

California Gambling Control Commission
2399 GATEWAY OAKS DRIVE, SUITE 100
SACRAMENTO, CA 95833
(916) 263-0700 FAX (916) 263-0499
www.cgcc.ca.gov

**MINUTES OF OCTOBER 11, 2007
COMMISSION MEETING**

OPEN SESSION

1. Call to Order and Pledge of Allegiance.

Chairman Dean Shelton called the meeting to order at 1:30 p.m., and led everyone in the Pledge of Allegiance.

2. Roll Call of Commissioners.

Roll Call of Commissioners was taken with Chairman Dean Shelton and Commissioners Stephanie Shimazu and Alexa Vuksich present.

3. Approval of Commission Meeting Minutes:
 - A. September 6, 2007

Upon motion of Commissioner Vuksich, seconded by Chairman Shelton and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission approved the meeting minutes for September 6, 2007.

4. Request for Transfer of Shares (Pursuant to Business and Professions Code section 19904):
 - Normandie Casino: Miller Trust:

Deputy Director Terri Ciau indicated that staff recommended the Commission approve the transfer of shares from the Miller Trust to the beneficiaries.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

5. Request to Approve Stock Purchase Agreement (Pursuant to Business and Professions Code Section 19904):

Cap's Enterprises, Inc. (Cap's Saloon)

Senior Legal Counsel Herb Bolz indicated that staff recommended that the Commission approve the stock purchase agreement. Commissioner Vuksich asked if the buyer's applications had been received and processed. Senior Legal Counsel Bolz stated that the applications were received on October 9, 2007 and were being reviewed for completeness.

Upon motion of Commissioner Vuksich, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

6. Requests for Temporary State Gambling License (Pursuant To Business And Professions Code Section 19824 (f)):

Delta Casino, downtown: Delta C, Limited Partnership

Deputy Director Ciau indicated that staff recommended that the Commission extend the current temporary state gambling license for an additional six months from November 1, 2007 through April 30, 2008 and continue the conditions. (Attachment A.)

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

7. Applications for Renewal of State Gambling License Including All Associated Applicants and Endorsees (Pursuant to Business and Professions Code section 19876):

A. Comstock Card Room: Joseph and Monica Melech, Sole Proprietors

Deputy Director Ciau indicated that staff recommended the Commission approve the renewal of the state gambling license for the period November 1, 2007 through April 30, 2009, with Joseph and Monica Melech as owners and Robert Flores as a key employee.

B. Hotel Del Rio & Casino: Hand Family Trust

Deputy Director Ciau indicated that staff recommended the Commission approve the renewal of the state gambling license for the period, November 1, 2007 through April 30, 2009, with Charline and Ralph Hand as trustees and Mark Young as a key employee.

C. Marina Club: Guy Calamia, Sole Proprietor

Deputy Director Ciau indicated that staff recommended the Commission approve the renewal of the state gambling license for the period, November 1, 2007 through March 31, 2009, with the following Key Employees:

Deon Calamia and Leila Calamia

D. The Palace Card Club: Katherine Bousson, Sole Proprietor

Deputy Director Ciau indicated that staff recommended the Commission approve the renewal of the state gambling license for the period, November 1, 2007 through February 28, 2009, with the following key employees: Catherine Aganon, William Roberts, B. Charles Blanchard, Henry Tang, Vencent Caballero, David Templeton, Chen Ngo, Elizabeth Tongson, Steve Numoto, and Dominador Villanueva.

Upon motion of Chairman Shelton, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation, for items 7A-7D.

8. Applications for Key Employee License (Pursuant to Business and Professions Code section 19854):

- A. Casino Real:
 - i. Sankhiro Baza
 - ii. Peter Eshaba
- B. Lake Bowl Cardroom: Garrett Williams
- C. Limelight Cardroom:
 - i. William Fung
 - ii. Erle Mankin, Jr.
- D. Napa Valley Casino:
 - i. Brett Christiansen
 - ii. Jason Giannini
- E. Normandie Casino: Michelle Miller
- F. The Bicycle Casino: Randall Kim

Deputy Director Ciau indicated that staff recommended the Commission approve the key employee applications for agenda items 8A through 8F.

Upon motion of Commissioner Vuksich, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

9. Applications for Key Employee License – Request for Withdrawal (Pursuant to Business and Professions Code section 19869):

- A. Crystal Casino and Hotel: Mason Burroughs
- B. Napa Valley Casino: Lee Brinkmoeller

Deputy Director Ciau indicated that staff recommended the Commission approve the requests to withdraw the key employee license applications without prejudice for items 9A through 9B.

Upon motion of Chairman Shelton, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

10. Applications for Work Permit (Pursuant to Business and Professions Code section 19912):

- A. Merced Poker Room: Meng Yang
- B. Napa Valley Casino:
 - i. Lee Brinkmoeller
 - ii. Charlene Chhoun
- C. Outlaws Card Parlour: Gloria Gable
- D. The River Cardroom: Richard Lund

Deputy Director Ciau indicated that staff recommended that the Commission approve Agenda items 10A through 10D, as listed on the agenda.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

11. Applications for Work Permit – Request for Withdrawal (Pursuant to Business and Professions Code section 19869):

- Empire Sportsmen's Association: Sitha Sok

Item has been tabled until November 8, 2007.

12. Applications for Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):

- A. Bear River Band of Rohnerville Rancheria: Dakota McGinnis, Jr.
- B. Rincon Band of Luiseno Indians: Stephen Brown, II

Deputy Director Ciau indicated that staff recommended the Commission approve the Tribal Key Employee Finding of Suitability applications for agenda items 12A and 12B. Commissioner Vuksich asked if the TGA Boards have a general duty statement. Deputy Director Ciau stated she did not think so. She added that while the TGA Board of Directors do not go through the Finding of Suitability process, staff is working on clarifying the situation, because some applicants have dual roles as both Board members and Tribal Key Employees.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

13. Applications for Tribal-State Compact Key Employee Finding of Suitability – Request For Withdrawal (Pursuant to Business and Professions Code section 19869):

- Coyote Valley Band of Pomo Indians – Coyote Valley Shodakai Casino: Michael Burke

Deputy Director Ciau indicated that staff recommended that the Commission allow Mr. Burke to withdraw his Tribal Key Employee Finding of Suitability with prejudice.

Deputy Director Ciau advised the Commissioners that Mr. Burke was notified via certified mail on 8/29/07 that his application was being heard. The letter was returned on 10/1/07 as "Unclaimed, return to sender, unable to forward". Deputy Director Ciau also indicated that neither the Bureau nor the Commission had heard from Mr. Burke.

Mr. Tabor, counsel for Michael Burke, stated that the tribe may rehire Mr. Burke and requested a deferment on the action. Commissioner Shimazu asked if the tribe was withdrawing their withdrawal for Mr. Burke. Mr. Tabor replied in the affirmative, indicating that the tribe may rehire Mr. Burke.

Commissioner Vuksich asked where Mr. Burke lived and worked. Mr. Tabor, stated that he lives near the casino and is currently employed, but not by the casino. Chairman Shelton tabled the request to withdraw with prejudice and provided Mr. Tabor 60 days to submit documentation to the Commission regarding Mr. Burke's situation. Commissioner Shimazu then suggested that the Staff follow up in the 60 days.

14. Final Adoption of Regulation concerning Interim Key Employee Status While Application Pending (Title 4, California Code of Regulations, section 12347).

Staff I Counsel Hoganson indicated that staff recommended that the Commission approve the final adoption of the regulation concerning Interim Key Employee Status While Application Pending. (Attachment B.)

Mr. David Fried, representing the Golden State Gaming Association, spoke in support of the regulations and thanked staff for their efforts.

Upon motion of Commissioner Vuksich, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

15. Revenue Sharing Trust Fund Preliminary Report for Distribution to Eligible Recipient Indian Tribes for Quarter Ending September 30, 2007

Compliance Manager Frank Lechner indicated that staff recommended that the Commission approve the Revenue Sharing Trust Fund Preliminary Report for Distribution to Eligible Recipient Indian Tribes for Quarter Ending September 30, 2007. He indicated this is just a preliminary report because the interest rates will not be available until October 15th and a complete report is expected to be on the on consent calendar for the November 8, 2007 meeting. Compliance is seeking approval of \$275,000 to each of the 71 tribes, pending their eligibility to receive the funds.

Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

Consent Calendar

Deputy Director Ciau indicated that staff recommended approval for items 16, 17, and 18 as listed on the agenda.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich, and unanimously carried in a vote by roll call with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

16. Applications for Renewal Work Permit (Authority Pursuant to Business and Professions Code section 19870)
 - A. Central Coast Casino – Grover Beach: Richard Hobbs
 - B. Empire Sportsmen’s Association:
 - i. Stephanie Pann
 - ii. Roeun Sok
 - C. Lake Bowl Cardroom: Jo Ann Hodson
 - D. Napa Valley Casino: Kien Watson

17. Applications for Tribal-State Compact Key Employee Finding of Suitability Renewals: (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
 - A. Augustine Band of Cahuilla Indians – Augustine Casino: Jesse Kruszynski
 - B. Bear River Band of Rohnerville Rancheria – Bear River Casino: Alicia Dominguez
 - C. Cahuilla Band of Mission Indians of the Cahuilla Reservation – Cahuilla Creek Casino: Beverly Guccione
 - D. Middletown Rancheria Band of Pomo Indians – Twin Pine Casino:

Brian Hunt	Mary Parrott
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 - E. Morongo Band of Cahuilla Indians of the Morongo Reservation – Morongo Casino Resort & Spa:

Stephanie Alcorn	Jerick Castro	Howard Lee
Marlon Ortiz		
 - F. Pala Band of Mission Indians – Pala Casino: Lisa Hong
 - G. Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation – Casino Pauma:

Ane Inthavhong	Sara Ninness
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 - H. Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation – Pechanga Resort and Casino: Christopher Sarte
 - I. Picayune Rancheria of the Chukchansi Indians – Chukchansi Gold Resort and Casino:

Michael Garcia	Jessica Leung	Samuel Winters
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 - J. Redding Rancheria – Win-River Casino: Stephen Stauffer
 - K. Rincon Band of Luiseno Indians – Harrah’s Rincon:

Kathryn Dillon	Lisa Dualan	Stanley Johnson, Jr.
Ammala Phommysouk	John Wilson	Sunny Xayavong
 - L. Rumsey Indian Rancheria of Wintun Indians – Cache Creek Casino Resort:

Louis Fischer

 - M. San Manuel Band of Serrano Mission Indians of the San Manuel Reservation – San Manuel Indian Bingo and Casino: John Pham

M. Viejas Band of Kumeyaay Indians - Viejas Casino and Turf Club:

Jeff Cicero	Gerald Dickerson	Daniel Fox
Leslie Gelwicks	Thomas Hurst	Steven Keeley
Brian Kneier	Israelita Le	Pepina Leming
Lilia Munoz	Michael Ross	Lori Sylvester
Janie Wierman		

PUBLIC COMMENT

There were no comments from the public during this portion of the meeting.

CLOSED SESSION

No Closed Session

ADJOURNMENT

Upon motion to adjourn the meeting by Commissioner Shimazu, seconded by Commissioner Vuksich and carried in a roll call vote, with Chairman Shelton, Commissioners Shimazu, and Vuksich voting yes, the meeting adjourned at 1:55 p.m.



Attachment A

Agenda Item 6 – Delta Casino, downtown: Delta C, LP

Conditions:

1. Applicants will have the financial review portion of the background investigation conducted by an independent accounting firm in cooperation with the Division.
2. This temporary initial license is effective beginning on the date that escrow closes and expires six months from that date.
3. Issuance of a temporary license does not obligate the Commission to grant a permanent license. Issuance of a temporary license does not create a vested right in the holder to either extension of the temporary license or to a regular license.
4. Issuance of this temporary license does not in any way change the legal requirement that the applicant bears the burden of establishing that he/she is suitable pursuant to Business and Professions (B&P) Code section 19856(a) for a regular license.
5. Issuance of this temporary license does not change the license qualification requirements of the Gambling Control Act, including but not limited to B&P Code sections 19856, 19857, 19858, and 19859.
6. The applicant has pending applications for regular state gambling licenses. A regular license may or may not be issued, depending upon the results of the complete background investigation and upon the conduct of the applicant and its employees during the term of the temporary license.
7. If, during the term of the temporary license, the Executive Director determines that any particular applicant is disqualified for any of the reasons set forth in B&P Code section 19859, the Executive Director shall prepare an order to show cause why that applicant's temporary license should not be cancelled, which shall be considered at the first available noticed Commission meeting. The applicant may address the Commission by way of an oral statement at the noticed Commission meeting and/or may submit documents in support of the temporary licensure not less than five days prior to the meeting. The applicant may request an evidentiary hearing either in writing not less than five days prior to the meeting or at the meeting itself.
8. If, during the term of the temporary license, the Executive Director determines that any particular applicant may have violated one or more of the conditions under which the temporary license was issued, the Executive Director shall prepare an order to show cause why that applicant's temporary license should not be cancelled, which shall be considered at the first available noticed Commission meeting. The applicant may address the Commission by way of an oral statement at the noticed Commission meeting and/or may submit documents in support of the temporary licensure not less than five days prior to the meeting. Either in writing not less than five days prior to the meeting or at the meeting itself, the applicant may request an evidentiary hearing.
9. All applications for those individuals desiring to work for Delta C, LP as key employees shall be submitted within 30 days of the date of issuance of the temporary license.
10. Delta C, LP shall report to the Commission within ten days the name of any person who furnishes any services or any property to the gambling enterprise under any arrangement whereby that person receives payments based on earnings, profits, or receipts from controlled gambling.
11. The Commission is relying on the applicant's agreement and acknowledgement that the applicant shall make no argument challenging the validity of the foregoing conditions in any future proceedings concerning this temporary license.



Attachment B

CALIFORNIA GAMBLING CONTROL COMMISSION
LEGAL DIVISION MEMORANDUM



Date: September 19, 2007

From: Heather Cline Hoganson Staff Counsel
Cyrus J. Rickards, Chief Counsel

Subject: **Staff Report regarding Adoption of Regulation concerning Interim Key Employee Status While Application Pending.**

Recommendation: APPROVE the attached draft regulation for Section 12347, Interim Key Employee Status While Application Pending.

Summary:

Business and Professions Code Section 19883¹ allows a corporate owner licensee to hire a key employee and have that person commence the duties of the position immediately, submitting the application form during the following thirty days. This creates an imbalance between corporate owner licensees and non-corporate owner licensees (including sole proprietorships, partnerships, and limited liability companies). Many non-corporate cardroom owner licensees have requested that the Commission review this issue and provide them with a similar way to promote or hire without the lengthy process. Especially for smaller cardrooms who lose an employee and do not have a sufficient pool of key employees to cover shifts, being able to promote a current (work permitted) employee to a key employee position or hire a new key employee in a short time-frame would be beneficial to their businesses.

¹ Business and Professions Code, section 19883:

- (a) To the extent required by this chapter, officers and directors, shareholders, lenders, holders of evidence of indebtedness, underwriters, agents, or employees of a corporate owner licensee shall be licensed individually. The corporation shall require these persons to apply for a gambling license, and shall notify the division of every change of corporate officers, directors, or key employees within 10 business days after the change. An officer, director, or key employee who is required to apply for a license shall apply for the license within 30 calendar days after he or she becomes an officer, director, or key employee.
- (b) The corporation shall immediately remove any officer or director required to apply for a license from any office or directorship if any of the following apply to that officer or director:
 - (1) He or she fails to apply for the license within 30 calendar days after becoming an officer or director.
 - (2) He or she is denied a license.
 - (3) His or her license is revoked.
- (c) If the license of any officer or director is suspended, the corporation, immediately and for the duration of the suspension, shall suspend that officer or director.
- (d) If any shareholder who is required to apply for a gambling license fails to apply for the license within the time required, the shareholder shall be deemed to have been denied a license for purposes of subdivision (b) of Section 19882.
- (e) If any person, other than an officer, director, or shareholder, who is required to apply for a gambling license fails to do so, the failure may be deemed to be a failure of the corporate owner licensee to require the application.

This regulation seeks to temper the statutory disparity between corporate and non-corporate cardrooms and allow for employees to be hired or promoted while providing the public with a basic level of protection.

Background:

This regulation was noticed in the California Notice Register on August 3, 2007, for a 45-day comment period ending September 17, 2007. No requests for a public hearing were received and the Commission did not hold a hearing for this proposed regulation.

The Commission received an e-mail comment from Joe Melech of Comstock Casino in Tracy, who complimented Commission staff on writing simple and straightforward regulations. Commission legal staff has heard informally from a number of other cardrooms urging a quick passage of this regulation to alleviate their challenges with key employees. The Department of Justice has also written a letter in support of this regulation.

The proposed regulation is attached. If approved at the Commission meeting of October 11, 2007, legal staff will prepare the rulemaking file for final submission to the Office of Administrative Law (OAL). OAL has 30 working days to review the file and the effective date is generally 30 calendar days after their approval, unless the Commission requests an earlier date.

Staff Analysis:

Staff worked with industry members and the Department of Justice in crafting this draft regulation. The workload impact on Commission Licensing staff is undetermined at this time because this is a new process. It is expected that, after an initial influx of letters, the workload should level and Licensing will then be able to evaluate the data.

Conclusion:

Staff recommends adoption of the attached proposed regulation.

Title 4. Business Regulations
Division 18. California Gambling Control Commission
Chapter 6. State Gambling Licenses and Approvals for
Gambling Establishments, Owners, and Key Employees

Section 12347. Interim Key Employee Status While Application Pending.

- (a) Unless given 30 days after hiring to file an application for key employee licensure pursuant to Business and Professions Code section 19883 (corporate owner-licensee exemption for key employees), gambling establishment employees holding a valid work permit or license for any gambling establishment may begin work as an interim key employee provided that written notice is given to the Commission and Division within ten days of the employee's assumption of key employee duties, accompanied by a description of the key employee duties the employee will perform and a copy of the employee's current work permit or license for any licensed gambling establishment.
- (b) An interim key employee shall, within 30 days of assuming a key employee position, submit the following:
 - (1) The Commission's key employee license application form, CGCC-031, as referenced in section 12342,
 - (2) The Division's key employee supplemental application, DGC-APP 016A, as referenced in section 12342, and
 - (3) All applicable fees and deposits due for a key employee license.
- (c) An applicant for key employee licensure currently working as an interim key employee shall cease working in a key employee position if the application for key employee licensure is abandoned or denied, if the employee's work permit is revoked or cancelled before the key employee license is approved, or if the Executive Director notifies the applicant and gambling establishment that the interim status is cancelled pursuant to subsection (d), below.
- (d) With ten day's advance written notice to the interim key employee and to the gambling establishment, the Executive Director shall cancel the interim key employee status based upon the following:
 - (1) Evidence showing that the applicant has sustained any disqualifying criminal convictions;
 - (2) Evidence showing that the applicant is statutorily ineligible for a key employee license under the Act;
 - (3) Evidence which discloses that having the applicant serve as a interim key employee pending determination of their application may in the judgment of the Executive Director present a danger to the public or to the reputation of controlled gambling in this state;

- (4) A determination by the Executive Director that the applicant has failed to reveal any fact that is material to, or supplied materially untrue or misleading information on, the applicant's key employee license application;
 - (5) A Division recommendation of denial of the applicant's key employee application;
 - (6) Referral by the Commission of the applicant to an evidentiary hearing with direction to the Executive Director to cancel the interim key employee status; or
 - (7) A determination by the Executive Director that the gambling establishment using the interim key employee procedure has shown a pattern or practice of hiring or promoting persons to key employee positions in violation of subsection (a) above or that the gambling establishment has acted in bad faith, with actual knowledge that the persons hired or promoted would be ineligible for licensure.
- (e) Within ten days of the date of notice of a cancellation of interim status pursuant to this section, the gambling establishment shall notify the Commission in writing of the effective date of the position change for or suspension of the employee, and shall describe the employee's revised job duties, if any.
- (f) Judicial review of a cancellation of interim status shall be by petition pursuant to Section 1085 of the Code of Civil Procedure.

Authority: Sections 19823, 19824, 19840, and 19841, Business and Professions Code.
Reference: Sections 19805(t), 19805(u), 19850, 19855, 19856, 19857, 19859, 19866, 19870, and 19883, Business and Professions Code.