cover possible debts owed by the seller and inquired if both parties would be agreeable that the money in escrow be used to cover costs and reimbursement of any investigation taken on by the state, possible fines, and state and federal taxes owing. Chairman Shelton also indicated that he did not believe that there were sufficient funds in the account to cover these costs and

suggested an additional \$100,000 be added to the reserve and thought that possibly the Commission had the authority to make that a condition of sale.

Commissioner Sasaki stated that it appeared that Cal-Pac Grass Valley would not be held responsible for payment of excess debts in the event that there were not sufficient funds in the reserve account to cover the costs for any unpaid debts.

Mr. Owen stated his understanding was that the \$50,000 escrow account was to cover any possible debts and agreed that in the event there were costs in excess of \$50,000, Cal-Pac Grass Valley would not be responsible. In response to Chairman Shelton's inquiry, Mr. Owen advised that Mr. Robert Tabor, Legal Counsel for Ms. Barrows, had informed him that he would not be available for this meeting.

Chairman Shelton made a motion that the condition of sale include an additional \$100,000 to be set aside to cover possible investigative costs of the State and fines and taxes due on the profits from the sale. Commissioner Sasaki seconded that motion.

Commissioner Cruz clarified that the Commission was requesting that the seller agree to a condition of an additional \$100,000 to be placed in the reserve for a total of \$150,000, as a condition for the Commission's approval of sale.

Mr. Owen stated that Cal-Pac would be agreeable to that condition but could not speak for the seller.

Chief Counsel Rickards requested that the motion be read back and in doing so inquired if the condition, as read, means the Commission would approve the purchase sale agreement contingent upon the seller agreeing to the amended condition and if the seller does not agree it would be brought back to the Commission.

Chairman Shelton agreed with Chief Counsel that this would be self-executing if the seller agrees and would come back to the Commission if the seller does not agree.

After extensive discussion, Senior Legal Counsel Bolz recommended that he and Mr. Owen leave the meeting to make the necessary revisions to subsection (c), Pages 34 and 35 of the sales agreement and return prior to the close of the meeting with the revisions.

Chief Counsel Rickards and Chairman Shelton agreed with Mr. Bolz's recommendation. Chairman Shelton withdrew his motion and Commissioner Sasaki withdrew her second.

Upon completion of the revisions, Chairman Shelton requested that Senior Counsel Bolz read into the record the modifications to Subsection (c) Pages 34 and 35 of the sales agreement.

Senior Counsel Bolz stated that subsection (c), Pages 34 and 35 shall be stricken and replaced with the following subsection (c):

*(c) From the amount set forth above, at paragraph 1.3(b), Escrow Agent shall establish a "Reserve Fund" of \$150,000, to be held by Escrow Agent subject to the terms of this agreement and for such time as to fulfill the condition listed in item #1 below, at which time the balance of the Reserve Fund, less amounts properly charged against the Reserve Fund, shall be paid as follows:*

- 1. Final Commission action regarding pending disciplinary action against the Seller, including without limitation, fines and recovery of the cost of investigation and prosecution of the case;*
- 2. Payment of any and all owed taxes, including federal, state, local, payroll, income, and sales taxes presently due as well as accrued through close of escrow;*
- 3. Balance to be paid to Seller.*

Chief Counsel Rickards advised that it must be made clear that this is contingent upon approval of the Seller.

Upon the motion of Chairman Shelton, seconded by Commissioner Sasaki and unanimously carried in the call for a vote, with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved the purchase agreement exisfor Gold Rush Gaming Parlor contingent upon the Seller agreeing to the stated modified conditions.

4. Application for State Gambling License:
  - a. Casino Poker Club: Casino Poker Club, Inc.

Deputy Director Ciau indicated that Casino Poker Club was previously licensed as a sole proprietor and is now being presented to the Commission for its consideration as a corporation. Ms. Ciau further indicated that both the Division of Gambling Control and Commission staff recommend approval of the application for a state gambling license from February 1, 2006 through January 31, 2007 for Casino Poker Club, Inc., Item 4.a.

Commissioner Cruz inquired about the Division's recommended conditions; justification of those conditions; and why the conditions are not included in the recommendation staff has presented to the Commission.

Deborah DeRosier, Special Agent-in-Charge, Division of Gambling Control, stated that the conditions involved minor violations and because key employees are on site and

wearing badges, the Division is in agreement with the Commission's recommendation of approval.

Ileana Harris, Owner, Casino Poker Club, advised the Commission that she takes the Commission's concerns seriously and in attempting to maintain compliance, she has employed three additional key employees for a total of five key employees. Ms. Harris also stated that she had petitioned the Redding City Council to change the local ordinance to allow work permits to be placed in full view in the cashier's cage. Ms. Harris stated that the local police department, Redding City Council and Division of Gambling Control approved this procedure and believes it will be implemented by March 31, 2006.

Chairman Shelton thanked Ms. Harris for taking time to come before the Commission.

Upon motion of Commissioner Sasaki, seconded by Commissioner Vuksich and unanimously carried in the call for a vote with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved the application for a state gambling license from February 1, 2006 through January 31, 2007, for Casino Poker Club, Inc.

5. Applications for Renewal of State Gambling License:

- a. Empire Sportsmen Association: Empire Sportsmen Association, California Non-Profit Corporation

Deputy Director Ciau indicated that Agenda Item 5.a. was a follow-up from the December 15, 2005 Commission meeting and that both the Division of Gambling Control and Commission staff recommend approval of the application for the renewal of a state gambling license from December 1, 2005 through November 30, 2006, for Empire Sportsmen Association, Item 5.a.

Chairman Shelton inquired if anyone was in attendance representing Empire Sportsmen Association. Upon acknowledgement of Chris Lucas, representative of Empire Sportsmen Association, Chairman Shelton stated that he had difficulty finding this a benevolent corporation and added that page 2 of the Division's recommendation states that the profit sharing report indicates that Gary N. Baird and Deborah J. Baird are the only individuals who receive income from the gambling establishment and inquired whose charitable cause they represent.

Mr. Lucas explained that the 1996 local ordinance gives the Stanislaus County Sheriff discretion in issuing the local gambling license, subject to their own requirements. Mr. Lucas also stated that the Bairds make annual charitable donations from the establishment and added that the only requirement of the sheriff was that Empire Sportsmen Association report their income and taxes as a condition of their local license.

Chairman Shelton read into the record Article VI of the Empire Sportsmen Association's Articles of Incorporation concerning charitable purposes: "*The primary purpose of this non-profit corporation is to further enhance and carry out the charitable purposes of the Empire Sportsmen Association. The property, assets, and income in this corporation, are irrevocably dedicated to such charitable purposes and no part of the net income or assets of this corporation will ever enter into the benefit of any director, officer or member thereof, or to the benefit of any private person.*" Chairman Shelton then questioned the establishment's funding process.

Mr. Lucas advised that there is no distribution to any shareholders or officers and stated the owners are on salaries set at \$26,000 per year for Mr. Baird and an equipment leasing salary in the amount of \$20,000 per year to Deborah Baird.

Commissioner Cruz stated that Chairman Shelton's observations are noteworthy and added that according to the Division's report in 2003 the Commission found that this establishment was open to members of the general public. Commissioner Cruz read into the record the last sentence of Section 10.12.050 of the Stanislaus County Ordinance: "*No such game room shall be open to the public.*" Commissioner Cruz stated that the establishment charges a \$2.00 fee to allow the public to play and inquired how that justifies the ordinance.

Chairman Shelton indicated that it appears that the local officials did not want gambling in the county and someone found a way around it.

Mr. Lucas stated once again that the law was from 1996 and since then card room licensing has been under the discretion and jurisdiction of the local sheriff.

Commissioner Cruz stated the language of the law was very clear and stated he did not want to be disrespectful, but inquired what authority allows the sheriff to override the local ordinance. Commissioner Cruz inquired if the sheriff was mindful of the "*shall (not) be open to the public*" clause in the county ordinance.

Chairman Shelton stated he is not prepared to approve this license because it appears that there is conflict and lack of compliance between the county ordinance, the county sheriff, and the funding process. Chairman Shelton also stated that it might be time for the county to step up and revisit their ordinance and bring it into compliance with the rest of the State.

Chairman Shelton made a motion for a three-month temporary license to allow time for the card room to supply more clarification from the local sheriff and stated he had great respect for the sheriff but stated additional information was necessary.

Commissioner Cruz seconded the motion.

The motion was unanimously carried in a roll-call vote, with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved a three-month temporary state gambling license from March 1, 2006 through May 31, 2006, for Empire Sportsmen Association.

b. Golden West Casino: Kern County Associates, Limited Partnership

Deputy Director Ciau indicated that because additional time for review was needed, both the Division of Gambling Control and Commission staff recommend approval of a three-month temporary state gambling license, from March 1, 2006 through May 31, 2006, contingent upon payment of fees, for Golden West Casino, Item 5.b. Upon motion of Commissioner Sasaki, seconded by Commissioner Cruz and unanimously carried in a roll-call vote, with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved a three-month temporary state gambling license, contingent upon payment of fees, for Golden West Casino.

6. Applications for Renewal of Tribal-State Compact Gaming Resource Supplier Finding of Suitability:

- a. Atronic Americas, LLC: Paul Gauselmann, Michael Gauselmann, Rolf Klung, Joseph Bailo, Michael Lauer, Limited Liability Company
- b. Gemaco, Inc.: Diana Summers, Danny Carpenter, Jason Fitzhugh, and Thomas Baranowski

Deputy Director Ciau indicated that both the Division of Gambling Control and Commission staff recommend approval of Applications for Renewal of Tribal-State Compact Gaming Resource Supplier Finding of Suitability from March 1, 2006 through February 28, 2007, for Atronic Americas, LLC, Paul Gauselmann, Michael Gauselmann, Rolf Klung, Joseph Bailo, Michael Lauer, Limited Liability Company Item 6.a., and Gemaco, Inc.: Diana Summers, Danny Carpenter, Jason Fitzhugh, and Thomas Baranowski, Item 6.b. Upon motion of Commissioner Sasaki, seconded by Commissioner Vuksich and unanimously carried in a roll-call vote with Chairman Shelton and Commissioners Cruz, Sasaki, and Vuksich voting yes, the Commission approved the applications for renewals for tribal-state compact gaming resource supplier-finding of suitability, for Atronic Americas, LLC and Gemaco, Inc.

7. Proposed Cancellation of the TPPPS Registration:

- a. Network Management Group, Inc.: Lyla, Putrithee

Deputy Director Ciau indicated that both the Division of Gambling Control and Commission staff recommend approval of the proposed cancellation of the TPPPS registration for Putrithee Lyla, Item 7.a.

A motion was made by Commissioner Cruz and seconded by Commissioner Sasaki to adopt the staff recommendation.

Mr. Lyla addressed the Commission and requested reconsideration of the cancellation of his TPPPS registration and stated he was a victim of identity theft. Mr. Lyla submitted documents for Commission review indicating he had no prior felony convictions.

Chief Counsel Rickards stated that there was no way to verify that the documents supplied by Mr. Lyla were authentic, but also indicated that several of the documents, if reliable, give credence to what Mr. Lyla stated. Mr. Rickards asked Mr. Lyla if he would be willing to work with agents from the Division of Gambling Control and inquired if he still retained his gun permit.

Mr. Lyla stated he was willing to work with the Division and that he did still have his gun permit.

Chief Counsel Rickards stated that Mr. Steve Giorgi, Executive Director, California Gambling Control Commission pointed out that in order to maintain a gun permit you must have clearance from both the state and FBI and that this issue is worth looking into.

Chairman Shelton recommended that item 7.a. be tabled and referred back to the Division for further review.

Commissioner Cruz withdrew his motion and Commissioner Sasaki withdrew her second. Item 7.a. was tabled and referred back to the Division for further review.

#### 8. Rulemaking Calendar for 2006

Senior Legal Counsel Bolz presented the proposed 2006 Rulemaking Calendar for submission to the Office of Administrative Law and stated that the Commission had received more public input than in prior years and added that most of the recommendations have been included in the proposed calendar. Counsel Bolz stated that some items were omitted because staff feels strongly that, due to time constraints, those of the most importance need to be addressed first.

Commissioner Sasaki requested that legal staff consider regulations for designated agents and questioned the "advertising" wording on the final page.

Mr. Bolz stated that the designated agent regulation would be included and thought that the advertising statements were specified in more detail.

Staff Counsel Hoganson indicated the advertising wording on the last page was in reference to a mandate by the Gambling Control Act requiring coordination with other agencies in determining a method of disapproving certain advertising.

A copy of the staff proposed 2006 Rulemaking Calendar is incorporated into the minutes as Attachment B.

## CONSENT CALENDAR ITEMS

1. Applications for Renewal of Work Permit:
  - a. Empire Sportsmen's Association:  
Men, Samothy
  - b. The 101 Casino:  
Fricke, Carol
  
2. Applications for Tribal-State Compact Key Employee Finding of Suitability:
  - a. Agua Caliente Band of Cahuilla Indians of the Agua Caliente Reservation – Agua Caliente Casino:
 

Baruth, Christopher	Roberts, Donald
Phan, Thai	Thomas, Christina
Quijano, Jose	
  - b. Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation – Barona Valley Ranch Resort and Casino:
 

AhQuin, Kawika	Lumba, Leodegario
Ball, Roger	Magdowski, Dawn
Garcia, Manuel	Nguyen, Chinh
James, Robert	Pippins, Cory
LeGrand, Linda	Tuck, Scott
  - c. Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria – Colusa Casino:  
Solis, Juanita
  - d. Cahuilla Band of Mission Indians of the Cahuilla Reservation – Cahuilla Creek Casino:  
Herman, Allison  
Mitchell, Lee
  - e. Coyote Valley Band of Pomo Indians – Shodakai Casino:  
Diaz, David
  - f. Elk Valley Rancheria – Elk Valley Casino:  
Glazner, Cynthia
  - g. Hopland Band of Pomo Indians of the Hopland Rancheria – Sho-Ka-Wah Casino:  
Pierson, Anna
  - h. Jackson Rancheria of Me-Wuk Indians of California – Jackson Rancheria Casino, Hotel, and Conference Center:  
Finch, Annette  
Laird, Jeffrey  
Hendricks-Shermantine, Sherrie  
Lucas, Carlota



- |   |                 |
|---|-----------------|
| Christman, Paschal  | Sherrell, Penny |
| Edwards, Kimberly   | Vath, Phoeung   |
| w. Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation – Viejas Casino: |                 |
| Fisher, Robert  | Leon, Alex      |

2. Applications for Tribal-State Compact Key Employee Finding of Suitability – Renewals:

- a. Agua Caliente Band of Cahuilla Indians of the Agua Caliente Reservation – Agua Caliente Casino:
 

Fowler, Jo Ann	Raymond, Robert
Grinager, Ramona	Vaillette, Salena
- b. Alturas Indian Rancheria – The Desert Rose Casino:
 

Dolan, Mary
- c. Augustine Band of Cahuilla Mission Indians of the Augustine Reservation – Augustine Casino:
 

Tran, Kathy	Tveit, Thomas
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- d. Cher-Ae Heights Indian Community of the Trinidad Rancheria – Cher-Ae Heights Casino:
 

Tucker, Susan
- e. Dry Creek Rancheria of Pomo Indians of California – River Rock Casino:
 

Graham, James
- f. Jackson Rancheria of Me-Wuk Indians of California – Jackson Rancheria Casino, Hotel, and Conference Center:
 

Pharris, James	Tingstrom, Arlen
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- g. Morongo Band of Cahuilla Mission Indians of the Morongo Reservation – Casino Morongo:
 

Eyler, Tammy	Neal, Micheal
Ferrante, Alan	
- h. Redding Rancheria – Win-River Casino:
 

Hendry, Jeffrey
- i. Rincon Band of Luiseno Mission Indians of the Rincon Reservation – Harrah's Rincon Casino and Resort:
 

Duffy, Suzanne	Hart, Jane
Freeman, Tracy	Hernandez, Jesse
Gao, Jingming	
- j. Rumsey Indian Rancheria of Wintun Indians of California – Cache Creek Casino Resort:
 

Torman, Charles	Vince, Suzanne
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- k. San Manuel Band of Serrano Mission Indians of the San Manuel Reservation – San Manuel Indian Bingo & Casino:
 

Garcia, Hector	Vanderplow, Gary
Truong, Anthony	Willingham, James
- l. Smith River Rancheria – Lucky 7 Casino:
 

Westrick, Terry



**CALIFORNIA GAMBLING CONTROL COMMISSION**

Physical Address: 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231  
Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013  
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**Privileged Attorney-Client Communication  
California Gambling Control Commission***Memorandum*

Date: January 31, 2006

To: Commissioners

From: Cy Rickards, Chief Counsel  
Heather Hoganson, Staff Counsel

Subject: Disciplinary Regulations

## Attached find a copy of:

- ❖ The draft disciplinary regulations (Chapter 10. Discipline, Hearings, and Decisions),
- ❖ A three-page public staff report discussing the draft,
- ❖ A ten-page internal draft of the initial statement of reasons with comments on some of the options presented to you, and
- ❖ A copy of single page internal memorandum from last June which briefly summarizes the rulemaking procedures of the Administrative Procedure Act (APA) (Government Code section 11346, et seq.).

This draft is on the February 9, 2006 agenda for Commission approval in order to initiate the formal rulemaking process as described in the attached APA Process memorandum. As requested by the Commission, the draft contains alternative language for a number of the regulatory sections. The source of these alternatives, e.g., the Golden State Gaming Assn., the Division of Gambling Control, etc., is indicated by footnotes. For many of the areas where there are language choices, there is a staff recommendation. Staff requests the Commission make language choices so that the regulations may be submitted to the Office of Administrative Law for publication in the Notice Register.

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*Staff Report*

Date: January 30, 2006  
From: Cy Rickards, Chief Counsel  
Heather Hoganson, Staff Counsel  
Subject: Disciplinary Regulations

Commission staff has been working on discipline regulations since approximately mid-2003. These regulations are intended to cover those individuals and entities within the broad range of the Commission's jurisdiction, including cardroom owners, key employees, proposition players, gambling business registrants, manufacturers and distributors of gambling equipment, persons given any approval or finding of suitability, and employees holding state or local work permits. The regulations are intended to give the Commission and the Division of Gambling Control (the Division) the ability to take disciplinary action<sup>1</sup>, and are designed to promote adherence to the Gambling Control Act and related regulations through a graduated range of sanctions, from warnings to license revocation.

In developing this draft, research was done on other gambling jurisdictions as well as other licensing agencies in California regarding discipline; meetings were held with the Division, with cardroom representatives, and with representatives from the third party providers of proposition player services. Two public workshops were held, in February 2005 and in July 2005.

The attached draft contains a number of options for the Commissioners to choose as staff pursues the formal Administrative Procedure Act Notice and Comment. Please note that once this draft is approved for comment, there will be a 45-day comment period for the public to send in comments, and a formal public hearing. If any substantive changes are made, additional 15-day comment periods will be held on those changes. Finally, the proposed draft will be placed on the agenda for Commission approval before being sent to the Office of Administrative Law for review and filing with the Secretary of State.

<sup>1</sup> Any penalty guideline must be in regulation. Government Code section 11425.50.

## The Disciplinary Process

In administering the disciplinary process under the Gambling Control Act, the Commission and Division have separate and distinct duties. Essentially, the Division has the role of investigator and prosecutor, while the Commission has an adjudicative role. (Business and Professions Code section 19930.)<sup>2</sup>

In fulfillment of its statutory obligations, including discipline, the Division routinely conducts site visits and investigations at the cardrooms. The regulations allow the Division to work with the licensee, and, with regard to relatively minor and/or first-time violations, issue warning notices, notices to cure or advisory letters, in addition to bringing disciplinary violations. The regulations also allow for settlement of violations with approval of all settlements by the Commission.<sup>3</sup>

If the Division finds grounds for suspension or revocation, and a settlement is not appropriate or cannot be negotiated, the Division (represented by a lawyer in the Indian and Gaming Law Section of the Attorney General's Office (IGLS)), files, an "accusation" with the Commission.<sup>4</sup> With regard to such an accusation, the Administrative Procedure Act provides:

A hearing to determine whether a right, authority, license or privilege should be revoked, suspended, limited or conditioned shall be initiated by filing an accusation. The accusation shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. It shall specify the statutes and rules which the respondent is alleged to have violated, but shall not consist merely of charges phrased in the language of such statutes and rules. The accusation shall be verified unless made by a public officer acting in his official capacity or by an employee of the agency before which the proceeding is to be held. The verification may be on information and belief.<sup>5</sup>

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<sup>2</sup> Section 19930 provides in pertinent part:

"(a) The division shall make appropriate investigations as follows . . . (b) If, after any investigation, the division is satisfied that a license, permit, finding of suitability, or approval should be suspend or revoked, it shall file an accusation with the commission in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [Administrative Procedures Act]. (c) In addition to any action that the commission may take against a license, permit, finding of suitability, or approval, the commission may also require the payment of fines or penalties."

<sup>3</sup> See proposed sections 12252.

<sup>4</sup> Bus. & Prof. Code section 19930.

<sup>5</sup> Government Code section 11503.

The Division's duty is to prove to the Commission that a violation occurred. The Commission's duty is to determine whether or not the violation occurred and, if it did, what the penalty should be.<sup>6</sup>

Pursuant to the Administrative Procedure Act, the Division will send the matter to the Office of Administrative Hearings (OAH), which, on behalf of the Commission, conducts a formal hearing before an administrative law judge (ALJ) who will write a proposed decision for the Commission.

The administrative hearing is similar to a trial before a judge, with a court reporter (unless all parties agree to a tape recorder), witnesses, exhibits, and an ALJ presiding. At the hearing, the ALJ will make credibility findings, rule on evidentiary objections, swear in witnesses, etc.<sup>7</sup> After the hearing, the ALJ will have approximately 30 days to review the evidence and law, and write a proposed decision. This proposed decision would contain findings of fact, legal conclusions, any factors in mitigation or aggravation, and an order. The order will either indicate that the allegations brought by the Division were unproven or that the proven charges should result in revocation, suspension, or a stay of revocation or suspension on terms and conditions.

The Commission, after having read the proposed decision, must vote to adopt, modify, or reject the proposed decision within 100 days. In the event that the Commission fails to act within 100 days, the proposed decision becomes final by operation of law. The Commissioners also may send the proposed decision back to the ALJ for further findings on a particular issue or issues. In the event the Commissioners vote to reject the decision, they must then review the entire transcript (and exhibits) and render their own decision.<sup>8</sup>

Finally, if the Commission decides to make all or part of an adopted decision binding on all licensees etc., the Commission could vote to adopt all or part of the decision as *precedential* pursuant to the Administrative Procedure Act and these draft regulations.<sup>9</sup>

Once the Commission has adopted a decision, it may be appealed in superior court, in a writ proceeding.<sup>10</sup>

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<sup>6</sup> Bus. & Prof. Code section 19930.

<sup>7</sup> The rules of evidence are somewhat relaxed, with hearsay evidence generally admissible, but not sufficient by itself to support a finding. Government Code section 11513.

<sup>8</sup> Government Code section 11517.

<sup>9</sup> Government Code section 11425.60.

<sup>10</sup> Bus. & Prof. Code section 19932; Government Code section 11523; Code of Civil Procedure section 1094.5.

1 **This is a draft of disciplinary guidelines which affects all CGCC licensees,**  
2 **registrants, etc. Staff notes are in green. Regulatory text in bold is**  
3 **merely highlighted for the reader's convenience (and will not be in any**  
4 **final adopted regulation).**

5  
6 **Brown double-lined boxes indicate Golden State Gaming Association**  
7 **suggestions; blue dashed boxes indicate Division suggestions; red**  
8 **squiggly boxes indicate suggestions made by third party industry**  
9 **members.**

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11  
12 **Chapter 10. Discipline, Hearings, and Decisions..... 1**

13 12550. Purpose and Scope ..... 1  
14 12552. *OPTION FROM STAFF:* Settlements in Lieu of the Formal Hearing Process..... 3  
15 12552. *OPTION FROM GSGA:* Grounds for Issuance of Notice of Violation and  
16 Offer to Pay Penalties in Lieu of the Formal Hearing Process..... 4  
17 12554. Formal Hearing Process..... 5  
18 12556. Factors in Mitigation or Aggravation of Penalty ..... 10  
19 12558. Disciplinary Guidelines for Holders of Work Permits ..... 12  
20 12560. Disciplinary Guidelines for Third-party providers of proposition player services licensees  
21 or registrants..... 12  
22 12562. Disciplinary Guidelines for Gambling business licensees or registrants..... 17  
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28 **Chapter 10. Discipline, Hearings, and Decisions**

29 **12550. Purpose and Scope**

- 30 (a) The purpose of this chapter is to set forth disciplinary procedures and guidelines  
31 applicable to the holder of any license, registration, permit, finding of suitability,  
32 or approval issued by the Commission.  
33 (b) The disciplinary guidelines in this chapter are designed to promote fairness and  
34 flexibility in dealing with a wide range of disciplinary scenarios. Variation in  
35 penalties based on circumstances and factors in aggravation or mitigation are  
36 part of this disciplinary scheme to promote compliance with applicable laws and  
37 regulations.  
38 (c) Nothing in this chapter is intended to limit the authority of the Commission to  
39 issue orders of summary suspension pursuant to Business and Professions  
40 Code section 19913, or to limit the authority of the Division to issue emergency  
41 orders pursuant to Business and Professions Code section 19931.  
42 (d) Nothing in this chapter shall be construed to prevent the Commission from  
43 ordering an investigation by Commission staff on a matter brought before the

1 Commission; instituting a civil action in any superior court to restrain a violation of  
2 the Gambling Control Act, pursuant to Business and Professions Code section  
3 19824, subdivision (g); referring a matter to the Attorney General or any district  
4 attorney or city attorney for civil, criminal or administrative action; or requesting  
5 the Division of Gambling Control to conduct an investigation pursuant to  
6 information gathered independently by the Commission or supplied to it by a third  
7 party.

8 (e) Nothing in this chapter precludes any person from notifying the Commission or  
9 the Division regarding any violations of law or reasons why the holder of any  
10 license, registration, permit, finding of suitability, or approval should be  
11 disciplined.

12 (f) Nothing in this chapter precludes the Division, in its discretion, from issuing  
13 warning notices, notices to cure, advisory letters regarding violations or possible  
14 violations of law, or from withdrawing such upon further investigation.  
15

16 **Nothing in this section precludes the Division, in its discretion, from issuing  
17 informal warning notices, notices to cure or advisory letters regarding  
18 violations or possible violations of law, without triggering these disciplinary  
19 procedures. The Division may also withdraw Notices of Violation before an  
20 accusation is filed.<sup>1</sup>**

21  
22 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19914,  
23 19920, 19922, 19924, 19930, 19971, and 19984 of the Business and Professions Code.  
24  
25 Reference: Sections 19913, 19930, and 19931 of the Business and Professions Code.  
26

<sup>1</sup> Options suggested by GSGA which could be incorporated into Staff's recommendation. This language is replicated in GSGA's option for 12552.

1 **12552. OPTION FROM STAFF<sup>2</sup>: Settlements in Lieu of the Formal Hearing Process**

2 (a) Any settlement of an accusation shall include a plan for immediate abatement  
3 of the violation, a plan for immediate compliance with all statutory and regulatory  
4 requirements, an agreement to any penalty imposed, and shall be a full and final  
5 settlement of the violation including a complete waiver of all judicial or other  
6 review unless otherwise agreed to by the Commission.

7 (b) Any settlement of an accusation shall be submitted by the Division for  
8 approval by the Commission at a noticed Commission meeting. The  
9 Commission shall have final approval authority concerning any such settlement.  
10 If the Commission rejects a settlement or agreement, and no amended  
11 agreement or settlement is reached before two additional regularly noticed  
12 Commission meetings have concluded, or sixty days have elapsed, whichever is  
13 later, the Division shall proceed with the formal hearing process under this  
14 Chapter.

16 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19920,  
17 19930, 19942, and 19984 of the Business and Professions Code.

18 Reference: Sections 19824, 19826, 19827, 19840, and 19930 of the Business and Professions Code.

---

<sup>2</sup> This option is Staff's recommendation. Redundant sections from the Administrative Procedure Act are eliminated; the regulation on Settlement (12570) is merged with this one for clarity and consistency. If Staff's option is not taken, the originally separate regulation on settlement may need to be reinserted into these regulations.

**12570. Settlements**

All settlements of an accusation shall be approved by the Commission at a noticed Commission meeting. Any settlement shall include a plan for immediate abatement of the violation, a plan for immediate compliance with all statutory and regulatory requirements, an agreement to the penalty imposed, and shall be a full and final settlement of the violation including a complete waiver of all judicial or other review unless otherwise agreed to by the Commission.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 and 19971 of the Business and Professions Code.

Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880, 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the Business and Professions Code.

**12552. OPTION FROM GSGA: Grounds for Issuance of Notice of Violation and Offer to Pay Penalties in Lieu of the Formal Hearing Process.**

- (a) Violation of the Gambling Control Act, any regulations adopted pursuant thereto, laws relating to gambling, laws whose violation is materially related to suitability for licensure, registration or the issuance of a work permit, or violation of a previously imposed disciplinary or license condition may, in the discretion of the Division, be the subject of a Notice of Violation issued to a holder of a license, registration, or permit. A Notice of Violation shall specify the code section of the law violated, facts concerning the circumstances of the violation, any corrective action needed, and any penalty to be imposed if accepted pursuant to subsection (d).
- (b) A Notice of Violation may be accompanied by an Offer to Pay a Fine in Lieu of the Formal Hearing Process. The Offer to Pay a Fine may provide for the payment of a Fine on acceptance of the Offer, or that the recipient can cure the violation within a time fixed in the Offer, with a fine to be paid only in the event the violation is not cured within the time allowed. If the Offer includes a fine, the fine shall not exceed that provided in Business and Professions Code sections 19930(c) and 19943(b). The fine shall be proportional to the seriousness of the offense, consider the daily gross income or salary of the respondent, and consider the aggravating and mitigating factors specified in section 12556 of this chapter.
- (c) The recipient of the Notice of Violation may request to meet with the Division and discuss the basis or circumstances of the Notice of Violation. Such a request shall be communicated to the Division in writing within 15 days of service of the Notice of Violation, in compliance with Code of Civil Procedure section 415.10 or 415.20. The Division shall meet with the recipient of the Notice, and any meetings shall occur within ten days of receipt of the request by the Division, unless the parties agree otherwise.
- (d) An acceptance of the Offer to Pay Penalties in Lieu of the Formal Hearing Process by a holder of a license, registration, or permit shall be communicated to the Division in writing within 35 days of service of the Notice, in compliance with Code of Civil Procedure section 415.10 or 415.20.
- (e) If no final agreement is reached between the holder of a license, registration, or permit and the Division after 36 days, the Division shall withdraw the Offer to Pay Penalties in Lieu of the Formal Hearing Process and the Division may proceed with the formal hearing process under this Chapter.
- (f) A copy of all Notices of Violation and Offers to Pay Penalties in Lieu of the Formal Hearing Process shall be sent to the Commission when served upon a holder of a license, registration, or permit. Any agreement to pay a penalty in full or any settlement of an assessed penalty shall be submitted by the Division for approval by the Commission under section 12562. . The Commission shall have final approval authority concerning any such payment or settlement. Any payment in full or settlement of an assessed penalty shall include a plan for immediate abatement of all violations and a plan for immediate compliance with all statutory and regulatory requirements. If the Commission rejects an agreement to pay a penalty in full or a settlement of an assessed penalty, and no amended agreement or settlement is reached before two additional regularly noticed Commission meetings have concluded or sixty days have elapsed, whichever is later, then the Division shall proceed with the formal hearing process under this Chapter.
- (g) Nothing in this section precludes the Division, in its discretion, from issuing informal warning notices, notices to cure or advisory letters regarding violations or possible violations of law, without triggering these disciplinary procedures. The Division may also withdraw Notices of Violation before an accusation is filed.

Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19912, 19920, 19930, 19942, and 19984 of the Business and Professions Code.

Reference: Sections 19824, 19840, and 19930 of the Business and Professions Code.

1 **12554. Formal Hearing Process**

2 (a) Upon the filing with the Commission of an accusation by the Division  
3 recommending revocation, suspension, or other discipline of a holder of a  
4 license, registration, permit, finding of suitability, or approval, the Commission  
5 shall proceed under Chapter 5 (commencing with Section 11500) of Part 1 of  
6 Division 3 of Title 2 of the Government Code.

7 (b) In the event that the Division cannot present the accusation, the Commission  
8 may request outside counsel or representation by another state agency or may  
9 adequately segregate one or more Commission staff members from the  
10 Commissioners and Commission legal unit to present the accusation.

11 (c)

12 The Administrative Law Judge and Commission shall base their decisions on  
13 written findings of fact, including findings concerning any relevant aggravating  
14 or mitigating factors.<sup>3</sup>

15 Findings of fact shall be based upon a preponderance of the evidence standard.  
16 The "preponderance of the evidence standard" is such evidence as when  
17 considered and compared with that opposed to it, has more convincing force,  
18 and produces a belief in the mind of the fact-finder that what is sought to be  
19 proved is more likely true than not true.

20 Where any disciplinary decision to suspend or revoke an owner's license or  
21 registration is based on the owner having committed felony criminal conduct  
22 where such felony has not been proven or admitted in a criminal proceeding,  
23 the findings of fact relating to any felony conduct shall be based on clear and  
24 convincing evidence.<sup>4</sup>

25  

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3 Option suggested by GSGA.

4 Option suggested by GSGA.

1  
2 (d) Upon a finding of a violation of any law related to gambling or gambling  
3 establishments,  
4

5 **OPTION-1:** Upon a finding of a violation of the Gambling Control Act, any  
6 regulations adopted pursuant thereto, any law related to gambling, violation of  
7 a previously imposed disciplinary or license condition, or laws whose violation  
8 is materially related to suitability for a license, registration, permit, or  
9 approval,<sup>5</sup>

10 **OPTION-2:** Upon a finding of a violation of the Gambling Control Act, any  
11 regulations adopted pursuant thereto, any law related to gambling or gambling  
12 establishments, violation of a previously imposed disciplinary or license  
13 condition, or laws whose violation is materially related to suitability for a  
14 license, registration, permit, or approval,<sup>6</sup>

15  
16 the Commission may do any one or more of the following:

- 17 (1) Revoke the license, registration, permit, finding of suitability, or  
18 approval;
- 19 (2) Suspend the license, registration, or permit;
- 20 (3) Order the licensing authority of a city, county, or city and county to  
21 revoke a work permit, pursuant to Business and Professions Code  
22 section 19914, subdivision (a),
- 23 (4) Impose any condition, limitation, order, or directive (including but not  
24 limited to a directive to divest an interest in a business entity pursuant  
25 to Business and Professions Code, section 19879);
- 26 (5) Impose any fine or monetary penalty consistent with Business and  
27 Professions Code sections 19930, subdivision (c), and 19943,  
28 subdivision (b);
- 29 (6) Stay, in whole or in part, the imposition of a revocation or suspension  
30 against the holder of a license, registration, work permit, finding of  
31 suitability, or approval, or  
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5 Option suggested by GSGA.

6 Option suggested by the Division.

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(7) Order the holder to pay a monetary penalty in lieu of all or a portion of a suspension.

Within the guidelines of Business and Professions Code sections 19930, subdivision (c), and 19943, subdivision (b):

(A) If the respondent is an owner of a gambling establishment, the monetary penalty shall be equivalent of

**OPTION-1: twenty five percent...less a downward adjustment of no more than ten percent of the average daily gross gaming revenue for state and local fees and that are based upon gross gaming revenue<sup>7</sup>**

**OPTION-2: twenty-five percent<sup>8</sup>**

**OPTION-3: fifty percent... but not less than a total of \$500<sup>9</sup>**

of the average daily gross gaming revenue, for the number of days for which the suspension is stayed.

<sup>7</sup> Option based suggestion from GSGA.

<sup>8</sup> Option based on straight percentage from GSGA without tax adjustments.

<sup>9</sup> Option suggested by the Division.

**NOTE**

**Business and Professions Code section 19930, subdivision (c)** limits a fine to \$20,000 for each separate violation of statute or regulation.

**Business and Professions Code section 19943, subdivision (b)** allows the Commission to impose a monetary penalty on persons engaged in controlled gambling that violate Commission regulations. In the first instance, the penalty is limited to \$10,000. If a penalty was imposed in a prior proceeding before the Commission, the penalties for all violations shall not exceed \$25,000. If a penalty was imposed in two or more prior proceedings before the Commission, the penalties for all violations shall not exceed \$100,000.

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(B)

**OPTION A:** If the respondent is an owner of a third-party provider of proposition player services, the monetary penalty shall be the sum of \$1000 plus the total of \$100 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.<sup>10</sup>

**OPTION B:** If the respondent is an owner of a third-party provider of proposition player services, the monetary penalty shall be the sum of \$1000 plus the total of \$300 multiplied by the maximum number of tables for which proposition player services have been contracted at the gambling establishment where the violation was charged, which sum shall be multiplied by the number of days for which the suspension is stayed.<sup>11</sup>

(C) If the respondent is an owner of a gambling business, the monetary penalty shall be \$1500 per day for the number of days for which the suspension is stayed.

(D) If the respondent is a key employee of a gambling establishment or a supervisor of a gambling business or third-party provider of proposition player services, the monetary penalty shall be \$100 per day for the number of days for which the suspension is stayed.

(E) If the respondent is a holder of a work permit, a player or other employee of a gambling business or third-party provider of proposition player services, or a person not otherwise described above, the monetary penalty shall be \$50 per day for the number of days for which the suspension is stayed.

(e) If a person's state gambling license for a gambling establishment is revoked by the Commission pursuant to this chapter, the Commission may stay such revocation for a reasonable period of time to allow such person to sell or divest himself or herself of such person's ownership interest in the gambling establishment, provided that after the date on which the revocation is stayed by the Commission, such person shall not be entitled to, realize, or receive any profits, distributions, or payments that might directly or indirectly be due to such person or which arise out of, are attributable to, or are derived from controlled gambling.

<sup>10</sup> Option supported by Third Party industry.

<sup>11</sup> Division Suggestion.

- 1 (f) If an owner of a third-party provider of proposition player services or gambling  
2 business has his or her owner's license or registration revoked by the  
3 Commission pursuant to this chapter, the Commission may stay such revocation  
4 for a reasonable period of time to allow such person to sell or divest himself or  
5 herself of such person's ownership interest in the third-party provider of  
6 proposition player services or gambling business, provided that after the date on  
7 which the revocation is stayed by the Commission, such person shall not be  
8 entitled to, realize, or receive any profits, distributions, or payments that might  
9 directly or indirectly be due to such person or which arise out of, are attributable  
10 to, or are derived from the provision of proposition player services.<sup>12</sup>
- 11 (g) For decisions concerning a gambling establishment, findings shall be made  
12 regarding the number of tables in operation at the establishment and the annual  
13 gross gaming revenue of the establishment.
- 14 (h) For decisions concerning an owner of a third-party provider of proposition player  
15 services, findings shall be made regarding the maximum number of tables for  
16 which proposition player services have been contracted at the gambling  
17 establishment where the violation was charged.
- 18 (i) Any order to pay the costs of investigation or prosecution of the case shall be  
19 fixed pursuant to Business and Professions Code section 19930, subdivision (d).
- 20 (j) For multiple violations, or for suspensions imposed by other jurisdictions based  
21 on the same violations, the decision shall state whether any Commission-  
22 imposed suspensions shall run consecutively or concurrently.
- 23

24 (k) At any time, the Commission and respondent may enter into a settlement  
25 of the accusation as provided in section . . . . ,<sup>13</sup>

26

27 Authority: Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920,  
28 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

29 Reference: Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions  
30 Code, Section 11045 of the Government Code, and Section 10335 of the Public Contract  
31 Code.

32

<sup>12</sup> Option suggested by the Division.

<sup>13</sup> Option suggested by GSGA. Staff suggests that if this option is chosen, it might be better placed in Regulation 12552 or moved to position earlier in this regulation, perhaps in 12554 (a).

1 **12556. Factors in Mitigation or Aggravation of Penalty**

2 If presented by complainant or respondent, the Commission shall consider the  
3 following factors in mitigation or aggravation of the penalty imposed:

- 4 (a) Violation of any previously imposed or agreed upon condition, restriction or  
5 directive.
- 6 (b) Whether or not the conduct was knowing, willful, reckless, or inadvertent.
- 7 (c) The extent to which respondent cooperated with the Division or Commission  
8 during the investigation of the violation.
- 9 (d) The extent to which respondent was honest with the Division or Commission  
10 during the investigation of the violation.
- 11 (e) The extent to which respondent is willing to reimburse or otherwise make  
12 whole any person who has suffered a loss due to the violation.
- 13 (f) Whether respondent has initiated remedial measures to prevent similar  
14 violations.
- 15 (g) The extent to which respondent realized an economic gain from the violation.
- 16 (h) Disciplinary history of respondent, repeated offenses of the same or similar  
17 nature, or evidence that the unlawful act was part of a pattern or practice.
- 18 (i) Any other aggravating factors, including any factors which the Commission  
19 determines to bear on the health, safety, or welfare of the public.
- 20 (j) The extent to which there was actual or potential harm to the public or to any  
21 patron.
- 22 (k) The extent to which an owner licensee or key employee of a gambling  
23 establishment, owner or supervisor of a third-party provider of proposition  
24 player services, or owner or supervisor of a gambling business exercised due  
25 diligence in management or supervision.
- 26 (l) If the violation was caused by an employee of a third-party provider of  
27 proposition player services or gambling business, the extent to which the  
28 owner licensee, licensee, or registrant knew or should have known of the  
29 employee's improper conduct; the level of authority of the employee involved  
30 and the extent to which the employee acted within the scope of his or her  
31 authority in committing the violation.
- 32 (m) If the violation was caused by a third-party provider of proposition player  
33 services or gambling business, the extent to which the owner licensee or  
34 gambling establishment knew or should have known of the improper conduct.
- 35 (n) If the violation was caused by an independent contractor of a gambling  
36 business, the extent to which the gambling business owner licensee, licensee,  
37 or registrant knew or should have known of the independent contractor's

1 improper conduct; the level of authority of the independent contractor involved  
2 and the extent to which the independent contractor acted within the scope of  
3 his or her authority in committing the violation.

4 (o) If the violation was caused or committed by a third party, the extent to which  
5 the owner licensee, licensee, or registrant knew or should have known of the  
6 third party's improper conduct.

7 (p) Any relevant evidence offered by respondent in mitigation of the violation.  
8  
9

10 (q) Whether the licensee or registrant reasonably relied upon a written opinion  
11 from law enforcement, City Attorney, District Attorney or other government  
12 official or agency, or written professional advice from an accountant,  
13 lawyer or other professional (which advice the respondent must disclose in  
14 order to claim reliance on the advice), relevant to the action resulting in the  
15 violation.

16 (r) Whether the gambling establishment or other business had a reasonably  
17 constituted and functioning compliance program.

18 (s) The size, profitability and number of employees of the gambling  
19 establishment or operation as these factors relate to the owners'  
20 culpability, including the ability to comply with regulatory requirements and  
21 to supervise and prevent violations, and the owners' ability to pay  
22 penalties.

23 (t) For minority owners of gambling establishments or operations who do not  
24 exercise management or supervisory authority, whether they were ignorant  
25 of any violations, ignored or failed to report evidence of violations, knew or  
26 should have known of the violations, or were complicit in the violation(s).

27 (u) The penalties imposed for similar violations in other cases.

28 (v) Fines or penalties incurred by the respondent for the same conduct and  
29 imposed by another agency or governmental entity.<sup>14</sup>

30

31 Authority: Sections 19811, 19823, 19824, 19840, 19850, 19853(a)(3), 19854, 19912, 19914, 19920,  
32 19922, 19924, 19930, 19932, 19971, and 19984 of the Business and Professions Code.

33 Reference: Sections 19857, 19858, 19859, 19862, 19870, and 19878 of the Business and Professions  
34 Code.

35

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<sup>14</sup> Options suggested by GSGA. Underline suggested amendment by Division.

1 **12558. Disciplinary Guidelines for Holders of Work Permits**

2 Pursuant to Business and Professions Code, section 19914, the holder of a work  
3 permit shall be subject to a minimum penalty of a five-day suspension, which may  
4 be stayed on terms and conditions and any monetary penalty as described in  
5 section 12554(d)(7) of this chapter, up to a maximum penalty of revocation by the  
6 Commission if the Commission finds that the holder:

- 7 (a) Engaged in or committed a prohibited act specified in Business and  
8 Professions Code 19914, subdivision (a).
- 9 (b) Does not currently meet any criterion for eligibility or qualification.
- 10 (c) Violated or is in violation of any condition, limitation or directive previously  
11 imposed on the work permit.
- 12 (d) Violated or is in violation of any Commission or Division regulations, including  
13 those regulations regarding work permits in the California Code of  
14 Regulations, title 4, division 18, chapter 2 (commencing with section 12100).

15 Authority: Sections 19811, 19823, 19824, 19911, 19912, 19914, 19920, 19930, 19932, and 19971 of  
16 the Business and Professions Code.

17 Reference: Section 19878 of the Business and Professions Code.  
18

19 **12560. Disciplinary Guidelines for Third-party providers of proposition player**  
20 **services licensees or registrants**

- 21 (a) If the Commission finds that an **owner** of a third-party provider of proposition  
22 player services, as that term is used in California Code of Regulations, title 4,  
23 section 12200, is out of compliance with any mandatory duty specified in or  
24 imposed by the Gambling Control Act or any Commission or Division regulation,  
25 which is not otherwise listed in these disciplinary guidelines, the penalty shall be  
26 **one day** of suspension of proposition player services from either specified  
27 gambling establishments or all gambling establishments, as the circumstances  
28 and factors in mitigation or aggravation apply, which may be stayed upon the  
29 payment of a monetary penalty as follows:  
30

31 (1) *If the third party provider of proposition player services has 5 or less*  
32 *licensees or registrants, the penalty shall be between \$50 and \$100, based*  
33 *upon factors in mitigation and aggravation.*

35 (2) *If the third party provider of proposition player services has 6 to 12*  
36 *licensees or registrants, the penalty shall be between \$100 and \$2000, based*  
37 *upon the factors in mitigation and aggravation.*  
38

1 (3) *If the third party provider of proposition player services has 13 or*  
2 *more licensees or registrants, the penalty shall be between \$2000 and*  
3 *\$10000, based upon the factors in mitigation and aggravation.*<sup>15</sup>

4  
5 (b) A license or registration granted by the Commission for an **owner** of a third-  
6 party provider of proposition player services, as that term is used in California  
7 Code of Regulations, title 4, section 12200, shall be subject to a minimum  
8 discipline of suspension of **seven days** from either specified gambling  
9 establishments or all gambling establishments, as the circumstances and factors  
10 in mitigation or aggravation apply, and a maximum discipline of revocation, which  
11 may be stayed on terms and conditions and any monetary penalty as described  
12 in section 12554 (d)(7) of this chapter, if the Commission finds that:

- 13 (1) The owner has violated or is out of compliance with any conditions,  
14 limitations, orders, or directives imposed by the Commission, either as  
15 part of an initial grant of license or registration, renewal of such, or  
16 pursuant to disciplinary action,
- 17 (2) The owner has been found, by any administrative tribunal or court, to  
18 have violated or be in violation of any law involving or relating to  
19 gambling,
- 20 (3) The owner has intentionally misrepresented a material fact on an  
21 application or supplemental application for licensure or registration,
- 22 (4) The owner has violated any law or ordinance with respect to campaign  
23 finance disclosure or contribution limitations, pursuant to Business and  
24 Professions Code, section 19982,
- 25 (5) The owner has violated California Code of Regulations, title 4,  
26 regarding annual fees for third party providers of proposition player  
27 services,
- 28 (6) The owner has provided proposition player services in violation of  
29 California Code of Regulations, title 4, section 12200.7, subdivision  
30 (b)(9) or (b)(11),
- 31 (7) The owner has failed to fully disclose financial arrangements in violation  
32 of California Code of Regulations, title 4, section 12200.7, subdivision  
33 (b)(15),
- 34 (8) The primary owner has failed to report cheating, in violation of  
35 California Code of Regulations, title 4, section 12200.7, subdivision  
36 (b)(18),

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<sup>15</sup> Division Suggestion.

- 1 (9) The owner has purchased, leased, or controlled equipment in violation  
2 of California Code of Regulations, title 4, section 12200.7, subdivision  
3 (b)(21),
- 4 (10) The owner has failed to have the proposition player contract  
5 approved, in violation of California Code of Regulations, title 4, section  
6 12200.7, subdivision (b)(22), or section 12200.9,
- 7 (11) The owner has authorized or provided payment to or receipt by  
8 the gambling establishment, in violation of California Code of  
9 Regulations, title 4, section 12200.7, subdivision (c),
- 10 (12) The owner has been cheating, pursuant to Penal Code, section  
11 337x,
- 12 (13) The owner has committed extortion (as that term is defined in  
13 Chapter 7 of Title 13 of Part 1 of the Penal Code, commencing with  
14 section 518),
- 15 (14) The owner has committed loan-sharking (as that term is used in  
16 Civil Code section 1916-3, subdivision (b)),
- 17 (15) The owner has conducted or negotiated illegal sales of controlled  
18 substances (as that term is used in Chapter 1 (commencing with  
19 Section 11000) of Division 10 of the Health and Safety Code) or  
20 dangerous drugs (as that term is used in Business and Professions  
21 Code, section 4022),
- 22 (16) The owner has committed bribery (as that term is used in Penal  
23 Code section 67 or 67.5),
- 24 (17) The owner has committed money laundering (as that term is used  
25 in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with  
26 Section 186.9),
- 27 (18) The owner has granted rebates to patrons without full disclosure,  
28 in violation of California Code of Regulations, title 4, section 12200.7,  
29 subdivision (19),
- 30 (19)
- 31 *The owner has violated the provisions regarding playing books*  
32 *listed in California Code of Regulations, title 4, section 12200.13,<sup>16</sup>*
- 33 (20) The owner has committed any of the acts listed in California  
34 Code of Regulations, title 4, section 12200.18, subdivisions (a), (b), (d),  
35 (e), (f), (i), (j), (l), (m), or (n), or

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<sup>16</sup> Suggestion by the Division.

1 (21) The owner is providing services as a gambling business without  
2 first obtaining a gambling business registration or license, in violation of  
3 California Code of Regulations, title 4, section 12220 et seq.

4 (c) A **supervisor or player**, as those terms are used in California Code of  
5 Regulations, title 4, section 12200, shall be subject to a minimum monetary  
6 penalty of \$100 and/or a suspension of **three days** and a maximum penalty of  
7 revocation if the Commission finds that:

- 8 (1) The supervisor or player has violated or is out of compliance with  
9 conditions, limitations, or orders or directives imposed by the  
10 Commission, either as part of an initial grant of license or registration,  
11 renewal of such, or pursuant to disciplinary action,
- 12 (2) The supervisor or player has engaged in any dishonest, fraudulent, or  
13 deceptive activities in connection with controlled gambling or the  
14 provision of proposition player services,
- 15 (3) The supervisor or player has committed any act punishable as a crime,  
16 not otherwise listed in these disciplinary guidelines, which substantially  
17 relates to the duties and qualifications of the licensee or registrant, or  
18 which occurred in a gambling establishment or the associated adjacent  
19 property, or
- 20 (4) The supervisor or player has engaged in any conduct on the premises  
21 of the gambling establishment or in connection with controlled gambling  
22 or the provision of proposition player services which is inimical to the  
23 health, welfare, or safety of the general public.
- 24 (5) The supervisor or player has either failed to wear a badge, worn a  
25 badge which was covered, worn a false or altered badge, worn another  
26 person's badge, or worn an expired badge,
- 27 (6) The supervisor or player has engaged in fighting or has intentionally  
28 provoked a patron or employee at a gambling establishment,
- 29 (7) The supervisor or player has maliciously or willfully destroyed or  
30 damaged the property of the gambling establishment, employee, or  
31 patron,
- 32 (8)  
33 *The supervisor or player has accepted tips, gratuities,*  
34 *complimentaries, or gifts from gambling establishment staff or*  
35 *patrons,<sup>17</sup>*

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<sup>17</sup> Suggestion by Third Party Industry Members.

1 (9) The supervisor or player has committed any of the acts listed in  
2 California Code of Regulations, title 4, section 12220.18, subdivision  
3 (a), or

4 (10) The supervisor or player has failed to comply with California  
5 Code of Regulations, title 4, section 12200.21.

6 (d) A **supervisor or player**, as those terms are used in California Code of  
7 Regulations, title 4, section 12200, shall be subject to a minimum monetary  
8 penalty of \$300 and/or a suspension of **7 days** and a maximum penalty of  
9 **revocation** if the Commission finds that:

10 (1) The supervisor or player has intentionally misrepresented a material  
11 fact on an application, request to convert, or supplemental application  
12 for licensure, registration, or approval,

13 (2) The supervisor or player has been cheating, pursuant to Penal Code,  
14 section 337x,

15 (3) The supervisor or player has committed extortion (as that term is  
16 defined in Chapter 7 of Title 13 of Part 1 of the Penal Code,  
17 commencing with section 518),

18 (4) The supervisor or player has committed loan-sharking (as that term is  
19 used in Civil Code section 1916-3, subdivision (b)),

20 (5) The supervisor or player has conducted or negotiated illegal sales of  
21 controlled substances (as that term is used in Chapter 1 (commencing  
22 with Section 11000) of Division 10 of the Health and Safety Code) or  
23 dangerous drugs (as that term is used in Business and Professions  
24 Code, section 4022),

25 (6) The supervisor or player has committed bribery (as that term is used in  
26 Penal Code section 67 or 67.5),

27 (7) The supervisor or player has committed money laundering (as that term  
28 is used in Chapter 10 of Title 7 of Part 1 of the Penal Code,  
29 commencing with Section 186.9),

30 (8) The supervisor or player has granted rebates to patrons without full  
31 disclosure, in violation of California Code of Regulations, title 4, section  
32 12200.7, subdivision (19), or

33 (9) The supervisor or player has committed any of the acts listed in  
34 California Code of Regulations, title 4, section 12200.18 subdivisions  
35 (b), (c), (d), (f), (g), (h), (i), (j), or (k).

36 (e) A license or registration granted by the Commission for an **owner** of a third-  
37 party provider of proposition player services, or for a **supervisor or player**, as

1 those terms are used in California Code of Regulations, title 4, section 12200,  
2 shall be subject to **revocation** if the Commission finds that:

- 3 (1) The owner, supervisor, or player has been convicted of a felony or a crime  
4 of moral turpitude that would disqualify the holder from licensure, or
- 5 (2) The owner, supervisor, or player no longer meets any criterion for  
6 eligibility, pursuant to California Code of Regulations, title 4, sections  
7 12204 or 12200.11.

8  
9 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19859, 19875, 19912, 19913,  
10 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the Business and  
11 Professions Code.

12 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,  
13 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the  
14 Business and Professions Code.

15  
16 **12562. Disciplinary Guidelines for Gambling business licensees or registrants**

17 (a) If the Commission finds that an **owner** of a gambling business, as that term is  
18 used in California Code of Regulations, title 4, section 12220, is out of  
19 compliance with any mandatory duty specified in or imposed by the Gambling  
20 Control Act or any Commission or Division regulation, which is not otherwise  
21 listed in these disciplinary guidelines, the penalty shall be **one day** of suspension  
22 of gambling business services from either specified gambling establishments or  
23 all gambling establishments, as the circumstances and factors in mitigation or  
24 aggravation apply, which may be stayed upon the payment of a monetary penalty  
25 as follows:

- 26 (1) *If the gambling business has 5 or less licensees or registrants, the*  
27 *penalty shall be between \$50 and \$100, based upon factors in mitigation and*  
28 *aggravation.*
- 29
- 30 (2) *If the gambling business has 6 to 12 licensees or registrants, the*  
31 *penalty shall be between \$100 and \$2000, based upon the factors in*  
32 *mitigation and aggravation.*
- 33
- 34 (3) *If the gambling business has 13 or more licensees or registrants, the*  
35 *penalty shall be between \$2000 and \$10000, based upon the factors in*  
36 *mitigation and aggravation.*<sup>18</sup>

<sup>18</sup> Division Suggestion.

1 (b) A license or registration granted by the Commission for an **owner** of a  
2 gambling business, as that term is used in California Code of Regulations, title 4,  
3 section 12220, shall be subject to a minimum monetary penalty of \$2500 and/or  
4 a discipline of suspension of **seven days** from either specified gambling  
5 establishments or all gambling establishments, as the circumstances and factors  
6 in mitigation or aggravation apply, and a maximum discipline of revocation by the  
7 Commission if the Commission finds that:

- 8 (1) The owner has violated or is out of compliance with any conditions,  
9 limitations, orders, or directives imposed by the Commission, either as  
10 part of an initial grant of license or registration, renewal of such, or  
11 pursuant to disciplinary action,
- 12 (2) The owner has been found, by any administrative tribunal or court, to  
13 have violated or be in violation of any law involving or relating to  
14 gambling,
- 15 (3) The owner has intentionally misrepresented a material fact on an  
16 application or supplemental application for licensure or registration,
- 17 (4) The owner has violated any law or ordinance with respect to campaign  
18 finance disclosure or contribution limitations, pursuant to Business and  
19 Professions Code, section 19982,
- 20 (5) The owner has violated California Code of Regulations, title 4,  
21 regarding annual fees for gambling businesses,
- 22 (6) The owner has been cheating, pursuant to Penal Code, section 337x,
- 23 (7) The owner has committed extortion (as that term is defined in Chapter 7  
24 of Title 13 of Part 1 of the Penal Code, commencing with section 518),
- 25 (8) The owner has committed loan-sharking (as that term is used in Civil  
26 Code section 1916-3, subdivision (b)),
- 27 (9) The owner has conducted or negotiated illegal sales of controlled  
28 substances (as that term is used in Chapter 1 (commencing with  
29 Section 11000) of Division 10 of the Health and Safety Code) or  
30 dangerous drugs (as that term is used in Business and Professions  
31 Code, section 4022),
- 32 (10) The owner has committed bribery (as that term is used in Penal  
33 Code section 67 or 67.5),
- 34 (11) The owner has committed money laundering (as that term is used  
35 in Chapter 10 of Title 7 of Part 1 of the Penal Code, commencing with  
36 Section 186.9),

1 (12) The owner is providing services as a gambling business without  
2 first obtaining a gambling business registration or license, in violation of  
3 California Code of Regulations, title 4, section 12220 et seq., or

4 (13) The owner has committed any of the acts listed in California  
5 Code of Regulations, title 4, section 12220.18, subdivisions (a), (b), (d),  
6 (e), (f), (l), or (m).

7 (c) A **supervisor or player**, as those terms are used in California Code of  
8 Regulations, title 4, section 12220, shall be subject to a minimum monetary  
9 penalty of \$100 and/or a suspension of **three days** and a maximum penalty of  
10 revocation if the Commission finds that:

11 (1) The supervisor or player has violated or is out of compliance with  
12 conditions, limitations, or orders or directives imposed by the  
13 Commission, either as part of an initial grant of license or registration,  
14 renewal of such, or pursuant to disciplinary action,

15 (2) The supervisor or player has engaged in any dishonest, fraudulent, or  
16 deceptive activities in connection with controlled gambling,

17 (3) The supervisor or player has committed any act punishable as a crime,  
18 not otherwise listed in these disciplinary guidelines, which substantially  
19 relates to the duties and qualifications of the licensee or registrant, or  
20 which occurred in a gambling establishment or the associated adjacent  
21 property,

22 (4) The supervisor or player has engaged in any conduct on the premises  
23 of the gambling establishment or in connection with controlled gambling  
24 which is inimical to the health, welfare, or safety of the general public.

25 (5) The supervisor or player has either failed to wear a badge, worn a  
26 badge which was covered, worn a false or altered badge, worn another  
27 person's badge, or worn an expired badge,

28 (6) The supervisor or player has engaged in fighting or has intentionally  
29 provoked a patron or employee at a gambling establishment,

30 (7) The supervisor or player has maliciously or willfully destroyed or  
31 damaged the property of the gambling establishment, employee, or  
32 patron,

33 (8)

34 *The supervisor or player has accepted tips, gratuities,*  
35 *complimentaries, or gifts from gambling establishment staff or*  
36 *patrons,*<sup>19</sup>

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<sup>19</sup> Suggestion by Third Party Industry Members, mirrored here in Gambling Businesses.

1 (9) The supervisor or player has committed any of the acts listed in  
2 California Code of Regulations, title 4, section 12220.18, subdivision  
3 (a), or

4 (10) The supervisor or player has failed to comply with California  
5 Code of Regulations, title 4, section 12220.21.

6 (d) A **supervisor or player**, as those terms are used in California Code of  
7 Regulations, title 4, section 12220, shall be subject to a minimum penalty of a  
8 monetary penalty of \$300 and/or a suspension of **7 days** and a maximum penalty  
9 of **revocation** if the Commission finds that:

10 (1) The supervisor or player has intentionally misrepresented a material  
11 fact on an application, request to convert, or supplemental application  
12 for licensure, registration, or approval,

13 (2) The supervisor or player has been cheating, pursuant to Penal Code,  
14 section 337x,

15 (3) The supervisor or player has committed extortion (as that term is  
16 defined in Chapter 7 of Title 13 of Part 1 of the Penal Code,  
17 commencing with section 518),

18 (4) The supervisor or player has committed loan-sharking (as that term is  
19 used in Civil Code section 1916-3, subdivision (b)),

20 (5) The supervisor or player has conducted or negotiated illegal sales of  
21 controlled substances (as that term is used in Chapter 1 (commencing  
22 with Section 11000) of Division 10 of the Health and Safety Code) or  
23 dangerous drugs (as that term is used in Business and Professions  
24 Code, section 4022),

25 (6) The supervisor or player has committed bribery (as that term is used in  
26 Penal Code section 67 or 67.5),

27 (7) The supervisor or player has committed money laundering (as that term  
28 is used in Chapter 10 of Title 7 of Part 1 of the Penal Code,  
29 commencing with Section 186.9),

30 (8) The supervisor or player has committed any of the acts listed in  
31 California Code of Regulations, title 4, section 12220.18 subdivisions  
32 (c), (d), (f), (g), (h), (i), (j), or (k).

33 (e) A license or registration granted by the Commission for an **owner** of a  
34 gambling business, or for a **supervisor or player**, as those terms are used in  
35 California Code of Regulations, title 4, section 12220, shall be subject to  
36 **revocation** if the Commission finds that:

37 (1) The owner, supervisor, or player has been convicted of a felony or a crime  
38 of moral turpitude that would disqualify the holder from licensure, or

1 (2) The owner, supervisor, or player no longer meets any criterion for  
2 eligibility, pursuant to California Code of Regulations, title 4, sections  
3 12224 or 12220.11.

4  
5 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875,  
6 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the Business and  
7 Professions Code.

8 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,  
9 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the  
10 Business and Professions Code.

#### 11 12 **12564. Disciplinary Guidelines for Manufacturers or Distributors**

13 A registration granted by the Commission for a manufacturer or distributor of  
14 gambling equipment shall be subject to suspension or revocation by the  
15 Commission if the Commission finds that the registrant has violated California Code  
16 of Regulations, title 4, section 12303, subdivision (b).

17  
18 Authority: Sections 19801(g), 19811, 19823, 19824, 19827(a)(1), 19840, 19841(r), 19850, 19854,  
19 19859, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931, and 19971 of the  
20 Business and Professions Code.

21 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,  
22 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the  
23 Business and Professions Code.

#### 24 25 **12566. Disciplinary Guidelines for Gambling Establishments**

26 (a) If the Commission finds that a gambling establishment is out of compliance with  
27 any mandatory duty specified in or imposed by the Gambling Control Act or any  
28 Commission or Division regulation, which is not otherwise listed in these  
29 disciplinary guidelines, pursuant to Business and Professions Code section  
30 19922, the penalty shall be **one day of suspension, stayed upon the payment**  
31 **of a penalty**, within the guidelines of Business and Professions Code, sections  
32 19930, subdivision (c), and 19943, subdivision (b), as follows:

33 (1) If the establishment has five tables or less and has an annual gross  
34 gaming revenue up to and including \$10,000, the penalty shall be between  
35 \$50 and \$100, based upon the factors in mitigation and aggravation.

36 (2) If the establishment has ten tables or less and has an annual gross gaming  
37 revenue over \$10,000, up to and including \$200,000, the penalty shall be  
38 between \$100 and \$2000, based upon the factors in mitigation and  
39 aggravation.

1 (3) If the establishment has more than ten tables and has an annual gross  
2 gaming revenue over \$200,000, the penalty shall be between \$2000 and  
3 \$10,000, based upon the factors in mitigation and aggravation.

4 (b) A state gambling license for a gambling establishment granted by the  
5 Commission shall be subject to a minimum discipline of **suspension for seven**  
6 **days** of normal business operation and a maximum discipline of **revocation**,  
7 which may be stayed on terms and conditions and any monetary penalty as  
8 described in section 12554(d)(7) of this chapter, if the Commission finds that the  
9 establishment has:

10 (1) Violated or is out of compliance with conditions, limitations, or orders or  
11 directives imposed by the Commission, either as part of an initial grant of  
12 license or registration, renewal of such, or pursuant to disciplinary action,

13 (2) Been found, by any administrative tribunal or court, to have violated or be  
14 in violation of any law involving or relating to gambling,

15 (3) Intentionally misrepresented a material fact on an application or  
16 supplemental application for licensure or registration,

17 (4) Failed to maintain adequate financing for chips in use or for player banks,

18 (5) Failed to report the operation of unregistered gambling businesses when  
19 the owners or management of the establishment knew or should have  
20 known that these gambling businesses were operating in the  
21 establishment,

22 (6) Concealed or did not disclose ownership or interest, pursuant to Business  
23 and Professions Code, sections 19850, 19851, 19853, 19854, 19855,  
24 19883, or 19901,

25 (7) Violated Business and Professions Code, section 19878 (contract with,  
26 employment of, services provided by person(s) with denied, suspended, or  
27 revoked license or registration),

28 (8) Violated Business and Professions Code, section 19912 (failure to have  
29 valid work permit),

30 (9) Violated Business and Professions Code, section 19921 (failure to exclude  
31 persons under 21 from access to gambling areas),

32 (10) Violated Business and Professions Code, section 19924 (failure to  
33 maintain security controls),

34 (11) Violated Business and Professions Code, section 19941 (failure to  
35 prohibit persons under 21 from gambling, loitering, being employed in  
36 gambling areas, or using fraudulent identification to gamble, loiter, or be  
37 employed),

- 1 (12) Violated Business and Professions Code, section 19942 (willful failure  
2 to report or pay license fee),
- 3 (13) Violated any law or ordinance with respect to campaign finance  
4 disclosure or contribution limitations, pursuant to Business and Professions  
5 Code, section 19982,
- 6 (14) Provided false or intentionally incomplete financial data, in violation of  
7 California Code of Regulations, title 4, chapter 7, article 4 (commencing  
8 with section 12400), regarding accounting and financial reporting,
- 9 (15) Refused to allow Division or Commission inspection of records or  
10 information required to be maintained pursuant to California Code of  
11 Regulations, title 4, chapter 7, article 4 (commencing with section 12400),  
12 regarding accounting and financial reporting,
- 13 (16) Violated California Code of Regulations, title 11, section 2050,  
14 subsection (a) (failure to maintain owner licensee or key employee on  
15 premises),
- 16 (17) Violated California Code of Regulations, title 11, section 2052 (failure to  
17 furnish information regarding employees), or
- 18 (18) Violated California Code of Regulations, title 11, section 2070  
19 (unsuitable gaming activities).

20 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875,  
21 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the  
22 Business and Professions Code.

23 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,  
24 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the  
25 Business and Professions Code.

26

27 **12568. Disciplinary Guidelines for Holders of Licenses, Findings of Suitability,  
28 or Approvals**

29 (a) A license for an individual or any finding of suitability or approval granted by the  
30 Commission shall be subject to a minimum discipline of suspension for **three**  
31 **days** of normal business operation and a maximum discipline of revocation,  
32 which may be stayed on terms and conditions and any monetary penalty as  
33 described in section 12554(d)(7) of this chapter, if the Commission finds that the  
34 holder has:

- 35 (1) Violated or is out of compliance with conditions, limitations, or orders or  
36 directives imposed by the Commission, either as part of an initial grant of  
37 license or registration, renewal of such, or pursuant to disciplinary action,
- 38 (2) Engaged in any dishonest, fraudulent, or deceptive activities in connection  
39 with controlled gambling,

1 (3) Committed any act punishable as a crime, not otherwise listed in these  
2 disciplinary guidelines, which substantially relates to the duties and  
3 qualifications of the licensee or registrant, or which occurred in a gambling  
4 establishment or the associated adjacent property, or

5 (4) Engaged in any conduct on the premises of the gambling establishment or  
6 in connection with controlled gambling which is inimical to the health,  
7 welfare, or safety of the general public.

8 (b) A license, finding of suitability, or approval granted by the Commission shall be  
9 subject to a minimum discipline of suspension for **seven days** of normal  
10 scheduled work and a maximum discipline of revocation, which may be stayed  
11 on terms and conditions and any monetary penalty as described in section  
12 12554(d)(7) of this chapter, if the Commission finds that the holder has:

13 (1) Intentionally misrepresented a material fact on an application or  
14 supplemental application for licensure or registration,

15 (2) Intentionally provided untruthful responses during an investigation by the  
16 Division, pursuant to Business and Professions Code, section 19827,

17 (3) Willfully interfered with the performance of Commission or Division duties,  
18 pursuant to Business and Professions Code, section 19944,

19 (4) Committed an act prohibited by Chapter 9 (commencing with section 319)  
20 and Chapter 10 (commencing with section 330) of Title 9 of Part 1 of the  
21 Penal Code, including but not limited to operation of a banked or  
22 percentage game (Penal Code, section 330), possession or sale of a slot  
23 machine (Penal Code, section 330b) or agreement for slot machine payout  
24 (Penal Code, section 330.1), bookmaking (Penal Code, section 337), and  
25 cheating (Penal Code, section 337x),

26 (5) Committed extortion (as that term is defined in Chapter 7 of Title 13 of Part  
27 1 of the Penal Code, commencing with section 518),

28 (6) Committed loan-sharking (as that term is used in Civil Code section 1916-  
29 3, subdivision (b)),

30 (7) Conducted or negotiated illegal sales of controlled substances (as that  
31 term is used in Chapter 1 (commencing with Section 11000) of Division 10  
32 of the Health and Safety Code) or dangerous drugs (as that term is used in  
33 Business and Professions Code, section 4022),

34 (8) As an owner licensee, not taken reasonable steps to prevent the crimes  
35 listed in subsections (b)(5) through (b)(8) from occurring at the gambling  
36 establishment, when the owner licensee knew or should have known that  
37 these crimes were being committed,

38 (9) Committed bribery (as that term is used in Penal Code section 67 or 67.5),

1 (10) Committed money laundering (as that term is used in Chapter 10 of  
2 Title 7 of Part 1 of the Penal Code, commencing with Section 186.9),

3 (11) Been convicted of a crime involving fiscal dishonesty, including but not  
4 limited to tax evasion (26 U.S.C. § 7201),

5 (12) Been convicted in any jurisdiction of any offense involving or relating to  
6 gambling, or

7 (13) Been found to have violated or be in violation of any law involving or  
8 relating to gambling in a final administrative decision in any jurisdiction.

9 (c) A state gambling license, finding of suitability, or approval granted by the  
10 Commission shall be subject to **revocation** by the Commission on any of the  
11 following grounds:

12 (1) If the Commission finds the holder to have been convicted of a felony or a  
13 crime of moral turpitude that would disqualify the holder from licensure,

14 (2) If the Commission finds the holder to have engaged in or committed a  
15 prohibited act specified in Business and Professions Code section 19863  
16 (no more than one gambling establishment at racetrack),

17 (3) If the Commission finds the holder no longer meets any criterion for  
18 eligibility, qualification, suitability or continued operation, including those  
19 set forth in Business and Professions code sections 19857, 19858, or  
20 19880, as applicable, or

21 (4) If the Commission finds the holder currently meets any of the criteria for  
22 mandatory denial of an application set forth in Business and Professions  
23 Code sections 19859 or 19860.

24 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19853(a)(3), 19854, 19859, 19875,  
25 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19931 19971, and 19984 of the  
26 Business and Professions Code.

27 Reference: Sections 19844, 19852, 19857, 19858, 19859, 19862, 19863, 19870, 19875, 19878, 19880,  
28 19913, 19914, 19920, 19922, 19923, 19924, 19930, 19931, 19941 and 19942 of the  
29 Business and Professions Code.

30

1

2 **12572. Precedential Decisions.**

3 Pursuant to Government Code section 11425.60, the Commission, at a noticed  
4 Commission meeting, may:

5 (a) Designate all or part of any of the following as a precedential decision:

6 (1) An adopted final decision,

7 (2) An adopted stipulated decision pursuant to a settlement agreement, or

8 (3) An adopted stipulated decision pursuant to an Offer to Pay Penalties in  
9 Lieu of the Formal Hearing Process.<sup>20</sup>

10 (b) Reverse in whole or in part the prior designation of a decision as a  
11 precedential decision.

12

13 Authority: Sections 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19912, 19914, 19920, 19922,  
14 19924, 19930, and 19971 of the Business and Professions Code.

15 Reference: Sections 19857, 19858, 19859, 19862, 19870, 19878, 19912, 19913, 19914, 19930, and  
16 19931 of the Business and Professions Code. Section 11425.60 of the Government Code.

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<sup>20</sup> Subsection (3) may be deleted as unnecessary, based on the changes made to Section 12552.

**CALIFORNIA GAMBLING CONTROL COMMISSION**

Physical Address: 2399 Gateway Oaks Drive, Suite 100 • Sacramento, CA 95833-4231  
Mailing Address: P.O. Box 526013 • Sacramento, CA 95852-6013  
Phone: (916) 263-0700 • FAX: (916) 263-0452

*Memorandum*

Date: February 7, 2006

To: Commissioners

From: Herb Bolz, Senior Legal Counsel & Regulations Coordinator  
Cyrus J. Rickards, Chief Counsel

Subject: Agenda Item No. 7, February 9, 2006--"Rulemaking Calendar for 2006"

Staff recommends that the Commission approve the attached rulemaking calendar for 2006. The calendar has been reviewed and approved by Deputy Director Terri Ciau and Executive Director Steve Giorgi.

# CALIFORNIA GAMBLING CONTROL COMMISSION

## PROPOSED 2006 RULEMAKING CALENDAR

### SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED PRIOR TO THE YEAR 2005

<b>Subject:</b> Disciplinary Guidelines, Notice of Violation & Penalties, Precedential Decisions; Definitions	<b>CCR Title &amp; Sections Affected:</b> Amend 4 CCR section 12002; Propose other sections to be determined	<b>Statutes Being Implemented:</b> Business & Professions Code section 19811, 19823, 19824, 19840, 19841, 19850, 19854, 19875, 19912, 19913, 19914, 19920, 19922, 19924, 19930, 19942, 19931, 19971
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Heather Cline Hoganson (916) 274-6328	<b>Projected Dates:</b> Adoption: June To OAL: July
	Notice: February Hearing: April	

<b>Subject:</b> Problem Gambling	<b>CCR Title &amp; Sections Affected:</b> 4 CCR, sections to be determined	<b>Statutes Being Implemented:</b> Business & Professions Code sections 19811, 19823, 19840, 19841(o), and 19920
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Heather Cline Hoganson (916) 274-6328	<b>Projected Dates:</b> Adoption: July To OAL: August
	Notice: April Hearing: June	

<b>Subject:</b> Two related topics: (1) Minimum Internal Control Standards (MICS) Phase One, including Adequate Financing (Chip Account) and Player/dealer banks (2) and Accounting & Financial Standards Regulations amendments	<b>CCR Title &amp; Sections Affected:</b> (1) 4 CCR, proposed sections 12383, 12384 (2) 4 CCR 12400-12406 amendments	<b>Statutes Being Implemented:</b> Business & Professions Code section 19841
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Herb Bolz (916) 263-0490	<b>Projected Dates:</b> Adoption: August To OAL: September
	Notice: March Hearing: June	

<b>Subject:</b> Minimum Internal Control Standards (MICS) Phase Two, including Definitions, MICS, Tiers, and Surveillance	<b>CCR Title &amp; Sections Affected:</b> 4 CCR, proposed sections 12002, 12372, 12373(a)(15), 12394	<b>Statutes Being Implemented:</b> Business & Professions Code section 19841
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Herb Bolz (916) 263-0490	<b>Projected Dates:</b>
	<b>Notice:</b> April	<b>Hearing:</b> July
		<b>Adoption:</b> September
		<b>To OAL:</b> October

<b>Subject:</b> Minimum Internal Control Standards (MICS) Phase Three, including Tournaments/special events; Gaming Floor Operation and Table Games; Chips, Cards, and Other Gaming Equipment	<b>CCR Title &amp; Sections Affected:</b> 4 CCR, proposed sections 12387, 12388, 12390	<b>Statutes Being Implemented:</b> Business & Professions Code section 19841
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Herb Bolz (916) 263-0490	<b>Projected Dates:</b>
	<b>Notice:</b> May	<b>Hearing:</b> August
		<b>Adoption:</b> October
		<b>To OAL:</b> November

<b>Subject:</b> License Applications (including temporary licenses), Appeal of License Denial, Grounds for Denial, Surrender of License, Withdrawal of Application, and Abandonment of Application	<b>CCR Title &amp; Sections Affected:</b> Proposed 4 CCR 12340-12349; Existing 4 CCR 12250, 12270, 12271, 12272	<b>Statutes Being Implemented:</b> Business & Professions Code sections 19826(f), 19841, 19952
<b>Responsible Agency Unit:</b> Legal Division	<b>Contact Person &amp; Phone Number:</b> Heather Cline Hoganson (916) 274-6328	<b>Projected Dates:</b>
	<b>Notice:</b> March	<b>Hearing:</b> May
		<b>Adoption:</b> August
		<b>To OAL:</b> September

<b>Subject:</b>	<b>CCR Title &amp; Sections Affected:</b>	<b>Statutes Being Implemented:</b>
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Gaming Activity Authorization	Proposed 4 CCR 12341-12359; Existing 4 CCR 12250, 12270, 12271, 12272	Business & Professions Code sections 19841, 19952
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Heather Cline Hoganson (916) 274-6328	Projected Dates: Hearing: May Adoption: August To OAL: September

Subject: Requests for temporary additional tables	CCR Title & Sections Affected: Proposed 4 CCR 12341-12359; Existing 4 CCR 12250, 12270, 12271, 12272***	Statutes Being Implemented: Business & Professions Code sections 19841, 19952***
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Heather Cline Hoganson (916) 274-6328	Projected Dates: Notice: February Hearing: April Adoption: July To OAL: August

Subject: Proposition Players and Gambling Businesses – amendments to current regulations, including Application Procedures	CCR Title & Sections Affected: 4 CCR 12200-12232	Statutes Being Implemented: Business & Professions Code sections 19984 and 19853(a)(3)
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Herb Bolz (916) 263-0490	Projected Dates: Notice: July Hearing: October Adoption: November To OAL: 2006

Subject: Involuntary Exclusion or Ejection of Individuals from Gambling Establishments	CCR Title & Sections Affected: 4 CCR, sections to be determined	Statutes Being Implemented: Business & Professions Code sections 19844, 19845, 19940
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Heather Cline Hoganson (916) 274-6328	Projected Dates: Notice: August Hearing: October Adoption: 200** To OAL: 200**

Subject: Gambling Equipment Manufacturers and Distributors – amendments to existing regulations, Gambling Device Testing & Transportation	CCR Title & Sections Affected: 4 CCR 12300-12310	Statutes Being Implemented: Business & Professions Code sections 12923, 19824, 19840, 19841(r)
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Herb Bolz (916) 263-0490	Projected Dates: Hearing: August Adoption: October To OAL: November

Subject: Emergency Preparedness and Evacuation Plan amendments (State Fire Marshal suggestions)	CCR Title & Sections Affected: 4 CCR 12370	Statutes Being Implemented: Business & Professions Code sections 19801, 19805, 19823, 19841, 19856, 19920, 19922, 19930
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Herb Bolz (916) 263-0490	Projected Dates: Hearing: October Adoption: November To OAL: December

Subject: Loan Transaction Approval	CCR Title & Sections Affected: Proposed 4 CCR 12355	Statutes Being Implemented: Business & Professions Code sections 19853, 19901, 19902, 19904
Responsible Agency Unit: Legal Division	Contact Person & Phone Number: Heather Cline Hoganson (916) 274-6328	Projected Dates: Hearing: May Adoption: August To OAL: September

Report on the status of all uncompleted rulemaking described on previous calendars:

- Minimum Internal Control Standards (MICS) – A public workshop was held in September 2004, and major redrafting was determined necessary. In this 2006 rulemaking calendar, the MICS project has been divided into three phases, which should facilitate its completion.
- Requests for temporary additional tables and gaming activities – addressed in the MICS workshop and in a 2005 rulemaking.
- Chip Account – this regulation was addressed in the MICS workshop.
- Disciplinary Procedures – this regulation package was redrafted extensively in consultation with the Division of Gambling Control. Public workshops were held in January and July 2005.
- Problem gambling- a draft was provided to the Gambling Policy Advisory Committee discussion in June 2005 and appeared on the January 2006 agenda

Topics of additional rulemaking actions which may be initiated during 2006, if sufficient time remains:

- Advertising
- Campaign Finance Disclosures by Licensees
- Key Employee definition