

CALIFORNIA GAMBLING CONTROL COMMISSION
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Department of Consumer Affairs
Hearing Room
1625 North Market Blvd.
Sacramento, CA 95834

MINUTES OF SEPTEMBER 10, 2008
COMMISSION MEETING

OPEN SESSION

1. Call to Order and Pledge of Allegiance.

Chairman Shelton called the meeting to order at 10:00 a.m., and asked everyone to stand for the Pledge of Allegiance.

2. Roll Call of Commissioners.

Roll Call of Commissioners was taken with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich present.

3. Approval of Commission Meeting Minutes:
 - A. June 26, 2008
 - B. August 14, 2008

Commission Vuksich directed staff to amend the August 14, 2008 minutes to correct the time that the Commission reconvened to open session and with that change being made Commissioner Vuksich moved to approve the June 26, and August 14, 2008 Commission meeting minutes. Commissioner Shimazu seconded the motion, which unanimously carried in a vote by roll call, with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes.

4. Application for Approval for Initial State Gambling License Including All Associated Applicants and Endorsees (Pursuant to Business and Professions Code section 19851):
 - A. The Bicycle Casino: The Bicycle Casino, L.P.
 - i. Anniele Madigan, Community Property Interest Holder
 - ii. Robert D. Gilbert Family Irrevocable Trust
Robert D. Gilbert, Trustor

Dominoe Farris-Gilbert, Beneficiary

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve Anniele Madigan, Item 4.A.i., as an endorsee on the state gambling license; and staff recommended that the Commission approve the initial applications for the Robert D. Gilbert Family Irrevocable Trust and applicants Robert D. Gilbert and Dominoe Farris-Gilbert, Item 4.A.ii., as endorsees on the state gambling license with the following condition: *Caprice Farris-Gilbert must submit an application for a state gambling within 90 days of approval of the Robert D. Gilbert Family Irrevocable Trust.*

Joy Harn, General Counsel for The Bicycle Casino, presented comments to the Commission concerning Item 4.A.ii., and the following proposed condition for Commission consideration: *Caprice Farris-Gilbert must submit an application for a state gambling license or submit documentation to the California Gambling Control Commission that Ms. Farris-Gilbert has relinquished any and all rights to any interest in The Bicycle Casino within 90 days of approval of the Robert D. Gilbert Family Irrevocable Trust.*

Acting Deputy Director Littleton indicated that staff concurred with the proposed condition presented by Ms. Harn.

Chairman Shelton moved to approve Anniele Madigan, Item 4.A.i., as an endorsee on the state gambling license; and approve the initial applications for the Robert D. Gilbert Family Irrevocable Trust and applicants Robert D. Gilbert and Dominoe Farris-Gilbert, Item 4.A.ii., as endorsees on the state gambling license with the following condition: *Caprice Farris-Gilbert must submit an application for a state gambling license or submit documentation to the California Gambling Control Commission that Ms. Farris-Gilbert has relinquished any and all rights to any interest in The Bicycle Casino within 90 days of approval of the Robert D. Gilbert Family Irrevocable Trust.* Commissioner Vuksich seconded the motion, which unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes.

B. Commerce Casino: California Commerce Club, Inc.
Arlene Schwartz Living Trust
Arlene Schwartz, Trustee, Trustor and Beneficiary

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve the initial applications for the Arlene Schwartz Living Trust and Arlene Schwartz, Trustee, Trustor and Beneficiary, as an endorsee on the state gambling license. Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

5. Applications for Initial Key Employee Personal Portable License (Pursuant to Business and Professions Code section 19854(d)):

- A. Richard Clark, II
- B. Steven Linger

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve the Initial applications for the personal key employee licenses for Richard Clark, II, and Steven Linger for the period of September 10, 2008, through September 30, 2010. Upon motion of Commissioner Vuksich, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

6. Conversion of Endorsed Key Employee Licenses to Personal Portable Licenses (Pursuant to Business and Professions Code section 19854(d)):

Joseph Falbe	Kathline Heath	Phillip McGuire
Waldo Miller	Joseph Rankin	Michael Sullivan
Robert Kleiber	David Seward	Weylin Fong
Jeff Morena	Kenneth Brennan	Joe Wilson
Kai Ng	James Vonasek	Douglas Speir
Randolph Torres	Brian McCandless	Richard Lamboy
Samantha Sengthit	Stanley Seiff	Charles Bates
James McKee	Jeffrey Robles	Susan Deeb
Tom Bowling, Jr.	Michael Wilson	Tracy Negrete
Michael Sakamoto	Christine Zinn	Harry Rapp
Frank Caruso	Joseph Schablaske	Elena Sagato
George Rahme	Joy Harn	Sinan Sinanyan
Richard Cloward, Jr.	Mario Conte	Zaven Esmaili
Charlie Gin	Thomas Budds	John Odonnell
Kelley O'hara	Eveliene Dullaart	Cynthia Fuentes
Michael Byrd	Mark Ventre	Hong Shi
Fabricio Martinez	Ming Chin	John Tian
Howard Liu	Randall Kim	Diana Sanchez
Scott Jackson	Margarito Ruiz-Corona	Evan Evans
Lawson Smith	Michael Wilkinson	Jong Weeks
Sharon Thomas	David Horton	Raymond Callas
Michelle Sylvester	Oscar Breeze	Danny Twitchen
David Zamperini	Nhan Vien	Mario Santos
Cheng Vang	Tim Lam	Gene Clevenger
Oscar Miranda	Pamela Rosa	Samnang Um
William Simon, Jr.	Tony Le	Thomas Gates
Charles Leonard	Rodney Jones	Phyla Sengxay
Pamela Senn	Darlene Gevedon	Shane Brown
Mark Chesshire	Sara Phong	Katie Li
Peter Phong	Va Phong	Dennis Williams
Ted Bui	Ngoc Huynh	Sankhiro Baza
Peter Eshaba	Yu Yu Li	Richard Hobbs

Leslie Woodward	Christopher Sarantos	James Dockins
Edward Ferretti	Don Nicholson	Edward Mason
Becky Balistreri	Daniel Cohan	Robert Cherry
Chandra Nuno	Robert Flores	William Durbin
Prathueng Wattananukij	Zarik Esmaili	Mindy Loeung
Diane Gomez	Joseph Padilla	Richard Dawson
Wayne Perry	Robert Pipkin	Randall Watkins
Becky Tam	Wood Hicks	Jonathan Boone

Acting Deputy Director Littleton indicated that Staff recommended that the Commission approve the conversion of the endorsed key employee licenses to a personal key employee license for the applicants listed in Item 6. Upon motion of Commissioner Schmidt, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

7. Applications to Convert Gambling Business Player Registration to a License (Pursuant to Business and Professions Code section 19853 and California Code of Regulations, Title 4, section 12233):

Network Management Group, Inc.:
Brian Phillips

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve the application to Convert Gambling Business Player Registration to a License for Brian Phillips. Upon motion of Commissioner Vuksich, seconded by Commissioner Shimazu and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

8. Applications to Convert Third Party Proposition Player Registration to a License (Pursuant to Business and Professions Code section 19984 and California Code of Regulations, Title 4, section 12218):

A. Network Management Group, Inc.:

Valerie Abend	Nicolas Ammons	Sulema Aparicio
Sheila Buxton	Emmanuel Calara	Sybrey Callwood
Romeo Caringal, Jr.	Elena Cervantes	David Crane
Christopher Davis, Jr.	August DeLuna	Edelon Diaz
Gilberto Gamboa, Jr.	Laura Garcia	Augustus Gaurano
Marisol Hernandez	Allen Hoang	Tam Hoang
Vincent Hoang	Ki Hong	Kevin Huang
Khai Huynh	Cory Jackson	Keith King
Thang Lai	Steve Lee	Oscar Maradiaga
Amy Moore	Steven Morales	Antone Murray
Carolyn Murray	Esdras Ochoa	Linh Phan
Brian Phillips	Gonzalo De Santiago, Jr.	Nejdeh Sojanian
Scott Subiono	Amy Tan	James Taylor
Mao Touch	Robert Willard	

B. Pacific Palace, Inc.:
David Chan

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve the applications to Convert Third-Party Proposition Player Registration to a License for the individuals listed in Item 8. Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

9. Applications for Request to Convert Third Party Proposition Player (TPPP) Registration to a License – Request to Withdraw (Pursuant to Business and Professions Code section 19984 and California Code of Regulations, Title 4, section 12218):

Network Management Group, Inc.:

Phillip Anderson	Brian Ashkinaz	Kom Bang
Daniel Berg	Gabriel Botsford	Gregory Bowman
Estacie Brooks	Charles Brown	Michael Brown
Ryan Burton	Melissa Cardoza	Marcus Carnelus
Baymen Chen	Robert Cho	Jordan Conner
Edward Constantine	Winston Daisley	Marisol Delgado
Robert Duran	Lemel Durrah	Alejandro Fenix
Mauhelotu Finau	Agustin Flores	Sean Gentry
Wyatt Gonyer	Grant Gooding	Rommel Gross-Miranda
Ricardo Guido	Jaclyn Hancox	Hang Hau
Leang Heng	Garret Jackson	Matthew Jackson
David Jen	Ayaz Khan	Sunny Luu
Bundaroth Ly	Margaret Matchin	Lisa McKnight
Cesar Mercado	Denisse Munoz	Manuel Munoz
Casey Nelson	Hieu Nguyen	Tuyet Nguyen
Eddie O'Rourke	Sean Penello	Phoumarin Phan
James Piccolo	Graham Rasmussen	Zachary Richley
Scott Rowe	Jose Sanchez	David Scheuermann
Francis Simbulan	Steve Sun	Latoya Teel
Kristy Thai	Stephen Torres-Greene	Yolanda Travis
James Tucker	Honesto Ungos	Scott Vanderwilt
Mark Vega	Sara Wolfenden	William Youngs
Zhen Yu	Mustafa Yucelten	

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve, without prejudice, the requests for withdrawal of the applications to convert TPPP registration to a license for the individuals listed in Item 9. Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

10. Applications for Initial Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
Konocti Vista Casino – Big Valley Band of Pomo Indians of the Big Valley Rancheria:
Isaias Rodriguez

Acting Deputy Director Littleton indicated that staff recommended that the Commission approve Isaias Rodriguez's key employee finding of suitability initial application. Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

11. Preliminary Review and Consideration of Regulations and Approval for Commencement of the Formal APA Rulemaking Process. Minimum Internal Control Standards (MICS): General Terms, Conditions & Definitions; Policies & Procedures; Drop & Drop Collection; Count & Count Room Functions; and Cage Functions - California Code of Regulations, Title 4, Division 18, Chapter 7, Article 3, New Sections 12380, 12381, 12384, 12385 and 12386.

Jim Allen, Regulatory Actions Coordinator, indicated that staff recommended that the Commission give approval to staff to proceed with the formal rulemaking process, under the Administrative Procedure Act, for the adoption of the proposed MICS regulations; and that staff be directed to consider the public comments received relative to agenda item 11, together with any comments received during the formal rulemaking process.

Comments were presented to the Commission concerning clarification issues in the proposed MICS regulations and the cardroom tier categories from David Fried, representing the California Grand Casino, Oaks Casino, and the Golden State Gaming Association, Paul Chilleo, Hollywood Park Casino, Joy Harn, Bicycle Casino, John Tibbetts, Oaks Card Club, Alan Titus, Artichoke Joe's, and Kevin Schayltz, Lucky Derby Casino.

Incorporated into the minutes as Attachment A are written comments concerning the proposed MICS regulations that were submitted to the Commission by David Fried.

Incorporated into the minutes as Attachment B are written comments concerning the proposed MICS regulations that were submitted to the Commission by Alan Titus.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation. The staff report titled *Proposed Regulatory Action Concerning Minimum Internal Control Standards (MICS) for Gambling Establishments*, and the proposed MICS regulations are incorporated into the minutes as Attachments C and D respectively.

12. Operation of Gaming Devices in Excess of the Class III Gaming Devices Authorized by the Tribal-State Gaming Compact (Pursuant to Tribal-State Gaming Compact Section 4.3.2.2)
Sycuan Band of the Kumeyaay Nation

No action was taken by the Commission on Item 12, which was tabled by staff.

13. Staff Report of Closed Session Action of July 7, 2008, evidentiary hearing regarding the Statement of Issues for Phetsamone Phaphol.

Staff Counsel Hoganson presented a staff report of closed session action of July 7, 2008 regarding the evidentiary hearing on the Statement of Issues for Phetsamone Phaphol. A copy of the staff report is incorporated into the minutes as Attachment E.

CONSENT CALENDAR ITEMS:

14. Applications for Initial Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
- A. Augustine Casino - Augustine Band of Cahuilla Mission Indians: Erin Isham
 - B. Chukchansi Gold Resort and Casino – Picayune Rancheria of the Chukchansi Indians: Diana Au
 - C. Morongo Casino Resort & Spa – Morongo Band of Cahuilla Indians of the Morongo Reservation: Cecilia Federman
 - D. Pala Casino – Pala Band of Mission Indians: Robert Hill Beth Rose
 - E. Pechanga Resort and Casino – Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation: Jeremy Watterlond
 - F. Soboba Casino - Soboba Band of Luiseno Indians: Arnold Alagao Linda Daundivier
 - G. Tachi Palace Hotel & Casino – Santa Rosa Indian Community of the Santa Rosa Rancheria:
Supasiri Sirayanone
 - H. Valley View Casino – San Pasqual Band of Digueno Mission Indians:
Jesus Adame Tiffany Lopez Melissa Maldonado
 - I. Win-River Casino – Redding Rancheria: James Gonsalves
15. Applications for Renewal Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
- A. Black Oak Casino – Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria:
John Wilson Vanessa Woodruff
 - B. Blue Lake Casino - Blue Lake Rancheria: Thomas Frank
 - C. Cache Creek Casino Resort – Rumsey Indian Rancheria of Wintun Indians:
Charlie Kuoch Ay Mahaphengxay Steve Odell
 - D. Chukchansi Gold Resort and Casino – Picayune Rancheria of the Chukchansi Indians: Vibol Kong
 - E. Chumash Casino – Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation:
Susan Clearwater Jessica Larios Jennie Reed
Robert Rodriguez

- F. Coyote Valley Shodakai Casino - Coyote Valley Band of Pomo Indians:
Arlond Allen
- G. Eagle Mountain Casino – Tule River Indian Tribe of the Tule River Reservation:
Teng Cha
- H. Harrah's Rincon – Rincon Band of Luiseno Indians:
Stanley Johnson Elizabeth Liemandt Nalin Shukla
- I. Robinson Rancheria Bingo and Casino – Robinson Rancheria of Pomo Indians:
Lawrence Green
- J. Twin Pine Casino – Middletown Rancheria Band of Pomo Indians:
Mary Parrott

Manager Tina Littleton indicated that staff recommended that the Commission approve Consent Calendar Items 14 and 15. Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the Commission adopted the staff recommendation.

PUBLIC COMMENT

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

ADJOURNMENT

Upon motion to adjourn the meeting by Chairman Shelton, seconded by Commissioner Shimazu and unanimously carried in a roll call vote, with Chairman Shelton and Commissioners Schmidt, Shimazu, and Vuksich voting yes, the meeting adjourned at 10:50 a.m.

LAW OFFICES OF DAVID M. FRIED

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September 8, 2008

Commissioners
Dean Shelton, Chairman
Alexandra Vuksich
Stephanie Shimazu
Sheryl Schmidt
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231

re: MICS #1
September 10, 2008 Commission Meeting, Item no. 11

Dear Commissioners:

On behalf of the Golden State Gaming Association, I am providing you with comments on the most recent draft of the MICS. We understand the purpose of the agenda item at the September 10 meeting is to review and approve the regulations for issuance for notice and comment. We support the decision to do so, and support the adoption of these regulations to provide for satisfactory internal controls.

We have spoken to Commission members, staff and Bureau staff regarding the regulations at public meetings and through correspondence. We believe that the current draft is much improved, but there remain a few discrete issues in each section that deserve your attention. We hope that you will consider the following comments, and we can present and explain these comments at the September 10 meeting. Some comments are technical in nature, others marked with a *** are substantive.

I. Definitions

- 1) *** **12380 (e)(1)** - The draft removes the "reasonable" standard from the prior draft pertaining to the responsibility of the security department to protect persons and property. Although perhaps done unintentionally, by removing the "reasonableness" standard the regulations potentially expand the civil liability of a property or business owner to protect against bodily injury and property damage. As phrased, it can be interpreted as elevating the standard to "strict liability", as opposed to the "negligence" standard which is the current status of the law and intended by the word "reasonably."

This is obviously a serious problem since every plaintiff's counsel will attempt to introduce this language to expand the liabilities of a cardroom owner beyond current liability law.

In addition to adding the word "reasonable", we should add: "This definition is for the sole purpose of defining security functions for the purpose of these regulations, and does not alter the legal liability of licensees to third parties."

- 2) This definition creates a second liability issue. It makes security responsible for detaining persons suspected of illegal conduct. A small club may only have one security guard who may be unable to detain persons safely, and that guard should not be making such decisions without adequate direction. We request that the draft strike the reference to detention of persons.

The definition of "security department" should be kept as simple as possible, especially because it is just a definition to be used in context in other places in the regulations rather than intended to imposed substantive liabilities and requirements outside the regulations.

II. Policies and Procedures

- 3) **12381(a)** We must have written policies and procedures for all "Major areas" of the establishment. What are "Major areas"? Can we define them as the subjects covered in these MICS?
- 4) *** **12381 (e)** There should be an avenue for the casino to appeal or discuss the Bureau's perceived deficiency of the club's policies and procedures. As it stands the Bureau is making a determination as to "deficiencies" without any opportunity for the casino to explain. Also, if a change is needed, depending on the circumstance, 30 days may be too short. The Bureau should be able to allow a longer period. Finally, the submission of the request for extension of time 10 days in advance will not work if the time period originally granted is less than 10 days.
- 5) **12831(f)** The hours to be made immediately available to the division should be 9am to 5pm.
- 6) **12381(g)** Who is a "member of management?" Should this reference instead be to "key employee or management"?
- 7) *** **There should be a section added for exceptions.** Due to space or other limitations, some clubs may not be able to do what other clubs in the same Tier can do in terms of procedures or use of space. For example, some Tier II and Tier III clubs may need to use their cage for the count because there is no other available space. There should be a section added to the regulations as follows.

"(i) The Commission recognizes that some exceptions to the regulations in this Article III may be required for individual gambling establishments due to space limitations or other constraints. Any gambling establishment seeking an exception to any requirement in this Article shall send a written request to the Bureau, which shall grant or deny the exception within 30 days of receiving the request."

III. Drop Box / Collection

- 8) **12384 (a)(3)(c)** – On video surveillance you can not see the boxes when they are attached to the tables (because they are under the tables). If the regulations require that the box must be held up and displayed to the camera, some boxes are heavy and it could be a workman's comp. issue. Is it sufficient to place the box on the cart in a way that the identifier is visible?
- 9) **12384(a)(3)(c)** The box needs to be clearly and visibly marked with table numbers or letters and shift identifiers – can we also use color identification?
- 10) **12384 (a)(6)** What does “entire area is secure” mean? The table, the entire club, etc.?
- 11) **12384(a)(7)** We assume that a reasonable deviation includes a club not wanting to be entirely predictable in terms of its box collection times.
- 12) *** **12384(c)(1)** Having a key employee be one of the box change crew and requiring live video surveillance of the box change is a serious waste of employee time, per our earlier comments.

For some reason these regulations are placing far too much emphasis on the box change procedure. Half of the boxes may be empty, and the ones that are full have mostly non-denominational drop chips in them with no value. No businessman wants to spend that much money and effort on an asset that small.

There is also little risk of theft -- someone grabbing a box and running out -- in front of a room full of people. Even if it did happen (and it never does), the thief has nothing of value.

Key Employee. On some shifts there may be only one key employee on duty – the shift manager – and taking him away from more important duties, such as supervising the floor, to pull and display boxes would be counter productive.

Suppose during the box collection, there is a table dispute or some other occurrence that requires the key employee? Do we have to stop the box collection in the middle?

What additional security or protection does this serve?

Suggested Revision: “All drop boxes, whether in use or not, shall be removed from the gambling table as provided in paragraph (5) of subsection (a) by at least one licensed or permitted ~~key~~ employee of the gambling establishment accompanied by at least one member of the security department or its equivalent. The licensed or permitted ~~key~~ employee shall not be a member of the security department or its equivalent.”

optional revision: “...by at least two members of the security department or its equivalent when a key employee is present on the floor.”

- 13) *** **12384(d)** There is no need for live surveillance monitoring of the collection of the drop boxes. Some clubs may have only one surveillance person on duty at some times and what if their attention is needed elsewhere, such as monitoring the gaming activity? (Adding a second surveillance person to every shift will cost \$40,000 per employee cost, 5-6 new employees to cover all shifts, equals over \$200,000 a year against an expected loss of \$0.) But the same club may have several floor managers on duty, all of whom scan the room and will see the box changes in their area.

One alternative would be to just require the key employee or a floor person to be on the floor during the box change, and have the club randomly review tape of one or more box changes at least weekly. The advantage of tape is that you can watch it later and the employees know they are being taped.

IV. Count Room

- 14) **12385 (a) (5)** "The contents of a drop box shall not be mixed or commingled with the contents of any other drop box prior to the counting and recording of its contents" An exception should be made for jackpot collections. Why can't we just empty the contents of all the poker jackpot boxes at one time and count them collectively? It all goes into the jackpot so what security does this serve? It works against efficiency.
- 15) **12385 (b)(1)(B)**. The count room cannot store any materials not associated with the count. However, small Tier II (6-10) and III clubs (11-30) sometimes due to space limitations have to conduct the count in the cage. There need to be exceptions for these clubs. Tier II clubs should not be required to have a separate count room.

For consistency, the revised draft allows for items associated with the count process to be stored in the count room, but does not allow removable containers of any kind. Drop boxes are specifically identified in the next section as being "items or materials that are directly associated with the count." Removable containers should be clarified so that it is not construed to include drop boxes. The simple fix is to add the words, "other than drop boxes" after the term "removal containers".

- 16) *** **12385 (d)(e)** This requires monitoring of the count by the surveillance department. If you mean "live" monitoring as the count happens, this presents the same problem as above. For Tier IV clubs, they may not have someone on duty at all times but could watch tape later or randomly check the tape. This requirement would effectively require Tier IV clubs to have a surveillance operator on duty or, at least, "on call" for all box collection times. Even for Tier V clubs, which staff their surveillance department 24/7, devoting one surveillance operator to watch the collection of drop boxes will, in many instances, divert them from monitoring more important matters such as gaming activities. The collection will still be captured on video surveillance but the surveillance team may not be actively monitoring the collection activities even though the department is staffed.

We suggest the following alternative language:

(d) In addition to the requirements of subsections (a) through and including (c), the policies and procedures for Tiers IV and V shall include standards for drop collection that provide for continuous surveillance recording ~~live monitoring~~ of the drop collection process ~~by at least one member of the surveillance unit during the recording of the video surveillance.~~

V. Cage

- 17) **12386(a)(2)** Isn't every employee listed on a gambling establishment's organizational chart? Must the person's "title or position" on the organizational chart identify them as having the listed responsibilities or is it enough just to list the position as "Cage Supervisor" or similar title. Also, some employees may have some of the listed responsibilities but not all of them. Cashiers obviously redeem and distribute chips but they may not prepare the reconciliations for the entire cage.
- 18) *** **12386(a)(6)** – How do you stop one customer from selling chips to another customer? What is the penalty for a club owner if a customer did sell chips to his friend? So long as it occurs at the table in full view of staff, it should be permitted.

If you go broke on a hand and take another \$20 out of your pocket, the chip seller may not be immediately available. Another customer will commonly take the \$20 and give you a stack of his chips. What is the harm in that so long as it occurs at the table? It could cause a lot of extra work and slow the games down if that were not allowed.

We suggest: "For the purposes of this article, the purchase or redemption of chips shall not include the exchange of a chip or chips of one total value for a chip or chips of an equal total value or selling/buying or exchanges of chips between patrons at a gaming table."

Also, if the Commission wants to make a regulation against proposition player services buying and selling chips to customers, it should be in the section of regulations for Prop. Player services, not here.

- 19) **12386(b)(2)(C)(1)**. I'm not sure why the regulations continue to insist that we record beginning shift balance. We have raised this point before and do not understand the purpose.

The forms should not include "beginning" balances for each shift. The ending balance for the last shift will be the beginning balance for the new shift. The incoming cashier can only verify the ending balances of cash, chips, and checks for the last shift. The difference between the ending and beginning accountability balance will be reflected in the transactional details for the shift, and documented on the transaction summary side of the accountability.

- 20) **12386(c)(3)** "...requires that licensees maintain a list of designated person what have been authorized access to the cage, in addition to keeping a record of who in fact enters the cage. We suggest "or a list of departments." In large clubs, there does not seem to have any benefit to maintaining a separate list, considering Cage/ Count Room turnover. At any time/ date payroll would be able to verify employees who were assigned to those departments.

We also request clarification on the term "impress" as used in §12386(b)(1).

Thank you in advance for your consideration of and response to these comments.

Sincerely,

David M. Fried

ROBB & ROSS

AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

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September 9, 2008

Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833

Re: MICS – Phase I

Dear Chairman Shelton and Commissioners Schmidt, Shimazu and Vuksich,

I write on behalf of Artichoke Joe's to comment on the draft regulations covering Phase I of the Minimum Internal Control Standards.

Artichoke Joe's strongly supports the development of minimum internal control standards. Internal controls are necessary to protect the business, and to assure customers of the integrity of the operation. Artichoke Joe's has spent much effort over many years to institute appropriate internal controls. While it believes that it has achieved excellent internal control, state regulation and oversight will further ensure the public that cardrooms are well regulated and are honest, law-abiding businesses.

Development of appropriate regulations that respect existing controls is difficult because of the different situations at different cardrooms and the wide variety of practices in place in cardrooms around the state. Existing controls are like a rule of law and need to be respected. Their stability provides stability to the operation, and disturbance of them weakens controls in general.

We are very appreciative of all of staff's work on this project. Staff has given consideration to many of our comments and has developed regulations that accommodate many of the current internal controls at Artichoke Joe's. Many problems we had with earlier drafts have been resolved. We also appreciate the development of an overview that states the goals and purposes of these regulations. It helps to explain staff's thinking and allows for more constructive debate on the remaining issues.

In that regard, there remain a few provisions which we still believe are improper, unnecessary and ineffective, and we discuss these below.

§ 12380. General Terms, Conditions, Definitions

Subsection (e) Definition of Security Department

The definition of security department improperly focuses on goals instead of duties. It defines the security department not by what it does, but by the desired consequences of its actions. For example, safeguarding patrons and their property is a goal, not a duty. The duty is to patrol the facility, to be alert as to potential problems, and to help in the event of an incident. The goal of these duties is to maintain security and safety. The problem with the proposed language is that it could create an impression that the regulation intends to impose a duty to safeguard, and if a patron were the victim of theft or violence, an overzealous lawyer could seek to impose strict liability on the cardroom by virtue of this wording.

We suggest that the definition focus on duties. We suggest that the security department be required to patrol the public areas of the facility in order to help maintain order and security, exclude underage patrons, and handle any incidents that may arise involving patrons. We note that cardroom security officers are often unarmed, and have limited ability to use force.

The proposed regulation also requires that the security department safeguard the licensee's assets and property. However, at Artichoke Joe's the security department is not responsible for physically safeguarding all areas of the facility. For example, they are not responsible at all for the count room or the vault, and giving them access to these sensitive areas of the facility would not add to internal control, but would lessen it.

The definition continues by saying that the department is responsible for detecting and deterring criminal acts. Preferable language would be that security officers patrol the floor in order to help deter and detect criminal acts.

§ 12384. Drop and Drop Collection

(a) All Tiers

Subsection (a)(3)(C) Drop Box Identifier

Subsection (a)(3)(C) requires drop boxes to have an identifier that corresponds to "the shift, if applicable, for which it is used." It is not clear if "shift" refers to work shifts, its usual meaning, or "drop box shifts." Artichoke Joe's changes drop boxes four times a day, every six hours, but has only three work shifts. The box does not correspond to a work shift. If the term shift refers to "drop box shifts," that should be made clear.

Under the proposed regulation, the cardroom will need two identical sets of boxes for those shifts during which the count occurs. If the intent is to make individual boxes identifiable on video, we suggest that a more effective requirement is to require that there be separate sets of boxes and each set have a distinctive marking. At any one time, all tables should have boxes from the same set. Thus, boxes could be marked by color, and all tables would have the same color box at one time. Or sets could be marked by letters so that all A's would be in use at one time, or all B's, etc. No box should be exactly the same as another box. This would avoid a club having two sets marked the same with the possibility of confusion between two identical boxes, and would be a better control. It also would avoid a club having more sets of boxes than are necessary.

(c) Tiers III through V

Subsection (c)(1) Removal of Boxes By Key Employees

Section (c)(1) requires that in Tier III through Tier V cardrooms, removal of boxes be done by at least one key employee accompanied by one security officer. We think this requirement is totally unnecessary and overly burdensome. There are numerous controls in place to ensure the safe custody of the boxes and their contents. The boxes are locked and when they are removed from the table, the opening slots lock closed. The contents are secure. Further, the key to open the boxes is kept secure in the count room which itself has very restricted access. Two security officers collect the boxes and load them onto carts, minimizing handling by personnel. While on the floor, the carts are out in the open, and the operation is under view of everyone on the floor. Specifically, it is under view of

the shift coordinator, floormen, customers. The opportunity to tamper with boxes is next to nil. The carts are then locked and taken off the floor for storage in a secure area.

Artichoke Joe's is not aware of any incidents at its cardroom where chips were improperly removed from the drop boxes during collection of the drop boxes. That simply has not been a source of trouble. Moreover, most boxes (if they have anything) have only a few hundred dollars.

Having a key employee participate in the collection of boxes from the tables adds no safety to the process. As noted, the opportunity for tampering with boxes while walking around the floor is next to nil. This will be the same if the boxes are collected by a key employee. The key employee adds nothing, and the regulation serves no purpose.

Further, often the only key employee on duty is the shift co-ordinator, and if he or she is required to participate in the collection of drop boxes, he or she cannot be taking care of other more important duties.

The Background document indicates that the purpose of this regulation is "to limit opportunities for collusion, safeguard the licensee's assets, and maintain the integrity of the drop collection process." However, it is not clear what opportunities for collusion exist. There would be no opportunity while the collection occurs on the floor. If there were any, it would be in transportation from the floor to the secure storage area. We therefore suggest as an alternative that the regulation require a key employee to accompany the security team if and while the cart was under transportation from the floor to secure storage.

(d) Tiers IV and V

Live Monitoring of Drop Box Collection

Subsection (d) requires that Tier IV cardrooms provide for continuous live monitoring of the drop collection process by at least one member of the surveillance unit. Again, we think this is unnecessary and overly burdensome. As discussed above, there are numerous controls in place to ensure the safe custody of the boxes and their contents, and the opportunity for theft while the boxes are being collected is almost nil. Therefore, this regulation can add no additional security. If

key employees are required to accompany the boxes to storage, there will be virtually no opportunity for theft there either.

Live monitoring of video is very ineffectual. It is a very passive activity and itself defeats continuous vigilance. Further, the job is perceived as menial and meaningless, not leading to any career or promotion, and most people who would take such a job are of high competence. A person intent on crime generally will be able to smarter the monitor. For this reason, live monitoring adds no additional security.

Artichoke Joe's does not currently have any live monitoring of video recording, and this regulation would require that a whole new operation be established. Many new employees would need to be hired. Since drop boxes are collected every six hours, it would require hiring people for at least two shifts seven days a week. That would change the operation and add considerably to expense.

Given the little that live monitoring would add to security, and the high cost of its implementation, this would not be cost-efficient.

§ 12385. Count; Count Room Functions

(a) All Tiers

Subsection (a)(3)(A)(6) Signature of Person Who Performs Count

Subsection (a)(3)(A)(6) requires that if there is a "hard copy record" of the count, the record include the signature of the individual who conducted the count. However, the meaning of "hard copy record" is not clear. At Artichoke Joe's, the count is performed by machine and recorded automatically on computer. The person who operates the machine does not record the amounts. He or she neither handwrites the amounts or enters them into a computer. In fact, the machine operator never sees the results. He does not see the results on screen or in hard copy. Artichoke Joe's limits this information on a "need to know" basis as a control measure.

That said, during a double-check of the count, a manager or other senior person will print out a summary of the count, and verify that the chips total the amount on computer. If by "hard copy" the regulation means the recording made by hand, that is fine. If by "hard copy" the regulation means a print out of the

computer records, that is a problem. It would make little sense to have the machine operator sign the print out since he has no knowledge of the accuracy of the contents. He did not count the chips and has no knowledge of the results of the machine count. Second, Artichoke Joe's would then need to let the machine operator know the results of the count and this would seriously weaken controls in place to limit his knowledge and his ability to improperly divulge this information to others or to concoct and carry out a scheme. Instead of having the machine operator sign the print out, he or she could sign a separate paper affirming that he or she performed the count that day, or in the alternative, the manager double-checking the count could sign onto the hard copy.

(d) Tiers IV and V

Subsection (d)(2) Live Monitoring of Count

Subsection (d)(2) requires that Tier IV cardrooms continuously monitor the count process by video recording. We believe that this regulation is unnecessary and ineffectual.

As noted above, Artichoke Joe's uses a chip machine to count the drop. The machine is operated by a single employee and the count takes about five hours. Artichoke Joe's has a strong interest in ensuring that the count is correct and that the machine operator does not steal any chips. Dropped chips are revenue, and akin to the contents of the cash register in most stores.

Toward this end, Artichoke Joe's has instituted a number of controls. First, there is controlled access to the drop boxes and to the count room. Second, there are a number of cameras in the count room to record all activity in the room. Third, the company uses a machine to count the chips to minimize handling of the chips, and the manual recordation of amounts. Fourth, the General Manager watches the level of patronage and the size of games, and has a general expectation of revenue based on that knowledge. If the actual revenue figures vary from expectations, he can ask questions or even watch video.

These controls have served Artichoke Joe's well. It had one problem with a machine operator in the 1990s, and it was able to detect employee theft. Other than that Artichoke Joe's has not had any problems.

As noted above, live monitoring of video is relatively ineffectual. It is a very passive activity and itself defeats continuous vigilance. Further, the job is perceived as menial and meaningless, not leading to any career or promotion, and most people who would take such a job do have high competency. A thief generally will be able to outsmart the monitor. For all these reasons, live monitoring of video adds no additional security.

Artichoke Joe's does not currently have any live monitoring of video recording, and this regulation would require that a whole new operation be established. Many new employees would need to be hired. Since drop boxes are collected every six hours, it would require hiring people for at least two shifts seven days a week. That would change the operation and add considerably to expense.

Given the little that live monitoring would add to security, and the high cost of its implementation, this would not be cost-efficient.

§ 12386. Cage Functions

(a) All Tiers

Subsection (a)(2) Designation of Cashiers

Subsection (a)(2) requires the licensee to designate at least one employee to process monetary transactions through the cage, but this fails to capture the intent as stated in the Background document. The Background document states: "This requirement is intended to ensure that each employee assigned to work in the cage is identified and the designation documented." If each cashier is to be identified, the regulation should say so. We suggest that a better wording for the regulation would be to require designation of all persons who process monetary transactions through the cage.

The regulation continues by requiring that designated individuals shall be responsible, at a minimum, for seven functions. Subsection (A) states that the individuals will be responsible for "custody of the cage or individual cage drawer inventory..." The regulation does not state when one is responsible for one or the other, and it should make this clear.

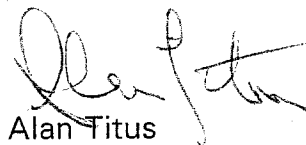
Subsection (a)(5) Summary of transactions

Subsection (a)(5) requires that all transactions that flow through the cage should be summarized and documented in writing for each shift. Artichoke Joe's has a few problems with this language. First, different cashiers serve different shifts. There isn't one shift when they all change. Second, each cashier has a separate impress, and a separate summary is printed out at the end of a cashier's shift. We read this regulation to allow for separate summaries so long as together they summarize all transactions. If that is incorrect, the language might need to be tweaked.

* * *

We appreciate your consideration of these comments.

Sincerely,



Alan Titus

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08/21/2008

CALIFORNIA GAMBLING CONTROL COMMISSION

PROPOSED REGULATORY ACTION CONCERNING

MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR GAMBLING
ESTABLISHMENTS:

General Terms, Conditions & Definitions; Policies & Procedures; Drop & Drop Collection;
Count & Count Room Functions; and Cage Functions.

California Code of Regulations, Title 4, Division 18, Chapter 7, Article 3,
Sections 12380, 12381, 12384, 12385 and 12386.

PURPOSE OF THE REGULATORY PROPOSAL:Introduction:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing the operation of gambling establishments (or "cardrooms") in California.² Specifically, the Commission is mandated to adopt regulations on the subjects enumerated in Business and Professions Code,³ section 19841. Regulations concerning the establishment of minimum policies and procedures by owner licensees to exercise effective control over their internal fiscal and gambling affairs have been prepared in compliance with section 19840⁴ and subdivisions (h) and (i) of section 19841.⁵

Gambling is the quintessential cash business and internal controls are the primary procedures used to protect the integrity of cardroom funds and games. Internal controls are therefore a vitally important part of properly regulated gambling. In general, the proposed action has been drafted in an attempt to establish uniform procedures and standards to assist the Commission and the Bureau of Gambling Control within the Department of Justice (Bureau) in meeting their oversight responsibilities under the Act, while taking into account the variations in size of gaming operations. Perhaps more importantly, the proposed action is intended to assist cardrooms in safeguarding their assets, protecting patrons and their property, and maintaining the integrity of games and gaming. These regulations establish a baseline for cardroom operation,

¹ Business and Professions Code, Division 8, Chapter 4, § 19800 et seq.

² See Business and Professions Code § 19840.

³ All statutory references are to the Business and Professions Code, unless otherwise specified.

⁴ § 19840 provides, in pertinent part, that "[t]o the extent appropriate, regulations of the Commission ... shall take into consideration the operational differences of large and small establishments."

⁵ Subdivision (h) of § 19841 mandates that the Commission's regulations shall "[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs." as specified. Subdivision (i) mandates that the Commission's regulations shall "[p]rovide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants" as a means of "testing and evaluation of other controls" for the purpose of "observing proper compliance with the minimum standards of control prescribed in subdivision (h)."

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by requiring that licensees establish and implement written policies and procedures that meet or exceed the prescribed MICS, as they relate to the established size category of the individual licensee. Establishing a baseline standard helps to ensure consistency and uniformity.

Background:

The Commission's involvement in the development of MICS for gambling establishments began in June 2004. A joint Commission-Bureau-Industry workshop was conducted to review preliminary draft proposals for regulations in September 2004. After consideration of the information and comments received through that workshop, the proposed MICS requirements were given to the Bureau's auditors who were to assess the feasibility of some of the requirements in relation to the auditors' actual experiences in the field. Instead of one large rulemaking with many MICS included, the decision to have smaller rulemaking packages with topic-related MICS was made. The regulations on Gaming Activity and Additional Tables requests finished the rulemaking process in 2006, with the latter being adopted and approved. Subsequently, other issues arose which required the Commission to re-evaluate their regulation development priorities and work on the MICS regulations was suspended temporarily.

In September 2007, a joint Commission/Bureau MICS Regulations Workgroup was formed to continue the development of regulations to establish MICS for cardrooms. The workgroup has discussed general MICS requirements and researched MICS requirements from other states. Due to the number of subjects and complexity of the MICS requirements, the workgroup segregated the requirements into separate subject areas in order to pursue regulations in phases according to priority. Those subjects and phases, in order of priority, are:

Phase

- I. General Terms, Conditions & Definitions; Policies & Procedures; Drop & Drop Collection; Count & Count Room Functions; and Cage Functions
- II. Security & Surveillance
- III. Gambling Floor Operations & Play of Table Games
- IV. Chips, Cards & Other Gambling Equipment
- V. Personnel & Tips
- VI. Information Technology Systems
- VII. Adequate Financing; Players' & Dealers' Banks, and Jackpots

Multiple phases are being considered simultaneously and are currently in various stages of development. It is intended that each phase will be taken up, formally, in the order listed above. While this proposed action encompasses Phase I alone, both Phase II and Phase III are currently undergoing development as well.

MICS-related regulations on Check Cashing, Extension of Credit, and Abandoned Property are being pursued in a separate rulemaking proposal that was noticed earlier this year. This regulatory action is in the final stages of the rulemaking process.

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The workgroup completed an initial draft proposal for Phase I and scheduled an informal public comment session to solicit comments from the industry on the draft proposal. The informal public comment session was held December 11, 2007. All comments were recorded and categorized, and were considered in the further development and refinement of the Phase I proposal. A modified draft proposal was completed and distributed to interested parties in early March 2008, and additional written comments were solicited. Further revisions were made to accommodate many of the comments and suggestions received and this proposed action was formed. A great deal of effort has been made to include affected parties in the development of this proposed action and careful consideration has been given to their views and suggestions, as well as the physical and economic differences between the various card rooms throughout the state.

SPECIFIC PROVISIONS OF THE PROPOSED ACTION:

This proposed action will make the following changes in Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

Article 3. will be amended to incorporate minimum internal control standards (MICS) for gambling establishments as follows:

1. Adopt Section 12380 which will define "minimum internal control standards" (MICS) for the purpose of Chapter 7, will establish the basic application of MICS in the operation of cardrooms and will make failure to comply with this article a ground for disciplinary action. This section will also establish five specific licensee "tiers" based on a licensee's number of approved gaming tables, and will contain general definitions of terms used throughout Article 3 in relations to MICS.
 - This section, through subsections (a) and (b), provides the basic foundation for, and sets forth the general purpose of the MICS requirements. In that regard, this section is intended to be informative and a guide in interpreting and applying the specific standards and requirements that follow.
 - Subsection (c) is also intended to be informative and clarifying. Licensees are put on specific notice that failing to comply with the requirements of this article or to cure any deficiency, as specified in a determination issued by the Bureau, constitutes an unsuitable method of operation and is a ground for disciplinary action. It is important and proper that licensees be made aware or reminded of the possible consequences of their actions or inaction.
 - The establishment of licensee tiers in subsection (d) is intended to be an uncomplicated, understandable and succinct means of distinguishing variations in the size of cardrooms. In the vast majority of instances, the number of approved gambling tables a cardroom is licensed to operate has a direct correlation to the size of the operation – both physical and fiscal. In order to be able to consider "the

operational differences of large and small establishments" in the construction and application of its regulations,⁶ the Commission must have standards that are easy to interpret, and to apply as efficiently and fairly as possible. The number of tables has been determined to be a relatively consistent means of making these distinctions.

- The definitions in subsections (e) and (f) of "Security Department" and "Surveillance Unit" provides a general description, for purposes of this article, of two terms that are used throughout the MICS regulations, including this proposed action – Phase I. Subsection (e) is intended to set out the general parameters of what a security department's responsibilities might include or the functions that might be shared with another entity. The same is intended in subsection (f) with respect to a surveillance unit, as well as establishing the general requirement for staffing of such units. While ultimate responsibility for overall compliance with the Gambling Control Act rests with the owner licensee, certain units or departments are generally seen to cover certain aspects of the day-to-day operations of a cardroom. For instance, security is usually in the best position to keep an eye on the property of the cardroom and its patrons and employees. Both security and surveillance share in the first-line of defense against underage gambling.
2. Adopt Section 12381 to establish clear and consistent requirements for the establishment by licensees of minimum policies and procedures addressing each major element of operation of their gambling establishments. This section will require the establishment of policies and procedures for MICS, the communication of those policies and procedures to employees, adherence to the established policies and procedures, and the availability of those policies and procedures to the Commission and Bureau. Provisions are included for the Bureau to issue determinations regarding deficiencies and for timely curing those deficiencies. This section also includes basic requirements for record keeping. Finally, licensees in tiers II through V will be required to assign specified duties and responsibilities concerning policies and procedures to a designated member of management.
- Subsection (a) requires that policies and procedures be in written form. This is intended to ensure that there is a physical document that can be relied upon to determine, first of all, compliance with the requirement policies and procedures; and secondly, the adequacy of those policies. Having written policies and procedures also provides a reliable means of ensuring that all employees are made aware of their requirements and facilitates compliance with subsection (b).
 - Requiring, in subsection (b), that the licensee's policies and procedures be communicated to its employees is intended to ensure that the employees are made aware of those requirements and any subsequent modifications. Properly informed employees will provide greater assurance that a higher level of compliance will be

⁶ See Business and Professions Code § 19840.

achieved and maintained. This will also assist licensees in complying with subsection (c).

- Subsection (c) simply requires adherence to the licensee's established policies and procedures. While requiring the establishment of policies and procedures might imply the adherence is mandated, it is not clear. Without this specific clarifying requirement, establishing policies and procedures could be meaningless.
- Subsection (d) establishes the Commission's and Bureau's basic right of access to licensees' policies and procedures. This access is necessary to facilitate a review by the Bureau in order to assess the adequacy of the policies and procedures so that a determination may be issued pursuant to subsection (e).
- Subsection (e) addresses those instances in which the Bureau, in its review of a licensee's policies and procedures, may find deficiencies. In the event that the Bureau determines that a licensee's established policies and procedures are not adequate, this provision establishes a basic procedure for the licensee to cure the deficiency. This is intended to inform licensees of what they may expect in these circumstances. The standards specified are intended to give both the Bureau and licensees flexibility in working out specific details and time frames for responses and corrective action.
- The establishment of minimum basic requirements for the maintenance of records is covered in subsection (f). Permanent records must be maintained to provide a basis for regulatory compliance review. As state agents and auditors will review the records, they shall be maintained in English, so that those individuals may read them. Records must be available to the agents auditors during the hours when the responsible cardroom management/employees would normally have access to the records – the night shift, for example, may not always have access to accounting documents when the staff of the accounting department has left for the evening.
- The requirements, in subsection (g), that licensees in Tiers II through V assign the responsibilities for establishing, reviewing, monitoring, and testing for compliance the MICS policies and procedures; that specified periodic testing be done; and that compliance test results be reported, implement the provisions of Business and Professions Code section 19841, subsections (h) and (i). These requirements are made applicable to only Tiers II through V, as Tier I licensees are generally so small, with management limited to an individual owner or a single employee, that assignment or delegation of these requirements would be impractical, if not impossible. Furthermore, the general accounting and reporting requirements applicable to all licensees,⁷ including Tier I licensees, are adequate for this purpose as the risk potential is relatively minimal.

⁷ See Article 4, § 12400, et seq.

3. Adopt Section 12384 to provide for the inclusion in a licensee's policies and procedures of standards to address the deposit of fees into a secure container and periodic collection of those containers. When patrons of a cardroom engage in controlled gambling, they pay a fee, either per hand or per hour, for playing. This fee – either in regular chips or nondenominational drop-chips – is “dropped” into a “drop box” attached to the gambling table, and the boxes are collected at certain times each day by the cardroom. This is the main source of cardroom revenue and must be both protected (if chips are used) and accurately reported. This section will provide specifications for the construction, use, and basic security of drop boxes. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee tiers established in Section 12380.

In general, the basic requirements governing drop boxes and drop collections serve not only to safeguard licensees' assets, but also to assist the Bureau in its regulatory role. There have been numerous instances where a Bureau cardroom audit/review has found that more drop boxes were being collected than the total number of tables authorized for that licensee. The identification and tracking of drop boxes and the scheduling of drop box collections could be important factors in confirming that a licensee has illegally operated more gambling tables than authorized under its license.

All Tiers

- Subsection (a), paragraph (1), requires the use of a secure container (drop box) for the collection of drop and other fees. The drop box must be secured to the gambling table and constructed and controlled so as to provide for the security of its contents. As most cardrooms place chips in the drop box, it is important that the box be secured so that unauthorized persons cannot take any chips out of the drop box.
- Paragraph (2) requires the use of a separate drop box or other method of segregation, and a separate accounting, for jackpot or similar collections. Jackpot collections have separate accounting requirements, thus the drop must be kept separate from any jackpot collections. The separation or segregation may be accomplished by the use of a second drop box or by some other means. For example, if drop chips are used exclusively for fees, but not for jackpots, segregation is still achieved even though a single drop box is utilized.
- Paragraph (3) establishes basic standards for the construction of drop boxes. In order to properly secure the drop box, separate locks close the box and attach it to the gambling table. The box needs to be clearly and visibly marked (with table numbers or letters, and shift identifiers – such as AM or PM, or symbols indicating time of day (e.g., sun, moon) – if more than one box per day is used) as to which table it should be attached. The box must also have an opening through which chips may be inserted.

Requiring separate locks to secure the contents of the box and to secure the box to the gambling table provide multiple levels of security. First, securing the box to the table

protects against tampering, theft or unauthorized removal of the box itself. Second, a separately keyed lock securing the contents of the box provides a means of restricting access to the contents by unauthorized personnel (e.g., employees performing the drop box collection would have the keys to the locks securing boxes to tables but not to the locks securing the contents of boxes.)

The identification of drop boxes and the linking of the box to its corresponding table is an important element in a complete audit trail. Through this identification the drop boxes, when collected, can be followed from the table to and through the count. Visible identifiers can be tracked through surveillance video. As a supplement to visible identifiers, provision is also included for electronic identification using a bar code or similar system. In a bar code identification system, the box, the table, and the personnel collecting the boxes all have individual bar code identifiers. The system records those identifiers and all other relevant information for the drop collection. That information can then be accessed at a later time for comparison to the video recording of the collection.

While it may seem obvious that there must be an opening in a drop box to provide for the deposit of chips, this requirement is included for clarity and specifically requires that the chips collected for the drop and other fees actually be deposited into the box.

- Paragraph (4) permits the use of an emergency, interim or temporary drop box. Sometimes, cardrooms use a different box to collect the drop, either due to heavy usage necessitating that the box be changed out, or because the original box requires maintenance. In such instances, cardrooms use a box that they mark emergency, interim, or temporary, depending on the cardroom and/or reason for the switch. Extra boxes are kept on site for such times, but not as many extra boxes as tables are required. The use of such a temporary box does not require any permanent table marking, but a temporary table identifier must be used when the box is employed so that the video surveillance can accurately follow the box as it moves from the table to the count room.
- Paragraph (5) specifies that a drop box that has been removed from a gambling table must be stored in a secure area and afforded sufficient security to protect the drop box and its contents while awaiting the count. Again, as these boxes generally contain the majority of a cardroom's revenue, the boxes must be placed in a secure area to protect their contents from theft or tampering.
- Paragraph (6) allows unused drop boxes to be stored on gambling tables if the area is secure or covered by surveillance. Empty drop boxes are not at risk of content theft, but could be at risk for tampering with the locks, etc. Therefore, even when empty, the boxes must be stored safely and securely. Having boxes locked to a gambling table in a secured area or under surveillance – either live or video – accomplishes this need for security. This broad standard allows lower tiers greater flexibility in satisfying this requirement.

- Paragraph (7) requires that licensees establish a schedule for the collection of drop boxes and ensure video recording of the entire drop box collection process. Provision is also included for deviation from the established collection schedule when necessary.

The collection process must be recorded by video surveillance to ensure that the boxes are collected appropriately and are not tampered with before they reach the count room to ensure the security of the box contents and satisfy the accounting and reporting requirements. The video will also document that the number of drop boxes collected is appropriate for the number of tables permitted to be in operation.

Deviation from the licensee's collection schedule may be necessary or appropriate in many situations that may not be predictable. For example, when the volume of play at a particular table is so great that the drop box is filled to capacity well before its scheduled collection time, an early collection would be necessary and appropriate to safeguard further drop fees for that table. On the other hand, an additional table put into play very close to a scheduled collection time may not have generated sufficient drop fees to warrant collection at the next scheduled time, so excluding that table from that collection may be appropriate. For that matter, on a particularly slow gambling day, there may not be sufficient drop fees generated at any table and skipping a scheduled collection time altogether during that shift may be reasonable. Furthermore, the unexpected absence of one or more of the employees designated to perform the drop collection may delay its commencement in order to locate a substitute. In view of these possible situations, it would be unreasonable not to allow deviation from an established drop collection schedule for good cause.

Tiers II-V

- Subsection (b) requires that, for Tiers II and above, the drop collection be performed by at least one licensed or permitted individual. Using licensed or permitted individuals will help to ensure the integrity of the drop collection process and protect the licensee's assets. Licensed and permitted employees are subjected to background checks in order to obtain a license or permit. Possession of a license or permit provides at least a minimum degree of confidence in the honesty, integrity and good character of the individual. This becomes an increasingly important factor as the potential for financial loss, and the size of the potential loss, increases as the tiers progress.

This requirement begins with Tier II because the size of Tier I cardrooms, both physical and fiscal, does not necessarily warrant this added level of protection. The potential for loss is far less significant and the owner licensees generally perform all the critical functions of cardroom operation and adding this requirement might necessitate hiring an additional, otherwise unneeded licensed or permitted employee in order to comply. On the other hand, Tier II and above licensees generally already have licensed and/or permitted employees that could be assigned this duty.

Tiers III-V

- Subsection (c), paragraph (1) requires collection of all drop boxes, whether in use or not, at the same time. The collection is to be performed by, at a minimum, one key employee (licensed and not a security department employee) and one security department employee (may or may not be licensed or permitted). This requirement is intended to limit opportunities for collusion, safeguard the licensee's assets, and maintain the integrity of the drop collection process.
- Paragraph (2) provides that the names of the individuals performing the drop box collection be documented either electronically (by computer software) or in writing and, if documented in writing, that the individuals print and sign their names in the documentation. Accurate documentation of each aspect of the drop collection process is necessary to maintain the integrity of the process, minimize opportunities for collusion, and safeguard assets.
- Paragraph (3) allows unused drop boxes to be stored on gambling tables if the area is covered by recorded video surveillance. Again, empty drop boxes are not at risk of content theft, but could be at risk for tampering. Even when empty, the boxes must be stored safely and securely. Having boxes locked to a gambling table in a secured area and under recorded video surveillance satisfies this need for security. This slightly higher standard for Tiers III and above addresses the higher level of potential risk associated with the larger and largest gambling operations.

Tiers IV-V

- Subsection (e) requires the continuous live monitoring of the video surveillance recording of the drop box collection while in progress. This requirement is intended to control and enhance the security of the drop collection process and addresses the higher level of potential risk for losses associated with the largest gambling operations.
4. Adopt Section 12385 to establish the basic requirements for the maintenance and operation of count rooms that must be addressed in a licensee's policies and procedures. This section includes general specifications for the construction and security of count rooms, and the duties and activities of count room staff. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee tiers established in Section 12380.

All Tiers

- Subsection (a), paragraph (1), requires licensees to ensure that the counting and recording of the contents of drop boxes is accomplished in a manner that provides for appropriate security and proper accounting. Some cardrooms pay local taxes based upon their revenue. Therefore, the correct reporting of revenue is essential to meeting their appropriate tax liability. Similarly, some cardrooms have different state table fees based upon their income (Business and Professions Code section 19950), and so the proper income must be reported. This requirement is intended to assist in

ensuring the accuracy of the count, to minimize the opportunity for theft and embezzlement, and to maintain the integrity of the count process.

- Paragraph (2) requires licensees to designate an individual or individuals, holding a license or permit, to perform the drop count. Using licensed or permitted individuals will help to ensure the integrity of the count process and protect the licensee's assets. Licensed and permitted employees are subjected to background checks in order to obtain a license or permit. Possession of a license or permit provides at least a minimum degree of confidence in the honesty, integrity and good character of the individual. This becomes an increasingly important factor as the potential for financial loss, and the size of the potential loss, increases as the tiers progress.
- Paragraph (3) requires that the count be recorded on a daily count sheet; specifies the information that must be recorded in a count sheet; and specifies how corrections are to be made when errors are identified in the recorded information. The daily count sheet documents the revenue of each drop box and maintains the integrity of the revenue accounting. This decreases the risk of under/over reporting of revenue.
- Paragraph (4) mandates the continuous recording of the count process by video surveillance. This requirement is intended to enhance security, minimize the opportunity for theft and embezzlement, and maintain the integrity of the count process.
- Paragraph (5) prohibits the mixing or commingling of the contents of one drop box with the contents of any other drop boxes prior to the count and recording of its contents. This prohibition is intended to assist in the accurate tracking of revenue for each shift, individual box and individual table.
- Paragraph (6) requires a drop box to be identified and the identity recorded when emptied and that recorded video surveillance document that all contents are removed from the box for the count. This requirement is intended to assist in creating an audit trail that will allow tracking of drop boxes from collection to the count. This will help to ensure the security and integrity of the count process and satisfy accounting and reporting requirements.

Tiers II-V

- Subsection (b), paragraph (1), requires licensees to maintain and use a secure area known as the "count room" to perform the count; that the area be designed and constructed to provide appropriate security; that it not be used for the storage of anything not directly associated with the count process; and, that it not house any removable containers that could be used to conceal chips or cash. This requirement is intended to provide enhanced asset safety and count process integrity for higher-tier gambling operations.

- Paragraph (2) provides that if the count room is used to store items or materials that are directly associated with the count (e.g., chips, cash or drop boxes), the interior of the room and its contents must be under constant recorded video surveillance. This provision is intended to allow licensees to make appropriate use of the count room for purposes other than, but related to the count process, while safeguarding the licensee's assets and maintaining the safety and security of the room and its contents.

Tiers III-V

- Subsection (c), paragraph (1), provides that not less than two individuals be designated, pursuant to paragraph (2) of subsection (a), to perform the count, or one individual if an automated chip counting machine is used, as specified. This requirement is intended to limit opportunities for collusion, safeguard the licensee's assets, and maintain the integrity of the count process.

This requirement that not less than two individuals perform the count begins with Tier III because the size of Tier I and Tier II cardrooms, both physical and fiscal, does not necessarily warrant this added level of protection. The potential for loss is far less significant and the owner licensees generally perform all the critical functions of cardroom operation. Adding this requirement for the lower tiers might necessitate hiring an additional otherwise unneeded employee in order to comply. On the other hand, Tier III and above licensees generally already have employees that could be assigned this duty.

The optional provision allowing one individual to perform the count if a count machine is used is intended to provide licensees with an alternative that may reduce labor costs without negatively impacting the safety of assets or the integrity of the count process.

- Paragraph (2) requires that the individuals performing the count wear clothing that reduces their ability to conceal chips on their person. This requirement is intended to reduce minimize the opportunity for theft, safeguard the licensee's assets, and maintain the integrity of the count.
- Paragraph (3) requires a verification of the accuracy of the count by a cage or vault cashier after its conclusion. This requirement provides a means of identifying count errors in order to reduce the potential for under/over reporting of revenue, and it creates a documented audit trail.
- Paragraph (4) specifies that the count sheet must be immediately delivered to the accounting department following its verification and that the accounting department shall be responsible for maintaining and controlling the count sheets. This provision is intended to maintain the integrity of the count sheet by minimizing the opportunity for unauthorized alterations.

Tiers IV-V

- Subsection (d), paragraph (1), provides that the count room shall be a fully enclosed room with an alarm system connected to all doors to the room that signals the security unit whenever any door to the count room is opened. This provision is intended to establish an enhanced level of protection for licensee's assets commensurate with the increased potential risk found in the higher tier gambling establishments. Both the larger size of their establishments and the significantly higher amount of their revenue warrant a higher degree of protection.
- Paragraph (2) requires that one of the designated individuals notify the surveillance unit immediately prior to commencement of the count and that the entire count be continuously monitored and recorded by video surveillance. This requirement is intended to provide added assurance that the video monitoring and recording of the entire count process will take place in order to ensure the safeguarding of assets and maintain the integrity of the count.
- Paragraph (3) provides that access to the count room shall be secured prior to the opening of any drop box and that the exit and entrance of individuals be controlled until the count process, including recording and verification, is completed. In keeping with the increased potential risk found in the higher tier gambling establishments, this provision is intended to enhance the level of protection for licensee's assets.

Tier V

- Subsection (e) provides that not less than three individuals be designated, pursuant to paragraph (2) of subsection (a), to perform the count, or two individuals if an automated chip counting machine is used, as specified. This provision is intended to enhance the safety and security of the count process and addresses the higher level of potential risk of losses associated with the largest gambling operations.
5. Adopt Section 12386 to establish the basic requirements for the maintenance and operation of cages that must be addressed in a licensee's policies and procedures. This section includes specifications for the construction and security of cages, and the duties and activities of cage staff. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee Tiers established in Section 12380.

All Tiers

- Subsection (a), paragraph (1), provides that licensees shall ensure the appropriate security and accountability of funds by the maintenance of an area within the gambling establishment, as specified, that is designated as the cage. The cage is the main area of a cardroom where cash is kept, as patrons exchange their cash for chips, cash checks, or access their players' banks from the cage. In addition, patrons often fill out required IRS forms or credit request forms at the cage, which are kept in the cage until transmitted to the accounting department. Thus, both cash and sensitive

information are kept in this area. Therefore, it is necessary to keep this area secure, including video surveillance and restrictions on access to non-authorized personnel, as well as internal controls such as segregation of duties involving reconciling cash drawers.

- Paragraph (2) requires that at least one employee be designated to process transactions through the cage and specifies the duties and responsibilities of that position. This requirement is intended to ensure that each employee assigned to work in the cage is identified and the designation documented; and that the general duties and responsibilities that those employees may be held accountable for are clearly identified. This is a basic element in safeguarding the licensee's assets and protecting sensitive and confidential information that may be present in the cage.
- Paragraph (3) provides that access to the cage shall be limited, restricted and controlled. Both cash and sensitive/confidential information are kept in this area. Restricting access to authorized personnel and controlling access by non-authorized personnel assists in ensuring the security of the area. This provision is intended to reduce the risk of loss or inappropriate access to sensitive or confidential information and/or documents.
- Paragraph (4) requires that a log be maintained, as specified, to document entry into the cage area by anyone other than authorized, on-duty cage personnel, and that any automated access control system record substantially the same information specified for the manual log. This is another factor that assists in preserving the security of the cage area and safeguarding its contents. Should issues arise, the log will document who, in addition to authorized, on-duty cage personnel, was granted access to the cage at any time relating to the issue.
- Paragraph (5) requires that a reconciliation of the cage activity be performed at the end of each shift by both the incoming and outgoing designated cage employees; that if an impress is used, the outgoing employees reconcile their drawers to the impressed amount; that all transactions be appropriately summarized and documented, as specified; and that the cage activity reconciliations be posted and reconciled to the general ledger monthly. Regular reconciliations and postings are a critical element in any financial accounting system and are a basic minimum internal control standard in any fiscal operation. Regularly occurring reconciliations of transactions confirm the accuracy of the accounting system, timely identify irregularities and errors, and support the credibility of financial reporting. By requiring both the outgoing and the incoming cashiers to perform the shift-change reconciliation, shift-to-shift continuity is established and confirmed, and each cashier is assured of the accuracy and consistency of the amounts they are receiving and transferring. However, in the case of an impress, each cashier is responsible for his or her own drawer or bankroll. Therefore, there is no need for incoming and outgoing cashiers to be involved in each other's reconciliations.

- Paragraph (6) specifies that a patron may only purchase or redeem chips from the cage or a designated employee on the gambling floor, and prohibits the purchase or redemption of chips from patrons by third-party proposition player service providers. Clarification is also included that provides that changing or breaking chips (e.g., exchanging a \$50 chip for 10 – \$5 chips) is not prohibited, whether at a cage, with a dealer or between players. This requirement is intended to assist in assuring compliance with Title 31 of the United States Code, and to minimize the potential for the introduction of counterfeit chips and/or currency into the gambling establishment.

Tiers III-V

- Subsection (b), paragraph (1), requires continuous recorded video surveillance of the cage and cage activities. This requirement is intended as an enhancement to provide added protection of assets, greater assurance of the integrity of the cage and cage employees, thus minimizing the opportunity for theft.
- Paragraph (2) requires a summarization of the reconciliation of cage transactions (see (a)(5) above) on a cage accountability form and specifies the information that must be included in that form. This requirement is intended to enhance the accuracy and consistency of the end-of-shift cage reconciliation by specifying the basic information that is to be summarized and recorded.
- Paragraph (3) provides that the cage activity reconciliation shall be posted to a general ledger at least monthly by someone other than a cage employee or supervisor. This provision is intended to assist in preserving the integrity of the reconciliation and minimize the opportunity for collusion through a clear separation of duties.

Tiers IV-V

- Subsection (c), paragraph (1) specifies that the cage must have a manually triggered silent alarm; that the cage access door(s) be secured; and, that the door(s) be under constant recorded video surveillance. The alarm requirement is intended to provide for notification of law enforcement in the event of a robbery. The securing and recorded video surveillance of doors is intended to provide greater access control and enhanced security for the cage. These provisions are intended to further safeguard assets by establishing enhanced requirements appropriate to the higher degree of risk associated with the larger gambling operations.
- Paragraph (2) requires a summarization of the reconciliation of cage transactions (see (a)(5)) on a cage accountability form (see (b)(2)) that includes additional information, as specified. This requirement is intended to further enhance the accuracy and consistency of the end-of-shift cage reconciliation by requiring additional detail that may only be necessary and appropriate for the higher tier gambling establishments.
- Paragraph (3) requires that licensees maintain a list of designated persons that have been authorized access to the cage. The list shall also indicate who possesses the combination or keys to the devices securing the cage and who can access and operate

the cage alarm. This requirement is intended to ensure that each employee assigned to work in, or authorized access to the cage is identified and that the assignment and/or authorization be documented. This serves to enhance the accountability of individuals, to document segregation of duties, and to clearly identify and document who may control physical access to the cage. These provisions are intended to further safeguard the licensee's assets and protect sensitive and confidential information by establishing enhanced requirements appropriate to the higher degree of risk associated with the larger gambling operations.

Tier V

- Subsection (d) requires that the interior of the cage and all of its contents, as well as the exterior of all cage access doors, be under monitored and recorded video surveillance. This requirement is intended as a further enhancement to the basic video surveillance requirement in order to provide added protection of assets and greater assurance of the integrity of the cage and cage employees, commensurate with the higher level of potential risk of losses associated with the largest gambling operations.
6. The proposed action will also require licensees to establish and implement the applicable standards specified in Sections 12384, 12385 and 12386 by a date certain (approximately six months after the effective date of those regulations). This will provide licensees with adequate notice and sufficient time to develop appropriate policies and procedures in compliance with the newly adopted standards and requirements.

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TITLE 4. BUSINESS REGULATIONS.
 DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.
 CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.

ARTICLE 3. ~~[RESERVED]~~ MINIMUM INTERNAL CONTROL STANDARDS (MICS)
 FOR GAMBLING ESTABLISHMENTS.

§ 12380. Minimum Internal Control Standards; General Terms, Conditions, Definitions.

(a) "Minimum Internal Control Standards." or "MICS." are the minimum requirements to operate a gambling establishment as set forth in this chapter, and include, but are not limited to, administration controls, and controls requiring segregation of duties. A licensee must meet or exceed these requirements in controlling its gambling operation.

(b) The purposes of the MICS are to better ensure the maintenance of accurate records, the recording of all income, the safeguarding of assets and records of the gambling establishment, operational efficiency and integrity, and adherence to prescribed policies and procedures.

(c) Failure by a licensee to comply with the requirements of this article or to cure a deficiency noticed pursuant to subsection (e) of Section 12381 constitutes an unsuitable method of operation and is a ground for disciplinary action.

(d) For purposes of this article:

(1) "Tier I licensee." means an owner licensee authorized to operate one to five tables.

(2) "Tier II licensee." means an owner licensee authorized to operate six to ten tables.

(3) "Tier III licensee." means an owner licensee authorized to operate eleven to thirty tables.

(4) "Tier IV licensee." means an owner licensee authorized to operate thirty-one to sixty tables.

(5) "Tier V licensee." means an owner licensee authorized to operate sixty-one or more tables.

(6) Absent specific reference to a particular tier, any requirement of any regulation in this article shall be deemed to be applicable to all licensees.

(e) As used in this article:

(1) "Security department." means the operational entity within a gambling establishment that is responsible, but not necessarily solely responsible, for physically safeguarding patrons and patron's property, personnel, and the licensee's assets and property; detecting and deterring

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criminal acts; detaining, or assisting in the detention of, persons who may be involved in illegal acts for the purpose of notifying appropriate law enforcement authorities; and preventing or assisting in the prevention of gambling by persons who are less than 21 year of age.

(2) "Surveillance unit." means the operational system or entity within a gambling establishment that is responsible for the video recording, as may be further specified in this article, of all activities required to be under surveillance, monitored and/or recorded pursuant to the Act and this division for the purposes of detecting and documenting illegal activities, detecting and documenting gambling by persons under 21 years of age, and assisting the personnel of the security department in the performance of their duties. The surveillance units for licensees in Tier V shall be continuously staffed during the hours of operation of the gambling business and during all drop collection and count procedures, whether conducted during the hours of operation or not. The surveillance units for Tiers I through and including IV are not required to be staffed, except as may otherwise be required in this article.

NOTE: Authority cited: Sections 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19840, 19841, 19922 and 19924, Business and Professions Code.

§ 12381. Policies and Procedures.

(a) All licensees shall have written policies and procedures that shall address each major area of the gambling establishment operations and meet or exceed the MICS contained in this article.

(b) A licensee's policies and procedures shall be communicated to employees through new employee orientations and periodic training sessions.

(c) Adherence to the policies and procedures established to comply with this article shall be required.

(d) On request, copies of a licensee's policies and procedures shall be provided, within a reasonable time specified, for the Commission and/or Bureau to review.

(e) If the Bureau determines that the policies and procedures do not adequately address the requirements of this article, within 10 days of that determination the Bureau shall give written notice to the licensee identifying the deficiencies and specifying a time certain within which those deficiencies must be cured. The time initially specified shall be reasonable under the circumstances known to the Bureau, but in no event shall it exceed 30 days. The time specified may be extended for a period not to exceed 30 days upon written request and a showing of good

cause by the licensee. Requests for extension of time shall be submitted to the Bureau at least ten days prior to the end of the time specified in the initial written notice or in any extension of time.

(f) Unless otherwise specified in this chapter, all forms, books, records, logs, lists, recordings and any and all other original source or duplicate documentation required to be maintained by a licensee pursuant to this chapter shall be:

(1) Recorded in English;

(2) Recorded in a permanent form or media;

(3) Maintained for a minimum of three years, unless otherwise specified, in a secured area on site at the gambling establishment or at a California facility approved in advance by the Bureau; and

(4) Made immediately available to Bureau personnel upon request, between the hours of 9:00 a.m. and 6:00 p.m. on weekdays (excluding holidays), or as otherwise mutually agreed to by the licensee and the Bureau.

(g) In addition to the requirements of subsection (a) through and including (f), licensees in Tiers II through and including V shall assign the overall responsibility for establishing, periodically reviewing, monitoring, and testing for compliance their MICS policies and procedures to a specific owner or member of management and shall document the assignment in the licensee's policies and procedures. Tests for compliance with MICS policies and procedures shall be performed at least annually, and may be performed by a licensee's staff, other than the person or persons who normally perform the duties being tested, or by agents or outside consultants (e.g., a certified public accountant) for the licensee. The results of the tests, and a detailed record of the efforts to correct any noncompliance found as a result of the tests, shall be documented and the documentation retained by the licensee.

(h) Licensees shall establish and implement policies and procedures in accordance with the applicable provisions of this section no later than [the first day of the first full month six months following the effective date of this section].

NOTE: Authority cited: Sections 19827, 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19827, 19841, 19922 and 19924, Business and Professions Code.

§ 12384. Drop and Drop Collection.

(a) The policies and procedures for all Tiers shall meet or exceed the following standards for the drop and collection of the drop for non-electronic gambling tables:

(1) Drop collection fees shall be deposited into a secure container, known as a "drop box," that shall be securely attached to the gambling table. A drop box shall be constructed and controlled in a manner to provide for the security of its contents.

(2) If a jackpot or any other player-funded gambling activity is offered, jackpot collections shall be deposited into a separate drop box, or otherwise segregated, and accounted for separately.

(3) Drop boxes shall have all of the following:

(A) A lock securing the contents.

(B) A separate lock securing the drop box to the gambling table. This lock shall be keyed differently from the lock securing the contents of the drop box.

(C) An individual identifier that corresponds to the gambling table to which the drop box is attached and the shift, if applicable, for which it is used, and that can be documented when the box is removed from the table. Visible drop box identifiers shall be imprinted or impressed on the box and capable of being seen and read in video surveillance recordings, either while attached to the table or when removed from the table and immediately displayed to a surveillance camera. If a bar code or an equivalent system is used, in addition to the imprinted or impressed identifiers, it shall have the capability to identify each drop box by shift and table, the person or persons performing the collection, and the date and time of the collection.

(D) An opening through which chips collected for fees shall be inserted.

(4) An emergency, interim, or temporary drop box may be maintained without a number or marking, if the applicable designation is permanently imprinted or impressed thereon and, when put into use, it is temporarily marked as provided in subparagraph (C) of paragraph (3) above.

(5) A drop box, when removed from a gambling table, whether in use or not, shall be afforded security sufficient to protect the drop box and its contents and shall be stored in a secure area while awaiting the count.

(6) A drop box, when not in use during a shift, may be stored on a gambling table if the entire area is secure or covered by surveillance during that period of time.

(7) The licensee shall establish and schedule the time(s) for the collection of drop boxes and shall ensure that the entire drop collection process is recorded by video surveillance. Except as otherwise provided in subsection (c), the drop box collection may be performed more frequently or less frequently than the time(s) scheduled by the licensee when circumstances warrant a reasonable deviation from the established schedule.

(b) In addition to the requirements of subsection (a), the policies and procedures for Tiers II through and including V shall include standards for drop collection that require the drop collection to be performed by at least one licensed or permitted individual.

(c) In addition to the requirements of subsections (a) and (b), the policies and procedures for Tiers III through and including V shall include the following standards for drop collection:

(1) All drop boxes, whether in use or not, shall be removed from the gambling table as provided in paragraph (5) of subsection (a) by at least one key employee of the gambling establishment accompanied by at least one member of the security department or its equivalent. The key employee shall not be a member of the security department or its equivalent.

(2) The names of the individuals performing the drop collection shall be documented either by software or in writing and, when documented in writing, those individuals who performed the collection shall legibly print their names and sign the documentation.

(3) A drop box, when not in use during a shift, may be stored on a gambling table if the entire area is covered by recorded video surveillance during that period of time.

(d) In addition to the requirements of subsections (a) through and including (c), the policies and procedures for Tiers IV and V shall include standards for drop collection that provide for continuous live monitoring of the drop collection process by at least one member of the surveillance unit during the recording of the video surveillance.

(e) Licensees shall establish and implement the applicable standards for drop collection specified in subsections (a) through and including (d) no later than *[the first day of the first full month six months following the effective date of this section]*.

NOTE: Authority cited: Sections 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19841, 19922 and 19924, Business and Professions Code.

§ 12385. Count: Count Room Functions.

(a) The policies and procedures for all Tiers shall meet or exceed the following standards for

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count room functions:

(1) The licensee shall ensure that the contents of drop boxes are counted and recorded in a manner and in a location within the licensed gambling establishment that ensures the appropriate security and proper accounting of all gambling chips.

(2) The licensee shall designate an individual or individuals, each holding a valid gambling license or work permit, who shall be responsible for performing the drop count. The opening, counting and recording of the contents of a drop box shall be performed in the presence of and by the designated individual(s).

(3)(A) Drop box counts shall be permanently recorded, in ink or another form approved by the owner licensee, on a daily count sheet or the equivalent, which documents all of the following information, as applicable:

1. The name of the gambling establishment;
2. The date and time of the count;
3. The shift, individual box number and table number of each box counted;
4. The amount in each individual box;
5. The total number of boxes counted; and
6. The printed or recorded name(s) of the individual(s) conducting the count and, if a hard copy record, the signature(s) of the individual(s).

(B) Corrections to the information initially recorded for the drop count prior to the completion and signing of a hard copy daily count sheet shall be permitted. Corrections shall be made by drawing a single line through the error and writing the correct figures above the original figures or by another method approved by the Bureau. The designated individual making the correction shall write his or her initials and the date, in ink, immediately next to the correct figures. The correction, in a hard copy of a daily count sheet, of errors discovered subsequent to the completion and signing by the designated individual(s) shall require the completion of a revised or amended count sheet, which shall be maintained with the original count sheet.

(4) The entire count process, beginning with the opening of the first drop box and continuing through completion of the count sheet, shall be continuously recorded by video surveillance.

(5) The contents of a drop box shall not be mixed or commingled with the contents of any other drop box prior to the counting and recording of its contents.

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(6) A drop box shall be emptied in a manner that will identify and record the box identification, as specified in Section 12384, subsection (a), paragraph (3), subparagraph (C), and paragraph (4), and so that video surveillance recording will document that all contents are removed from the drop box for the count.

(b)(1) In addition to the requirements of subsection (a), the policies and procedures for Tiers II through and including V shall include standards for count room functions that require the use and maintenance of a secured area known as the count room for the counting of gambling chips, which shall:

(A) Be designed and constructed to provide appropriate security for the materials housed therein and for the activities conducted therein;

(B) Not be used as a storage facility for items or materials not directly associated with the count process, nor have any removable containers that could be used to conceal chips or cash.

(2) If the count room is used to store chips, cash, drop boxes or any other items or materials that are directly associated with the count, the interior of the room and all of its contents shall be under constant recorded video surveillance.

(c) In addition to the requirements of subsection (a) and (b), the policies and procedures for Tiers III through and including V shall include the following standards for count room functions:

(1) The number of individuals designated by the licensee, pursuant to paragraph (2) of subsection (a), to perform the drop count shall not be less than two individuals, or one individual using an automated chip counting machine that counts, sorts and racks the chips, and records the count electronically on the licensee's computer system.

(2) The designated individuals performing the count shall be attired so as to reduce their ability to conceal chips on their person; for example, by wearing, over their regular clothing, smocks or other clothing with no pockets.

(3) At the conclusion of the count, a cage or vault cashier or the equivalent shall count the chips received and verify the accuracy of the count.

(4) Count sheets verified pursuant to paragraph (3) above shall, immediately following verification, be remitted to the accounting department or its equivalent, or deposited in a locked box, located in a secure area of the gambling establishment, accessible only by the accounting department or its equivalent. Count sheets shall be maintained and controlled by the accounting

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department or its equivalent.

(d) In addition to the requirements of subsections (a) through and including (c), the policies and procedures for Tiers IV and V shall include the following standards for count room functions:

(1) The count room shall be a fully enclosed room equipped with an alarm system or device connected to all entrances to the count room which causes a signaling to the surveillance unit or its equivalent, whenever any door to the count room is opened.

(2) Immediately prior to the commencement of the count, one of the designated individuals shall notify the surveillance unit that the count is about to begin. The entire count process shall be continuously monitored and recorded by video surveillance.

(3) Immediately prior to the opening of a drop box, the door to the count room shall be secured. Except as otherwise authorized by the licensee's policies and procedures, no person shall be permitted to enter or leave the count room, except during a normal work break or in an emergency, until the entire counting, recording, and verification process is completed.

(e) In addition to the requirements of subsections (a) through and including (d), the policies and procedures for Tier V shall include standards for count room functions that require the drop count to be performed by not less than three individuals designated by the licensee pursuant to paragraph (2) of subsection (a), or two individual using an automated chip counting machine that counts, sorts and racks the chips, and records the count electronically on the licensee's computer system.

(f) Licensees shall establish and implement the applicable standards for count and count room functions specified in subsections (a) through and including (e) no later than [the first day of the first full month six months following the effective date of this section].

NOTE: Authority cited: Sections 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19841, 19922 and 19924, Business and Professions Code.

§ 12386. Cage Functions.

(a) The policies and procedures for all Tiers shall meet or exceed the following standards for the cage:

(1) The licensee shall maintain within the gambling establishment at least one separate and secure area at a fixed location that is accessible to the public, and that is designated as the cage.

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The cage shall be located, designed, constructed and operated to provide appropriate security and accountability for funds.

(2) The licensee shall designate at least one employee to process monetary transactions through the cage, who shall be listed by title or position on the gambling establishment's organizational chart, and who shall be responsible for, at a minimum, the following:

(A) Custody of the cage or individual cage drawer inventory, which is comprised of currency, coin, patron checks, gambling chips, forms, documents and records consistent with the operation of a cage or individual cage drawer.

(B) Receipt, distribution, and redemption of gambling chips.

(C) Deposits to and withdrawals from players' banks and dealers' banks.

(D) Cashing checks and/or extensions of credit for patrons, as permitted by the licensee's policies and procedures.

(E) Preparation of cage accountability reconciliations and records necessary to document compliance with the requirements of this chapter.

(F) Preparation of records necessary to document compliance with the requirements of Title 31 of the United States Code, Part 31 of the Code of Federal Regulations and subsection (a) of Section 12404 of this chapter.

(G) Ensuring the proper accounting and safeguarding of funds and chips.

(3) Routine access and entry into the cage area shall be limited to on-duty cage personnel designated pursuant to paragraph (2) of this subsection. Other employees of the gambling establishment who hold a valid gambling license or work permit may be granted access to the cage area for the purpose of performing their duties.

(4) A log shall be maintained to document entry into the cage by any person not authorized access pursuant to paragraphs (2) and (3) of this subsection. The log must contain the person's name, title, date of entry, and time entering and exiting; or provide substantially equivalent information through an automated access control system. Any automated access control system must provide a secure, tamperproof means of recording and maintaining entry and exit information.

(5) Cage activity shall be reconciled after each shift by the incoming and outgoing designated cage employees. If an impress is used, each outgoing designated cage employee responsible for

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an impressed drawer shall reconcile his or her drawer to the impressed amount. All transactions that flow through the cage shall be appropriately summarized and documented, in writing, for each shift. The cage activity reconciliations shall be posted and reconciled to the general ledger at least monthly.

(6) The purchase or redemption of chips by a patron may only occur at the cage or from a designated gambling establishment employee on the gambling floor. Licensees shall not permit proposition player service providers to purchase or redeem chips for cash or cash equivalents from a patron. For the purposes of this article, the purchase or redemption of chips shall not include the exchange of a chip or chips of one total value for a chip or chips of an equal total value.

(b) In addition to the requirements of subsection (a), the policies and procedures for Tiers III through and including V shall include the following standards for the cage:

(1) The cage and cage activities shall be under continuous recorded video surveillance.

(2) The reconciliation of the cage transactions provided for in paragraph (5) of subsection (a), shall be summarized on a cage accountability form that shall include, at a minimum, all of the following, as applicable:

(A) The date of the reconciliation;

(B) The designation of the shift being reconciled;

(C) An accounting of all items in the cage inventory (e.g., cash, coin, chips, players' and dealers' banks, etc.), for each cage window, drawer or bankroll in use during the subject shift, including:

1. The beginning shift balances, unless an impress is used;

2. All credits (receipts);

3. All debits (disbursements);

4. The ending balances;

5. An identification of any overage or shortage with an explanation, if known.

(D) The printed name and signature of each designated cage employee (incoming and outgoing, unless an impress is used) performing the reconciliation.

(3) The cage activity reconciliations specified in paragraph (2) of this subsection shall be posted and reconciled to the general ledger, as provided in paragraph (5) of subsection (a), by

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someone other than a designated cage employee or cage supervisor.

(c) In addition to the requirements of subsections (a) and (b), the policies and procedures for Tiers IV and V shall include the following standards for the cage:

(1) The design and construction of the cage shall include:

(A) A manually triggered silent alarm system connected directly to the surveillance unit, or its equivalent, or an alarm monitoring agency; and

(B) Access through a secured door or doors, which shall be under constant recorded video surveillance.

(2) In addition to the information specified in paragraph (2) of subsection (b), the cage accountability form referenced therein shall include an itemization of the following, with beginning and ending balances for non-impressed drawers, and ending balances for impressed drawers:

(A) Cash and coin by denomination;

(B) Chips by denomination;

(C) All other items of monetary value (e.g., markers, patron checks, players' and dealers' banks, chip runners' banks, etc.), specifying the source of each;

(3) The licensee shall maintain a list of the names of all persons designated pursuant to paragraph (2) of subsection (a) as being authorized to access and/or enter the cage, which list shall specify those persons who possess the combination or the keys or who control the mechanism to open the devices securing the entrance to the cage, and those who possess the ability to operate the alarm system.

(d) In addition to the requirements of subsections (a), (b) and (c), the policies and procedures for Tier V shall include standards for the cage that require monitored and recorded video surveillance of the interior of the cage and all of its contents, and the exterior of all access doors.

(e) Licensees shall establish and implement the applicable standards for cage functions specified in subsections (a) and (b) no later than *[the first day of the first full month six months following the effective date of this section]*.

NOTE: Authority cited: Sections 19840, 19841 and 19924, Business and Professions Code. Reference: Sections 19841, 19922 and 19924, Business and Professions Code.

Gambling Establishment	Commission Authorized Tables
Tier I (1-5 Tables) = 44 Gambling Establishments	
Aldo's Cardroom	0
Cap's Saloon	0
Delta Casino, downtown (formerly Saigon)	0
Don Juan Club and Casino	0
El Resbalon	0
Hemphill's Card Room	0
Sacramento Grand Casino (Duffy's)	0
St. Charles Place	1
Bruce's Casino	2
Central Coast Casino (PR)	2
Gloria's Lounge and Casino	2
La Fuerza	2
LA Primavera Pool Hall and Café	2
Old Cayucos Tavern	2
Pastime Club	2
Royal Flush Casino	2
Sundowner Cardroom	2
Ven-A-Mexico	2
Black Sheep Casino Company	3
Brooks Oceana Cardroom	3
Caesar's Club	3
Mint	3
Oasis Card Room	3
Tommy's Casino	3
Central Coast Casino (GB)	4
Club San Rafael	4
Hotel Del Rio and Casino	4
Jalisco Pool Room	4
Merced Poker Room	4
Ocean View Cardroom	4
Outlaws Card Parlour	4
Poker Flats Casino	4
Rogelio's Inc.	4
S and K Cardroom	4
Angie's Poker Club	5
Comstock Card Room	5
Deuces Wild Casino	5
Empire Sportsmen's Assn	5
Garlic City Club	5
Gold Rush Gaming Parlor	5
Golden State Casino	5
Klondike Casino	5
Mike's Card Casino	5
Nineteenth Hole	5
Tier II (6-10 Tables) = 25 Gambling Establishments	
Casino Marysville	6
Clovis 500	6
Delta Club Cardroom	6
Kelly's	6
Lake Bowl Card Room	6
Livermore Casino	6
Players Club	6
Casino Club	7
Lucky Lady	7
Marina Club	7
Mortimer's Card Room	7
Palomar Card Club	7
Rancho's Club	7

River Cardroom	7
Cameo Club	8
Casino Real	8
Palace Card Club	8
Silver Fox	8
Wine Country Casino and Restaurant	8
Capitol Casino	9
Limelight Card Room	9
Lucky Derby Casino	9
Phoenix Lounge Casino	9
Lucky Buck Card Club	10
Turlock Poker Room	10
Tier III (11-30 Tables) = 8 Gambling Establishments	
Napa Valley Casino	12
Village Club	12
California Grand	14
Club Caribe	14
Sahara Dunes Casino	14
The 101 Casino	15
Diamond Jim's Casino	21
Golden West Casino	30
Tier IV (31-60 Tables) = 9 Gambling Establishments	
Bay 101	40
Garden City Casino	40
Oaks Card Club	40
Lucky Chances Casino	43
Crystal Park Casino	45
Club One Casino	49
Normandie Club	50
Oceans Eleven Casino	50
Artichoke Joe's Casino	51
Tier V (61 + Tables) = 5 Gambling Establishments	
Hustler Casino	89
Hollywood Park Casino	102
Bicycle Casino	190
Hawaiian Gardens Casino	190
Commerce Casino	243
Total Tables	1,670

Average

20

Median

6



CALIFORNIA GAMBLING CONTROL COMMISSION
LEGAL DIVISION MEMORANDUM

Public Staff Report

Agenda Item # 13

Date: August 18, 2008

From: Heather Cline Hoganson, Staff Counsel Specialist *A*
Evelyn M. Matteucci, Chief Counsel *EMM*

Subject: Report of Closed Session Action of July 7, 2008: Phetsamone Phaphol

An evidentiary hearing was held on July 7, 2008, regarding the eligibility of Phetsamone Phaphol for a finding of suitability as a key employee at Eagle Mountain Casino.

Evidence was presented and testimony heard before the Commissioners in open session, with Administrative Law Judge Karen Brandt (ALJ) presiding.

During closed session, the Commissioners determined that they were statutorily bound to deny the application for a finding of suitability, and directed the ALJ to prepare a written decision.

The decision of the Commission has been sent to the parties and is attached.

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

PHETSAMONE PHAPHOL,

Respondent.

CGCC No. 2006-10-01

OAH No. 2008030525

DECISION

This matter was heard before a quorum of the California Gambling Control Commission (Commission) in Sacramento, California, on July 7, 2008. Karen J. Brandt, Administrative Law Judge, Office of Administrative Hearings, State of California, presided.

Neil Houston, Deputy Attorney General, represented Mathew J. Campoy, Acting Chief, Bureau of Gambling Control of the California Department of Justice (Bureau). The Bureau was previously constituted and designated as the Division of Gambling Control (Division).

Phetsamone Phaphol (respondent) appeared on his own behalf.

Evidence was received, the record was closed, and the matter was submitted for decision on July 7, 2008.

FACTUAL FINDINGS

1. Respondent filed with the Division a State Gaming Agency Tribal Key Employee Application For Finding of Suitability (Application) dated February 16, 2005. After conducting an investigation and a pre-denial meeting, the Division, by letter dated March 7, 2006, notified respondent that it had recommended to the Commission that respondent's Application be denied based upon the conviction described in Finding 2, below. By letter dated September 21, 2006, Teresa Ciaui, Deputy Director of the Commission's Licensing Division, notified respondent of the recommendation that his Application be denied and advised respondent of his right to request a hearing before the Commission. Respondent timely requested a hearing.

2. On October 12, 2000, in the Tulare County Superior Court, respondent, upon a plea of nolo contendere, was convicted of violating Penal Code section 422, threatening a crime with intent to terrorize, a misdemeanor. Respondent was placed on summary probation for three years, and was ordered to pay fines and fees. He was also ordered to serve 90 days in custody, and was given credit for 26 days served.

3. The incident underlying respondent's conviction occurred on September 25, 2000. Carrie Mounixay Phaphol, who was then respondent's girlfriend and is now his wife, told the police that respondent had accused her of cheating on him and threatened to kill her with a knife.

4. Respondent has not been granted relief from his conviction pursuant Penal Code section 1203.4, 1203.4a, or 1203.45.

5. Ms. Phaphol testified at the hearing and submitted a letter in support of respondent's Application. Respondent and Ms. Phaphol were married on January 4, 2003. According to Ms. Phaphol, respondent "has changed a lot" in the seven years since his conviction, and is now a "totally different person." He shows his love for his family and takes his responsibility to his children, particularly his 13-year-old son, seriously.

6. Respondent has been working for the Eagle Mountain Casino since 2001. He began as a card dealer. After two years, he was promoted to a floor person. After an additional two years, he was promoted to an on-call pit boss. On August 9, 2004, respondent was notified by the Tule River Tribe Gaming Commission that the renewal of his Tule River Tribe Gaming License was being denied as a result of his conviction. On August 30, 2004, the Tule River Tribe Gaming Commission issued Findings of Fact and Conclusions of Law, which found that respondent was "suitable and eligible to be issued a conditional Tule River Tribe Gaming License." The Tule River Tribe Gaming Commission, therefore, reversed its initial denial of his license.

7. Respondent submitted 17 letters of recommendation from co-workers and family members, which, in general, describe respondent as hard-working, dedicated, dependable, and well-liked.

LEGAL CONCLUSIONS

1. The State of California entered into a Tribal-State Gaming Compact (Compact) with the Tule River Indian Tribe. The Compact was ratified by Government Code section 12012.25, subdivision (a)(51). Section 6.5.6 of the Compact sets forth the State Certification Process for license applicants. That section, in relevant part, provides that an applicant for a key employee license shall:

file an application with the State Gaming Agency, prior to issuance of a temporary or permanent tribal gaming license, for

a determination of suitability for licensure under the California Gambling Control Act. Investigation and disposition of that application shall be governed entirely by state law, and the State Gaming Agency shall determine whether the applicant would be found suitable for licensure in a gambling establishment subject to the Agency's jurisdiction.

2. In light of this section of the Compact, the Commission reviews whether an applicant for a key employee license from the Tule River Indian Tribe is suitable for licensure under the provisions of the California Gambling Control Act, Business and Professions Code section 19800 et seq., governing license applications.

3. Government Code section 19859 of the California Gambling Control Act, in relevant part, provides:

The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

[¶] ... [¶]

(d) Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code; provided, however, that the granting of relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code shall not constitute a limitation on the discretion of the commission under Section 19856 or affect the applicant's burden under Section 19857.

4. Penal Code section 422 provides:

Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.

For the purposes of this section, "immediate family" means any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.

5. Respondent's conviction for violating Penal Code section 422 involved a crime of moral turpitude. As the court in *People v. Thornton* (1992) 3 Cal.App.4th 419, 424 explained:

[A] person violating section 422 must intend that the victim receive and understand the threat, and the threat must be such that would cause a reasonable person to fear for the safety of himself or his family. While the statute does not require that the violator intend to cause death or serious bodily injury to the victim, not all serious injuries are suffered to the body. The knowing infliction of mental terror is equally deserving of moral condemnation. [¶] In summary, we have no doubt that the making of the threats described in section 422 violates generally accepted standards of moral behavior, whether or not the person intended to actually carry out those threats. Accordingly, section 422 is a crime of moral turpitude....

6. Business and Professions Code section 19859, subdivision (d), mandates that, for 10 years following an applicant's conviction for a misdemeanor conviction involving moral turpitude, the Commission shall deny a license application, unless the applicant has been granted relief pursuant to Penal Code section 1203.4, 1203.4a, or 1203.45. Pursuant to section 6.5.6 of the Compact, the same prohibition that applies to the denial of a license under Business and Professions Code section 19859, subdivision (d), also applies to the Commission's determination of the suitability of an applicant for a key employee license from the Tule River Indian Tribe.

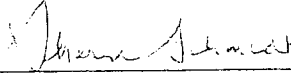
7. Because respondent was convicted less than 10 years ago and has not been granted relief under Penal Code section 1203.4, 1203.4a, or 1203.45, pursuant to Business and Professions Code section 19859, subdivision (d), and section 6.5.6 of the Compact, respondent's Application for a finding of suitability must be denied, notwithstanding the positive recommendations he has received from his wife, family members and co-workers, or the August 30, 2004 decision of the Tule River Tribe Gaming Commission.

The Statement of Issues includes additional factual charges and legal causes for denial of suitability not addressed in this Decision. At the hearing, the Bureau stated that it was not proceeding on any of the additional factual charges. In addition, the Bureau did not argue that any legal causes for denial of suitability other than Business and Professions Code section 19859, subdivision (d), apply. Consequently, all additional factual charges and legal

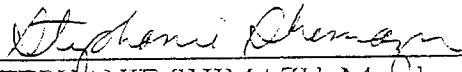
ORDER

The Application of respondent Phetsamone Phaphol for a finding of suitability is DENIED.

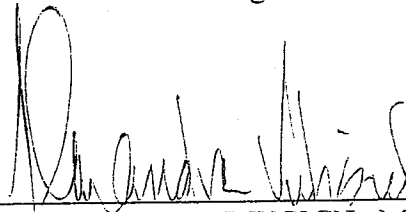
DATED: **AUG 12 2008**



SHERYL SCHMIDT, Member
California Gambling Control Commission



STEPHANIE SHIMAZU, Member
California Gambling Control Commission



ALEXANDRA VUKSICH, Member
California Gambling Control Commission

causes for denial of suitability that were set forth in the Statement of Issues but were not argued by the Bureau at the hearing are deemed waived