

**California Gambling Control Commission**  
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**MINUTES OF MAY 20, 2009  
REGULATION HEARING**

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**OPEN SESSION**

1. Call to Order and Pledge of Allegiance.

Chairman Dean Shelton called the meeting to order at 10:03 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 Dean Shelton and Commissioners Stephanie Shimazu, and Alexandra Vuksich present.

3. Preliminary Commission Review and Consideration of Regulations and Approval for Commencement of the Formal APA Rulemaking Process. Minimum Internal Control Standards (MICS) for Gambling Establishments. (Amending Title 4, California Code of Regulations, Section 12388.)
  - Extension of Credit
  - Check Cashing

Rich Mundy, Research Program Specialist I presented a brief overview of the history of the rule making process for this item. Mr. Mundy further indicated that the staff recommended the approval for commencement of the formal APA Rulemaking Process.

Discussion commenced on this item and the Commission heard comments from David Fried representing the Regulation Sub Committee of the California Gaming Association, Alan Titus representing Artichoke Joes, Reverend James Butler representing the Coalition Against Gambling Expansion, Marty Horan and Aaron Wong both representing the Bureau of Gambling Control, Ronald Werner, Bay 101 Casino, and Andy Schneiderman General Counsel for Commerce Casino.

All discussion on this item was transcribed and the meeting transcript is incorporated into these minutes as Attachment A.

Commissioner Shimazu moved to approve the staff recommendation with an understanding that Commission staff will make the following changes:

1. On page two, line 27

**Current** – *If a patron is approved for credit a copy of the patron's consumer credit report obtained by the licensee shall be kept on file with the cardroom for as long as that patron's credit account is open.*

**Changed-** *If a patron is approved for credit, pursuant to Subparagraph(B) of Paragraph (2) a copy of the patron's consumer credit report obtained by the licensee shall be kept on file with the cardroom for as long as that patron's credit account is open.*

2. On page three, line 27

**Current** - *...credit limit, or unless the check replaces a check that was dishonored for non sufficient funds.*

**Changed** - *...credit limit, or unless the check replaces a check that was dishonored.*

The motion was seconded by Chairman Shelton and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Shimazu and Vuksich voting yes.

4. Preliminary Commission Review and Consideration of Regulations and Approval for Commencement of the Formal APA Rulemaking Process. Minimum Internal Control Standards (MICS) for Gambling Establishments. (Amending Title 4, California Code of Regulations, Section 12370; Adopting Title 4, California Code of Regulations, Sections 12372, 12395, and 12396.)

- Fire Safety
- Security & Surveillance

Rich Mundy, Research Program Specialist I presented a brief overview of the history of the rule making process for this item. Mr. Mundy further indicated that the staff recommended the approval for commencement of the formal APA Rulemaking Process.

Discussion commenced on this item and the Commission heard comments from David Fried representing the Regulation Sub Committee of the California Gaming Association, Alan Titus representing Artichoke Joes, Marty Horan and Aaron Wong both representing the Bureau of Gambling Control, and Andy Schneiderman General Counsel for Commerce Casino.

All discussion on this item was transcribed and the meeting transcript is incorporated into these minutes as Attachment A.

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

**PUBLIC COMMENT**

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

**ADJOURNMENT**

Chairman Shelton adjourned the meeting at 11:47 a.m.

STATE OF CALIFORNIA  
GAMBLING CONTROL COMMISSION

**ORIGINAL**

COMMISSION MEETING  
(REVISED ORIGINAL 6/18/09)

California Gambling Control Commission  
2399 Gateway Oaks Boulevard  
Suite 100  
Sacramento, California 95833  
MAY 20, 2009  
10:00 A.M.

Reported by: Desiree C. Tawney, CSR No. 12414



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STATE OF CALIFORNIA  
GAMBLING CONTROL COMMISSION

**ORIGINAL**

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1 APPEARANCES:

2  
3 DEAN SHELTON  
Chairman

4 STEPHANIE SHIMAZU  
Commissioner

5  
6 ALEXANDRA VUKSICH  
Commissioner

7 JOY CALKIN  
Staff Services Analyst

8  
9 TERRI CIAU  
Executive Director

10 EVELYN MATTEUCCI  
Chief Counsel, Legal Division

11  
12  
13 Public Speakers:

14 Richard Mundy  
15 David Fried  
16 Alan Titus  
17 Andy Schneiderman  
18 Marty Horan  
19 James Butler  
20 Ronald Werner  
21 Aaron Wong

1 BE IT REMEMBERED, that on MAY 20, 2009, commencing at  
2 the hour of 10:00 A.M., at the California Gambling Control  
3 Commission, 2399 Gateway Oaks Boulevard, Suite 100,  
4 Sacramento, California, before me, DESIREE C. TAWNEY,  
5 Certified Shorthand Reporter in and for the county of  
6 Placer, state of California, the following proceedings took  
7 place:

8  
9 (The following proceedings were held on the record.)

10  
11 CHAIRMAN SHELTON: Call the meeting to order. Pledge  
12 of Allegiance, please.

13 (Pledge of Allegiance.)

14 CHAIRMAN SHELTON: Roll call, please.

15 JOY CALKIN: Chairman Shelton?

16 CHAIRMAN SHELTON: Here.

17 JOY CALKIN: Commissioner Shimazu?

18 COMMISSIONER SHIMAZU: Here.

19 JOY CALKIN: Commissioner Vuksich?

20 COMMISSIONER VUKSICH: Here.

21 CHAIRMAN SHELTON: You carrying the water this  
22 morning?

23 RICHARD MUNDY: Yes, Mr. Chairman, I am.

24 CHAIRMAN SHELTON: Please state your name for the  
25 record and spell it and your position.

1 RICHARD MUNDY: Good morning, Mr. Chairman and  
2 Commissioners.

3 For the record, my name is Richard Mundy, M-u-n-d-y.  
4 I work with Jim Allen in the Regulations Unit at the  
5 Commission.

6 Jim is being trained on how to be a supervisor now  
7 after 30 years of State service.

8 (Laughter.)

9 RICHARD MUNDY: Before we begin, I need to go over a  
10 few housekeeping issues and ground rules that should help  
11 to keep the public comments orderly.

12 First of all, if you have not done so already, we ask  
13 all persons attending this meeting to sign the register.  
14 This is purely voluntary but would be appreciated and give  
15 us a complete record of all of those in attendance here  
16 today.

17 In addition, if you do wish to testify, please  
18 complete one of the cards located by the register and  
19 deposit it in the tray provided or hand it to me or one of  
20 the staff.

21 This entire proceeding is being recorded. Persons who  
22 wish to present comments are asked to come to the podium  
23 and use the microphone to ensure all comments are recorded  
24 and entered into the record correctly.

25 Before we begin or before each person begins their

1 comment, please identify yourself by name and spell your  
2 last name for the record.

3 We're ready for Item 3.

4 CHAIRMAN SHELTON: Maybe everybody should do what  
5 Chairman is doing and make sure the cell phone is on  
6 vibrate or off.

7 I don't want to be yelling at someone else when mine  
8 goes off.

9 You may proceed.

10 RICHARD MUNDY: Thank you. Agenda Item Number 3  
11 concerns proposed regulations which would amend Minimum  
12 Internal Control Standards for cardrooms concerning the  
13 Extension of Credit and Cashing of Checks.

14 More specifically, these regulations would amend  
15 Section 12388 in Title 4.

16 In your binders there is a memorandum which contains  
17 staff's recommendation and an overview of the proposed  
18 action. Your binders also contain a copy of the proposed  
19 regulations text and a summary of the informal comments  
20 received. Copies of these two documents are also available  
21 today at the back table.

22 Staff recommends that the Commission approve  
23 initiation of the formal rulemaking process for these  
24 proposed regulations.

25 Section 12388 was originally adopted by the Commission

1 on January 8, 2009.

2 The regulation was subsequently approved by the Office  
3 of Administrative Law and filed with the Secretary of State  
4 on March 10, 2009.

5 Under normal circumstances, Section 12388 would have  
6 taken effect 30 days after that filing. However, at the  
7 Commission's meeting on January 8, it was agreed that the  
8 regulations would not take effect for an additional three  
9 months, making it effective on July 8, 2009.

10 This delay in effective date was to allow time for  
11 Commission staff to develop minor changes to the regulation  
12 that was requested by the gaming industry at the  
13 Commission's adoption meeting on January 8.

14 The proposed regulation package before you today is  
15 for the purpose of satisfying that commitment.

16 CHAIRMAN SHELTON: You had changes submitted that you  
17 addressed?

18 RICHARD MUNDY: We did have a letter submitted  
19 yesterday regarding two changes. I don't know if you want  
20 to have that person come up and comment first.

21 CHAIRMAN SHELTON: I imagine they will. We'll open up  
22 the public discussion.

23 DAVID FRIED: Good morning, Commissioners. David  
24 Fried, F-r-i-e-d, speaking on behalf of the California  
25 Gaming Association's regulation subcommittee.

1           We did submit a comment letter yesterday that was very  
2 brief. It had to do with a typographical error in and  
3 interpretation of a single word, which we think can all be  
4 addressed this morning.

5           For convenience in the comment letter, since it was so  
6 brief and we had extra space, I listed the numbers of the  
7 regulation subcommittee. We have not done that before. I  
8 wanted you to know who was on it and it represents a broad  
9 spectrum of the industry. Most of the members are owners  
10 and operators of cardrooms, who are giving practical input  
11 of the regulations, even if they hire other people like us  
12 to stand up and present the comments.

13           The Act contemplates cardrooms will be able to cash  
14 checks and extend credit but the Commission will regulate  
15 how it is done. Local jurisdictions are free to adopt  
16 their own rules.

17           The clubs have had longstanding credit and check  
18 cashing practices and checks in place because, after all,  
19 they're taking the credit risk when they make these  
20 decisions. They're cautious about doing so.

21           When the original regulations were adopted in January,  
22 toward the end of that process there were a few changes  
23 made in the regulations that we thought posed practical  
24 problems for the clubs. And at the Commission meeting, as  
25 Richard accurately stated, the Commission was very gracious

1 to hear the comments and have the staff and Bureau have a  
2 chance to make a few changes in the regulations which would  
3 make the implementation much easier and to delay the  
4 effective date of the original regulations.

5 We're very pleased to be back here today to tell you  
6 we support the regulations; that the changes we sought  
7 which were technical in nature have been made. We very,  
8 very much appreciate the efforts of Commission,  
9 Commission's staff and the Bureau to accommodate those  
10 concerns.

11 There is only two items that we call to the  
12 Commission's attention. One is what I would characterize  
13 as a typographical error. It has to do with the keeping  
14 copies of the credit reports. There are three different  
15 ways under the regulations someone can be approved for  
16 credit. Only one of those ways involves obtaining a credit  
17 report. Therefore, the regulation should state if we  
18 obtain any credit report we would keep it so long as the  
19 credit was open, rather than requiring for every person  
20 approved for credit that we keep a credit report. Because  
21 in two out of three of the ways you can get approved for  
22 credit, you don't need the credit report. You're approved  
23 based on the other ways available in the regulation.

24 It literally means changing the word "a" to "any." It  
25 is a typographical issue. I'm hopeful staff will concur

1 that is something that can be made today.

2 The second issue just has to do with bounced checks.  
3 Everyone, I think, agrees in principle when someone bounces  
4 a check the club should be able to accept a replacement  
5 check. That is the way that you resolve a problem. The  
6 regulations use the term "a check dishonored for  
7 non-sufficient funds."

8 Banks put different stamps on checks when they bounce.  
9 Sometimes they say "return to maker," "payment stopped,"  
10 "account closed." Those are all, I think, instances of a  
11 check being bounced for non-sufficient funds. If the  
12 Statement of Reasons can simply reflect that that is what  
13 is intended, I think it takes care of the issue. Any time  
14 there is a bounced check and we manage to get a replacement  
15 check from the customer, we can deposit it.

16 Those are the only comments we have. We fully support  
17 the changes to the regulations.

18 Again, we very much appreciate the effort of the  
19 Commission and the Commission's staff and the Bureau in  
20 making them. I realize there are other people here today  
21 that may have some comments they made that were not  
22 accepted. I'm certainly going to sit down to let them say  
23 whatever it is they need to say or want to say to the  
24 Commission. I hope if there is anything that becomes an  
25 issue you'll give me a chance to address it at the end.

1 CHAIRMAN SHELTON: Thank you. Commissioners?

2 COMMISSIONER SHIMAZU: Going to ask staff if those two  
3 issues Mr. Fried brought up, if we agree with them? Seems  
4 pretty minor.

5 RICHARD MUNDY: Both issues are very minor and staff  
6 is agreeable to make the changes before the commencement of  
7 the 45-day process.

8 COMMISSIONER VUKSICH: I did have a question on the  
9 issues; that is, the characterization of a bounced check.

10 DAVID FRIED: Sure.

11 COMMISSIONER VUKSICH: Two of those I would agree with  
12 but of the third, "payment stopped," if I got check and I  
13 stopped payment on it, it is not because there is  
14 insufficient funds in the account. It is usually I've got  
15 some sort of a dispute going on with you.

16 DAVID FRIED: I think that is true. By the same  
17 token, the issue is: When can a club take a replacement  
18 check? In principle, we all agree, even if there is a  
19 dispute between us and we later resolve it and you give a  
20 club a replacement check, we should be able to accept it.

21 If we have to define non-sufficient funds broadly or  
22 add a word about bounced checks or stop payment, I think we  
23 should. Because at the end of the day I think we all agree  
24 that there are certain instances in which we should be able  
25 to take a replacement check. If there is a dispute and we

1 resolve it and you give us a replacement check, that would  
2 be one example.

3 COMMISSIONER VUKSICH: Also, I don't know about your  
4 industry. It is usually customary that if a patron submits  
5 a check that bounces because of the insufficient funds,  
6 there is a fee involved.

7 Do you -- card clubs normally charge something?

8 DAVID FRIED: I'm seeing people shake their head "no."  
9 First effort is to try to make the check good.

10 UNIDENTIFIED SPEAKER: We charge a fee.

11 COMMISSIONER VUKSICH: You do. Okay.

12 RICHARD MUNDY: Staff would also recommend on this  
13 particular issue the sentence can end after the word  
14 "dishonored."

15 And so for whatever reason, if they get a check back,  
16 the whole purpose was to prevent getting replacement  
17 checks within a certain time frame. In this case three  
18 days -- three banking days.

19 This whole issue, for whatever reason it comes back  
20 from the bank, we were agreeable. There is different ways  
21 of handling it. To list the reasons, we don't recommend  
22 that because there could be lots of reasons. There are  
23 terms the banks use that we're not familiar with and later  
24 on the regulation wouldn't apply.

25 So if we end the sentence just after the word

1 "dishonored."

2 DAVID FRIED: I opine. Much better suggestion than  
3 mine. I absolutely agree with this.

4 Thank you.

5 COMMISSIONER VUKSICH: Okay.

6 CHAIRMAN SHELTON: Anybody else? Please come forward.

7 ALAN TITUS: Good morning, Commissioners. Alan Titus,  
8 T-i-t-u-s, representing Artichoke Joe's.

9 I have got five sections here that I want to comment  
10 on. Three of them are related.

11 And I'm sorry. I didn't have a chance to put in  
12 written comments on these.

13 The first one is on Page 1 of the draft, Regulation  
14 12388. It is the suggested changes here. Says: A  
15 licensee shall not extend credit to an  
16 owner/supervisor/player or other employee of the gambling  
17 business that is occupying the player/dealer position in  
18 any game if the gambling establishment owned by the  
19 licensee.

20 My problem with that is the phrase "that is occupying  
21 a player/dealer position."

22 Is this saying that you can't extend credit while  
23 they're occupying the position if they did it yesterday?  
24 If they're going to do it five minutes from now? I don't  
25 think that this is really very clear about what is really

1 being prohibited. I suggest that be clarified.

2 I don't have a particular suggestion because I'm not  
3 quite sure what staff intended there. Then on page --

4 CHAIRMAN SHELTON: Mr. Titus, just one minute.

5 RICHARD MUNDY: This section has had the same thing  
6 since we started. And basically it was to prevent  
7 extending credit for both gambling businesses and third  
8 party provider's proposition player services where they  
9 primarily occupy games that have a player/dealer position.

10 So under those terms, that was the theme here. The  
11 changes are meant to spell out the different types of  
12 gambling businesses and different types of prop players,  
13 meaning owners, supervisors, players and other employees to  
14 cover the fact all of their employees are prevented from  
15 doing that.

16 CHAIRMAN SHELTON: I don't see that that exempts a  
17 player who takes their turn from borrowing or help getting  
18 money, right? An individual player sat at the table and  
19 they decide they want to be the bank. The bank can rotate,  
20 right?

21 RICHARD MUNDY: Right.

22 CHAIRMAN SHELTON: Anybody can be the bank. If it is  
23 an individual player, it does not affect that.

24 RICHARD MUNDY: Individual players are patrons.  
25 Gambling businesses and prop players, yes.

1 CHAIRMAN SHELTON: What I'm asking, I saw the Bureau  
2 look up.

3 Any comments?

4 MARTY HORAN: Well, we -- state my name and  
5 everything?

6 CHAIRMAN SHELTON: Please. Then you won't have --

7 MARTY HORAN: Marty Horan, H-o-r-a-n, Bureau of  
8 Gambling Control.

9 I think we have a little more detailed comment in that  
10 area wanting to further add in -- says: For the purposes  
11 of playing a game that has a player/dealer position. I  
12 think the period should go back to being ended right after  
13 it says in quotes, house prop player or public relations  
14 player. Line 29.

15 That way it would include, you know, any employees  
16 basically that would be playing at any of the poker games,  
17 not just rotation of the player/dealer position.

18 We have had instances where an employee of the  
19 cardroom is actually taking loans from the cage to go play  
20 at the other games, not the player/dealer rotated games but  
21 a regular poker game and going back and forth to get loans  
22 and then those loans are forgiven. Basically a violation  
23 of the banking -- house banking laws.

24 CHAIRMAN SHELTON: You have house banking --

25 MARTY HORAN: Correct.

1 CHAIRMAN SHELTON: Yeah.

2 RICHARD MUNDY: That comment, I assume, would be  
3 related to further down in the text related to actual  
4 employees of the cardroom. Where the comment Mr. Titus was  
5 at was further up starting at line 21, 22 regarding  
6 gambling businesses.

7 CHAIRMAN SHELTON: Do you have a problem with the  
8 period at the end of the sentence?

9 RICHARD MUNDY: This would, for all practical  
10 purposes, mean they can't extend credit to them under any  
11 circumstances in this case. It is just when they occupy a  
12 player/dealer position.

13 CHAIRMAN SHELTON: Go head, Mr. Titus.

14 ALAN TITUS: Okay. I don't have any more comments on  
15 that section.

16 The next comment I have is on the next page. It is  
17 capital "A." It is one of the three alternatives here for  
18 establishing credit. This one is reliance on a credit  
19 application form, which includes certain information. That  
20 information largely relies on income, claimant information  
21 and income information.

22 And my suggestion is that there also be the  
23 requirement that the form contains the expenses and debts  
24 of the applicant so they do not just look at the income and  
25 the employment but what their expenses are. That would

1 seem to be a normal concern if you're extending credit to  
2 somebody.

3 CHAIRMAN SHELTON: Is that part of what is  
4 accomplished when you run a credit report?

5 RICHARD MUNDY: Mr. Chairman, we made several changes  
6 to this section over the course of the original regulation  
7 that was adopted on January 8 and, again, during this  
8 comment period. And the whole purpose of this is a basic  
9 requirement to start off with and to determine the credit  
10 worthiness of the patron.

11 We have -- you have in your binders responses from  
12 staff that talked about how we need to be careful or should  
13 be careful about getting too detailed in what all that is  
14 said at this early juncture of our regulation process.  
15 These regulations were not meant to get that deep into the  
16 credit process and the approval of it.

17 CHAIRMAN SHELTON: Okay. Commissioners, you have any  
18 questions?

19 Proceed, please.

20 ALAN TITUS: I want to reply to that. I don't think  
21 asking for expenses and debts is getting that deep into it.

22 If you were to go on-line, in which I did, and look  
23 up credit applications, you would see most of them are  
24 going to require that you state your income; that you state  
25 your expenses. They certainly will ask what your mortgage

1 or rent is. It is just part of the equation.

2 The last three comments I have are all related. And  
3 I'm going to start really at the back end of them where  
4 this comes up. It is on Page 3. It is paragraph C,  
5 talking about extension of credit being delinquent: If  
6 payment upon extension of credit is delinquent more than 90  
7 days as determined by the original credit agreement.

8 My comment has been that I'm not sure we have to have  
9 a set date on when credit has to be paid. I don't think  
10 there is anything in the regs. The reply to that by staff  
11 was to cite two sections. And I don't believe those  
12 require that a date be set.

13 So the first one of those is on Page 1. And it is  
14 paragraph (A)(1). It says that you have to establish a  
15 method for determining the maximum amount, which will be  
16 advanced, changes in the credit amount, the maximum time  
17 and extension credit will be outstanding.

18 This just says to establish a method for determining  
19 that. Does not say you have to have any of these things.  
20 Your method for establishing it, you may decide, well, I'm  
21 not going to have credit limits if someone has income over  
22 such and such.

23 So my suggestion still is that, please, make it clear  
24 if you're requiring there be time limits, if you're  
25 requiring there be maximum amounts on the extension of the

1 credit.

2 The last comment related to that is on Page 2. This  
3 toward the bottom paragraph (A). This is also cited by  
4 staff as one of the things that's required that the  
5 maximums be established: For each patron issued credit,  
6 the licensee shall maintain a record of the patron's credit  
7 limit, payment schedule, outstanding credit balance.

8 Again, it does not require there be a credit limit.  
9 It requires if there is one, it be recorded. My comment  
10 still stands that I think that if you're going to require  
11 there be these limits, make that clear.

12 Those are my comments on those regs. Any questions?

13 CHAIRMAN SHELTON: Commissioners? Thank you very  
14 much.

15 ALAN TITUS: Thank you very much.

16 CHAIRMAN SHELTON: Mic is open.

17 JAMES BUTLER: Good morning. Reverend James Butler,  
18 B-u-t-l-e-r, from the California Coalition Against Gambling  
19 Expansion.

20 First, I'd like to simply say that I would oppose  
21 to -- we're opposed to credit being extended at any  
22 gambling institution as it allows people to chase their  
23 losses. However, I was informed that that is beyond the  
24 purview of this particular regulation.

25 And so instead I would like to address some of the

1 issues found therein. And I had several comments but I'll  
2 focus just on a couple.

3 First of all, on -- I'll work from the back -- on Page  
4 5, line number 4, it is letter (J), it talks about the  
5 restrictions on ATM machines that they cannot be accessible  
6 while a person is physically seated at a gaming table.

7 It seems to me that the Commission would have the  
8 authority therefore to regulate the position or placement  
9 of the ATM machine. I don't know if you have the authority  
10 to say they cannot be within the gambling establishment.  
11 Perhaps and I have not -- don't know how these  
12 establishments are always set up -- but maybe they can  
13 actually be in a place where there was more than simply  
14 standing up from a table, which this implies you can do,  
15 moving two or three feet and accessing a machine because  
16 you're not physically -- it's not physically accessible  
17 while seated at the gaming table. I'm wondering if there  
18 is a way we can eliminate ATM machines completely from the  
19 cardrooms or if we might be able to say they have to be in  
20 a place at least 25 feet from the closest table. Just at  
21 least to say that there is going to be something more than  
22 just simply a stand, stretch and reach.

23 And I -- I have tried to read through the various  
24 regulations that are referenced in this. And I empathize  
25 with what you have to go through to try to keep track of

1 what all of the things relate to. But because the ATM  
2 machine is regulated on Page 5, Section J, it is not  
3 accessible, I'm wondering if you can make that even more  
4 restrictive.

5 That would be my first comment regarding that.

6 RICHARD MUNDY: Mr. Chairman, these regulations are  
7 designed to accommodate very large cardrooms as well as  
8 extremely small ones. To make ATM machines 25 feet away  
9 from the gambling table might be a real problem with small  
10 cardrooms. Could be outside.

11 CHAIRMAN SHELTON: Commissioners? Anything? Thank  
12 you very much.

13 JAMES BUTLER: My response is two-fold: So? And  
14 secondly, these regulations -- I appreciate -- are to try  
15 to accommodate the cardrooms. But they also have built  
16 within them -- and I commend you for this -- some  
17 protections for the players. And I think that making  
18 credit so accessible may be accommodating for the cardroom  
19 but may not be providing some of the protections for the  
20 players. But I will move forward.

21 The next one I would bring to our attention is found  
22 on Page 4, line 7, letter (E). And this deals with third  
23 party checks. There is another reference to third party  
24 checks implied on Page 3, line 15, which -- when it talks  
25 about government issued checks.

1 I am concerned about third party checks because that  
2 it is even implied in here and listed later can include  
3 payroll checks. And so this, again, may be a very  
4 accommodating feature for the cardroom but I don't think it  
5 may provide some of the safeguards for the players.

6 And so I think it would be -- again, it seems to be  
7 that if there is a regulation that they can be more or less  
8 restrictive and I would suggest that that simply not be  
9 permitted; that there not be third party checks. If -- and  
10 there is the potential for abuse in this situation. But  
11 regardless of whether it is abused, just using the way it  
12 is inscribed or written here, a person can bring in their  
13 paycheck, cash their paycheck and gamble the money away  
14 before they got home. I am not certain that that is --  
15 that may accommodate the cardroom, not certain it provides  
16 some helpful safeguards for the players and their  
17 dependents and families.

18 And to that end, if you look on Page 3, line 15, this  
19 is letter (D), this is -- they will not cash -- no  
20 enterprise employees shall be permitted to cash any check  
21 drawn against federal, state, county or other governmental  
22 entities.

23 Interestingly enough, I would assume -- that is always  
24 a risk -- that a government employee would not be able to  
25 cash their paycheck in a cardroom because although the ones

1 listed here are dealing with public assistance and  
2 disability and unemployment insurance and Social Security,  
3 a governmental employee also would have a check drawn on a  
4 government fund. That is my thinking. If that is the  
5 case, we've already allowed a certain segment of the  
6 workforce to be protected from cashing their paychecks in  
7 the establishment. And I would suggest and hope maybe that  
8 could be extended so that we could say either no third  
9 party checks at all or no paychecks.

10 COMMISSIONER SHIMAZU: I think at the end of the  
11 subdivision (D) it says: Unless the check is for wages or  
12 payments of goods or services. I don't think it would  
13 include just -- a salary.

14 JAMES BUTLER: I stand corrected. Thank you. As you  
15 can understand, reading through this sometimes I am less  
16 than clearly following.

17 I still would suggest that paychecks be eliminated  
18 only for the very simple and common sense element that  
19 those generally are the living revenues of the people  
20 involved. And consequently to have them cashed in this  
21 sort of an establishment which will lead to most likely  
22 some gambling, I don't think it is in the best interest of  
23 the people involved. Those are some of the issues.

24 Thank you for that clarification.

25 CHAIRMAN SHELTON: Thank you.

1           MARTY HORAN: The Bureau would like to make a comment.  
2           Going back to Mr. David Fried's comment earlier, regarding  
3           the possible typographical error under 12388(1)(6). Maybe  
4           the wording should be added in there to say if a patron is  
5           approved for credit pursuant to subsection (A)(2)(b) --  
6           because that is the only section above that requires them  
7           to have a credit report. That is one of the options, the  
8           three options.

9           CHAIRMAN SHELTON: I'm sorry. What page? What line?

10          MARTY HORAN: Page 3, at the very top, line 1. If a  
11          patron is approved for credit pursuant to subsection  
12          (A)(2)(b), which is referred to above, a copy of the  
13          patron's consumer credit report obtained by the licensee.  
14          The original language, I think, is fine in the sense that  
15          if we put the word "any" in there, a credit report can be  
16          run at any time and put in the file. I think what we're  
17          referring to is if they approve them for credit, under that  
18          subsection (A)(2)(b), that the original credit report  
19          printout is the one that must be retained.

20          CHAIRMAN SHELTON: You want to see the document of the  
21          original --

22          MARTY HORAN: Correct. If that person is approved for  
23          credit and it is three years down the road, I wouldn't want  
24          to see in the file is that they printed a fresh credit  
25          report and put it in there.

1 CHAIRMAN SHELTON: Oh.

2 MARTY HORAN: Maybe Mr. Fried can comment more if that  
3 is an area of concern for him.

4 DAVID FRIED: I think either proposal gets to the same  
5 result. If the regulation says "any" report obtained by  
6 the licensee has to be kept on file, it would include the  
7 original report, subsequent report. I have no objection to  
8 the change. I am actually indifferent between the two. I  
9 think they both lead to the same result.

10 CHAIRMAN SHELTON: You just don't want a stack of  
11 credit reports?

12 DAVID FRIED: I don't mind a stack of credit reports.  
13 The only thing we're trying to avoid is if I approve  
14 Richard because he has got prior credit history from the  
15 club and I don't have to get a credit report to approve  
16 him, I don't want to have language that makes it seem like  
17 I have to get a credit report, even if that is the basis I  
18 approved him on.

19 COMMISSIONER SHIMAZU: Only if it's applicable?

20 DAVID FRIED: Right.

21 RICHARD MUNDY: Maybe clarify, at the top -- towards  
22 the top of Page 2 you'll see (A), (B) and (C). These are  
23 the three ways a patron can get credit. (B) is the one  
24 that talks about getting a credit report. (A) is a credit  
25 application and kind of doing it a different way and so is

1 (C). That is the one that David Fried was referring to  
2 where they had previous history with them.

3 The point made here for line 27 is that you keep a  
4 copy of the credit report only if it applies. And in this  
5 case only (B). How we do it just like David said or the  
6 Bureau is easy to do.

7 CHAIRMAN SHELTON: To satisfy your needs.

8 RICHARD MUNDY: Correct.

9 MARTY HORAN: Okay. That is all I have.

10 CHAIRMAN SHELTON: Anything else?

11 MARTY HORAN: For right now, no.

12 CHAIRMAN SHELTON: Turn on my mic so you can hear me.

13 DAVID FRIED: With your permission, can I address a  
14 few of the comments you received?

15 CHAIRMAN SHELTON: Yes.

16 DAVID FRIED: I am just going to go in the order of my  
17 notes. I hope my notes are accurate. But Mr. Titus' first  
18 comment was the phrase "that is occupying a player/dealer  
19 position" was not clear. Maybe reasonable people can  
20 disagree. But whether you say "sitting at the  
21 player/dealer position" or "occupying" or there is contract  
22 for them to be in that position, it is all roughly the same  
23 and as clear as it is going to get.

24 The next issue that concerns me more is the Bureau  
25 comment. It appears on line 29 the first page. This is

1 where the Bureau said they wanted to delete the underlined  
2 addition and just stop the sentence with "public relations  
3 player" because they want to avoid house banking.

4 Here is my problem with that comment. In a poker game  
5 there is no player/dealer position, no house banking.  
6 Everyone wages into a common fund. Whether you're  
7 California or Nevada, there is no prohibition against the  
8 owner of a gambling establishment sitting in a poker game  
9 because there is no banking issue of any kind whatsoever.

10 If our concern is to avoid the extension of credit  
11 where house money can be used in the banking position, then  
12 the addition here that you have in front of you is  
13 absolutely correct. We just want to prevent the house from  
14 loaning money for house prop players to act in a  
15 player/dealer game. If it is a poker game, there is no  
16 issue of house banking and should be no prohibition.

17 The next comment in order was Mr. Titus' comment about  
18 credit application forms should be more robust, more  
19 information in them. Mmm, I think the comment is  
20 well-intentioned. I have a couple problems with it. One  
21 is just a timing issue. You gave us three months in  
22 January to get certain fixes done. We're now in May.  
23 Whatever happens, I would like to see the regulations go  
24 out today so we can get the amendments done so we're not  
25 caught in a situation where the owners have to comply with

1 the original regulation and train their staff and then  
2 retrain when they have the amendments come in. How that  
3 interacts with how many comments you're going to accept  
4 today, I'll leave to you.

5 I'd like to leave today with hopefully the Commission  
6 voting to send the regulations out and start the process.

7 I think you can always think of additional things to  
8 put on the credit application. I've done SBA loans. There  
9 is a whole bunch of things you can put on an application.  
10 Have you ever been in bankruptcy? Ever had a license  
11 rejected? There is a whole host of things that go into a  
12 credit score and coming up with what information can be  
13 relevant in making a credit decision. Do you have an  
14 alimony obligation? The point is though, there is a credit  
15 risk the club is taking. They should have some discretion  
16 in figuring out what should be on the credit application.  
17 I --

18 CHAIRMAN SHELTON: I -- let me interrupt you because  
19 I'll lose my train of thought. I don't see anything here  
20 that would eliminate individual casinos from having that  
21 information.

22 DAVID FRIED: Absolutely correct.

23 CHAIRMAN SHELTON: If you want a preponderance of  
24 information to add on, you can do that.

25 DAVID FRIED: That's correct.

1           CHAIRMAN SHELTON: No restriction.

2           DAVID FRIED: I think that is the business judgement  
3 of the casino operator.

4           The next comment that I just have to disagree with is  
5 whether the regulations require the credit instruments to  
6 set a maximum credit amount and payment schedule. I think  
7 the regulation does. It requires that to be recorded for  
8 each individual.

9           With respect to the comment from Reverend Butler, I  
10 understand them and I think they're well-intentioned. The  
11 cardrooms themselves last year or the year before sponsored  
12 a bill that imposed a per table tax to support problem  
13 gambling services in the state and provide independent  
14 funding for them. The cardrooms supported the regulation  
15 and supported the program.

16           The problems are just practical ones. I agree with  
17 staff you can't legislate how far the ATM machine is going  
18 to be away from the table. We've got clubs of all  
19 different sizes. It is safer to have the ATM machine in  
20 the room for two reasons. First, you can see if someone is  
21 taking out a lot of money. That's a warning sign. Second,  
22 there is better security inside of the club. You've got a  
23 room full of people. With respect to theft or malfeasance,  
24 it is better to have it in the club.

25           With respect to third party checks and payroll checks,

1 as Commissioner Shimazu pointed out, the regulation does  
2 allow them; and, in fact, the Act does. Section 19841 with  
3 respect to regulations, it says: However, a gambling  
4 establishment shall not be prohibited from cashing any  
5 payroll checks or checks for delivery of goods and services  
6 drawn against a federal, state or county fund. The  
7 regulation tracks exactly what is in the Act.

8 Thank you very much. Again, we very much appreciate  
9 your moving forward with the regulations.

10 CHAIRMAN SHELTON: Commissioners?

11 COMMISSIONER SHIMAZU: Wondering if the Bureau wanted  
12 to respond to the one issue?

13 MARTY HORAN: Yes, we do. There is already a process  
14 or method in place going back to Mr. Fried's first comment  
15 referring to Page 1, line 29, for them to use a house prop  
16 player to play in any of the games; that is, to have that  
17 employee getting an hourly wage and playing with their own  
18 money as a prop player, not to go and get a credit line or  
19 receive a loan from the cage to go play and at a later time  
20 pay that back or possibly have the loan forgiven. There is  
21 already a method for them to do that.

22 CHAIRMAN SHELTON: Does this in any way dilute that?

23 MARTY HORAN: It does because it does not -- the way  
24 it is currently written now on -- where the language is  
25 added on line 30, Page 1, says it limits it for the purpose

1 of playing a game that has a player/dealer position. So  
2 you're limiting it only to half of the games that may be  
3 available in a cardroom.

4 Our recommendation would be that the period goes back  
5 on line 29 after "public relations player" and delete that  
6 new language so it covers all of their licensed  
7 employees.

8 CHAIRMAN SHELTON: Staff?

9 RICHARD MUNDY: This change was made at the  
10 recommendation of industry and based on Mr. Fried's  
11 comments. And we would entertain whatever the Commission  
12 desires regarding that issue between the balance between  
13 the Bureau and the industry.

14 DAVID FRIED: I understood the Bureau's concern  
15 previously to be that this is a banking issue. If that is  
16 not the concern, let me address what I just heard, which is  
17 prop players -- the reason to the extent at all they're  
18 given credit for poker games is so they don't have to carry  
19 cash. These are people who come in two or three days a  
20 week and be on duty to fill in a game. And if they need  
21 money to go and sit at a table, if it is their preference  
22 to not carry cash, so there might be a small credit line  
23 set up for them so they can take money out, put money back  
24 in, might even have a player's bank. To say you can't  
25 extend credit to them means the prop players will have to

1 carry cash in and out of the club on a constant basis to  
2 play poker.

3 CHAIRMAN SHELTON: I think that is the intent unless I  
4 missed something. When I read the contract of the prop  
5 players you folks do, they're supposed to have an  
6 individual cash if they have the club allows it but they  
7 keep it in their -- everything they have separately so the  
8 accounts aren't --

9 DAVID FRIED: That is for the services that do the  
10 employer/dealer games. For the poker games, the props are  
11 usually individuals. There is someone -- may be a retired  
12 dealer or somebody else. They're paid a wage, given health  
13 care, reimbursed their collections. They sit in the club  
14 drinking coffee. If a poker game gets short, they will sit  
15 in the game and play and use their own judgment in playing.

16 CHAIRMAN SHELTON: They're an employee of the club --

17 DAVID FRIED: Yes.

18 CHAIRMAN SHELTON: -- itself?

19 DAVID FRIED: Yes.

20 CHAIRMAN SHELTON: If they have a winning?

21 DAVID FRIED: It is their winnings and their losses.  
22 Same in every state.

23 CHAIRMAN SHELTON: If they have a loss, club doesn't  
24 absorb it.

25 DAVID FRIED: Absolutely true. It is the same in

1 Nevada and New Jersey, wherever there are house proposition  
2 players.

3 CHAIRMAN SHELTON: I don't want that job.

4 MARTY HORAN: If we can respond, by allowing that,  
5 this essentially is not their money. They can go over to  
6 the cage and can take out a thousand dollars, for instance,  
7 and sit down at a table and in effect it affects the way  
8 they play the game, decisions they make at the table. It  
9 is not their money. Okay.

10 The method in place is they are an employee. They can  
11 receive a salary and they're using their own money to play.  
12 They're not just getting up from the table and lose that  
13 money and go get another thousand dollars to play. It  
14 affects the way the game is played. It has got a  
15 perception of house banking. If loans are basically  
16 forgiven, it is a banking game violation.

17 DAVID FRIED: All right. Let me go back. It is not a  
18 banking game. There is no banking in poker. So if we're  
19 dealing with the separate issue of whether a house prop for  
20 poker games should be extended credit, the answer is they  
21 would have to be treated the same as anybody else in the  
22 regulation: Credit application, whatever the procedure is,  
23 a maximum credit amount, a payment schedule. There is no  
24 provision in here for automatically or otherwise forgiving  
25 the debts.

1           Whether they're playing with their own money or  
2 borrowing money they're responsible for, they're  
3 responsible for the winnings and losses.

4           And typically the profile of the person who is going  
5 to take this job is someone who plays poker anyway,  
6 recreationally or otherwise. The benefit to them is  
7 they're getting a salary, having the collections  
8 reimbursed, getting health care and they fill in the poker  
9 games and using their own judgment. They want to win.  
10 Don't want to lose.

11           If they're responsible for winnings and losses, then  
12 they exercise the same judgment as any other player. They  
13 go through the same process.

14           CHAIRMAN SHELTON: Isn't that the same position as the  
15 owner of the cardroom?

16           DAVID FRIED: Same position. The owner is allowed to  
17 sit in a poker game. Any employee is allowed to sit in on  
18 the poker game.

19           CHAIRMAN SHELTON: I see somebody back here who wants  
20 to come up and say something.

21           State your name spell the last name.

22           RONALD WERNER: Ronald Werner, W-e-r-n-e-r. I'm with  
23 Bay 101 Casino in San Jose.

24           I -- I just have a point we haven't addressed here  
25 regarding the proposition player -- house proposition

1 player reimbursement. If we -- there is a split created by  
2 the Employment Development Department. In the past the  
3 cardrooms had a practice of reimbursing or contracting with  
4 proposition players for a set rate based upon what they  
5 would pay on average in a -- either a poker game or  
6 California style game for their reimbursement. There has  
7 been some issue with the EDD lately that reimbursing folks  
8 on their payroll checks is not a practice that is allowed  
9 as reimbursement; therefore, it becomes subject to  
10 additional taxes and additional fees. It becomes a cost  
11 that the individuals had not related on.

12 And in response to that some of the cardrooms now  
13 provide in advance an amount of money or chips for players  
14 to use for their collection, as opposed to doing a separate  
15 reimbursement. They sign out for it and keep track of it  
16 and turn it back in at the end of the day. We're concerned  
17 it may be deemed an extension of credit. If we're going to  
18 look at it as restricting extensions of credit on house  
19 proposition players, I ask that you take it into  
20 consideration.

21 Although we may like to do it one way, the Employment  
22 Development Department prefers we do it a different way  
23 and we're caught between the Commission and another state  
24 agency.

25 Those are my comments. Thank you.

1           MARTY HORAN: The Bureau has one final comment on this  
2 topic. It goes back to if you're sitting at a table  
3 playing and you're not utilizing your own funds and you  
4 don't care if you win or lose -- granted you're trying to  
5 win. You don't care. It changes the whole dynamics of the  
6 game as far as how much you're going to bet, raise or if  
7 you're going to go all in and drive other players out of  
8 the game.

9           The fact is if you run out of money, you can get up  
10 from the table and get another extension of credit as an  
11 employee of the cardroom and sit down and play again.

12           CHAIRMAN SHELTON: Now, I'm confused. Because I heard  
13 people come to the mic and say that is their money and  
14 they're responsible for it. If they lose, it is their  
15 loss. And it's their money if they win. You're saying,  
16 no, that is the house's money they're playing with.

17           MARTY HORAN: That is. They're given money from the  
18 house.

19           COMMISSIONER SHIMAZU: They're getting the extension  
20 of the credit like everybody else?

21           CHAIRMAN SHELTON: I'm confused.

22           COMMISSIONER SHIMAZU: When you say they're using the  
23 establishment's money, I thought it was their money.

24           You're worried there will be more lax requirements for  
25 the employees? Trying to get to the issue.

1           MARTY HORAN: No, just the fact that they would use  
2 the players to get a game going or keeping a game going and  
3 those players can get funds from the cage to sit down and  
4 play.

5           CHAIRMAN SHELTON: If I have assurance that the Code  
6 covers the fact it is the individual's money and if they  
7 win it is their money and if they lose it is their money  
8 and they're not reimbursed or recouped from the club, then  
9 I'm all right. If it is like Mr. Horan says, they can go  
10 out and spend anything they want and gamble anything they  
11 want, then it is not all right.

12           MARTY HORAN: The regulation as written without the  
13 language we're asking for allows the club to extend credit  
14 to the people for that purpose.

15           ANDY SCHNEIDERMAN: Just -- Andy Schneiderman,  
16 S-c-h-n-e-i-d-e-r-m-a-n, general counsel with Commerce  
17 Casino.

18           I guess just in terms of historical perspective,  
19 Commerce Casino has probably 20 proposition players who  
20 play in our poker section. And that has been there and as  
21 David Fried described them, they are people that like to  
22 play poker. They come in and help fill out the game when  
23 we're building games. Once the game is full, they're  
24 excused from the table. They do have privileges to very  
25 small amounts of money that they can -- we call it check

1       cashing now. Under the regulations it would be called  
2       credit.

3             In my experience -- and I have to go back and check  
4       historically -- in the last 15 years I can pretty much  
5       guarantee there probably is not a single proposition player  
6       that has ever been forgiven their check cashing they have  
7       engaged in. If they have taken an advance of a thousand  
8       dollars, they've always been obligated to repay that full  
9       amount.

10            So when Mr. Horan is saying it in effect is house  
11       money, at least at the Commerce Casino and I believe all of  
12       the other clubs in California, no. This is the player's  
13       money. And if they -- it may have been -- a thousand  
14       dollars may have been advanced by the house but the player  
15       himself is obligated to repay that money. And it does not  
16       change the nature of the game. The player has to play  
17       these games as if it is his own money. It is his own  
18       money. And it is a very -- it has not been a problem. And  
19       it does permit the players to be able to come in to work  
20       and not have to bring in cash. And they basically leave --  
21       they can get money when they get there then redeposit it at  
22       the end of their shift.

23            I really -- it -- from our perspective it certainly  
24       does not create a banking game because poker games are  
25       round games, not banking games in any respect.

1           Second of all, it does not distort the nature of the  
2 game itself. These players are playing as if it was their  
3 own money because it is their own money.

4           COMMISSIONER VUKSICH: Mr. Schneiderman, let's say  
5 we're playing poker or cards, whatever we're playing here.  
6 And one of us is a newbie and one of us is the house.

7           ANDY SCHNEIDERMAN: Who is the newbie?

8           COMMISSIONER VUKSICH: She is. He is your house  
9 player. And I've been a patron for a long time. I've got  
10 a credit account with you. And I've got a limit of, let's  
11 say, \$5,000 or something. Let's say we've been playing for  
12 a while and I go up -- I'm out. I go up to cash a check.  
13 I hit my limit. And let's say he has got the same problem  
14 now.

15           Will he get different consideration at the cage than I  
16 will get? Will he be able to go over his limit? Because  
17 he is a house employee would he be extended credit with a  
18 different eye from myself or from the newbie who is just  
19 opening an account right now?

20           ANDY SCHNEIDERMAN: I wouldn't give the newbie credit.

21           COMMISSIONER VUKSICH: Got to run her credit?

22           ANDY SCHNEIDERMAN: Credit limits are strictly  
23 enforced under the regulations. We are obligated -- I  
24 agree with Mr. Fried's previous comments -- to set a limit.  
25 Those limits are set because we feel that that is the

1 maximum that that player should have, both in terms of  
2 their credit worthiness and in terms of their level of  
3 play. We do not deviate from that.

4 COMMISSIONER VUKSICH: He hit his credit limit. He is  
5 off the clock. He can no longer play?

6 ANDY SCHNEIDERMAN: If he is out of money, he cannot  
7 play. And you know, he would -- if he can't play, he can't  
8 perform his job. He is going to have to take an early out.

9 CHAIRMAN SHELTON: Wouldn't hire me anyway.

10 ANDY SCHNEIDERMAN: Based on his level of play, I  
11 don't think we're going to hire him anyway. He is the most  
12 experienced poker player here. Thank you.

13 COMMISSIONER SHIMAZU: I would assume these minimum  
14 controls because they set some kind of the base standards  
15 that would apply to everybody. Is that helpful? Whereas  
16 now maybe there are different -- I don't know -- different  
17 rules or limits for different people, including employees.

18 Does that address any of your concerns that now they  
19 have to do certain things and qualify like everyone else?

20 MARTY HORAN: No, it does not. In addition to -- in  
21 regards to comment on Mr. Schneiderman's comments the  
22 Bureau has, in fact, had investigations and currently has  
23 investigations where these types of loans are forgiven.

24 COMMISSIONER SHIMAZU: Okay.

25 CHAIRMAN SHELTON: With these regulations and

1 financial audits, does that put an end to that? Because  
2 before we didn't have regulations set up for how much were  
3 limits, credit limits.

4 Now, if we have a regulation and there are limits and  
5 we go back and do a review, will that be exposed in the  
6 financial audits or not?

7 MARTY HORAN: Would what be exposed?

8 CHAIRMAN SHELTON: When boots hit the street and do  
9 the financial audits in one of the casinos, I'm assuming  
10 they're looking at the credits and the credit issued to the  
11 individuals. There should be a paper trail, whether the  
12 money was reimbursed or not.

13 MARTY HORAN: Should be. You're right.

14 CHAIRMAN SHELTON: Is there? I don't know.

15 MARTY HORAN: Yes, there should be.

16 DAVID FRIED: If I can add, Commissioner Shimazu is  
17 right. This regulation would put employees and patrons on  
18 equal footing. No different rules apply there. As a  
19 practical matter, if a prop player gets in trouble, they're  
20 losing, they're often asked to reconsider their job choice.  
21 Typically, the people that do it are pretty experienced.

22 MARTY HORAN: Why would the club have an interest in  
23 them losing?

24 DAVID FRIED: Well, we have an interest in whether it  
25 is a good fit for this employee. It goes back to the

1 problem gambling. If somebody has got a problem, the clubs  
2 try to spot it and do something about it.

3 AARON WONG: Aaron Wong from Bureau of Gambling,  
4 W-o-n-g.

5 Got a couple of comments in regard to prop players,  
6 you know, using their own judgment. Skilled players that  
7 has supposedly all of these credit limits in place to  
8 prevent them from, you know -- like example you gave, all  
9 of a sudden you got a credit increase. So you basically  
10 got unlimited funding as compared to regular players at the  
11 table.

12 I have the luxury of actually sitting down and playing  
13 in some of the places undercover. And believe it or not,  
14 you know, there is one cardroom -- I don't want to name the  
15 name. I sat down, played with the owner. And she had  
16 unlimited funding. Unlimited funding. Does not matter how  
17 much she lost. Boom. Back at the cage. Come right back  
18 to the table, bring more money to the table. It is almost  
19 like it -- as a player, you don't stand no chance  
20 whatsoever against unlimited funding, especially in a game  
21 of poker.

22 Then another occasion I went to another cardroom.  
23 Again, I don't want to name names. Same thing happened. I  
24 played a table and the owner was already there playing.  
25 Again, she had unlimited funding. She lost all her money.

1 Boom. She gets up, goes to the cage. She comes back with  
2 another 500. Boom. She is in again. She lost all that.  
3 She goes to the cage and brought some more.

4 I don't know how -- if the owner/licenseses don't have  
5 a credit limit, I assume -- this is their establishment --  
6 I think same thing could happen to any of his or her  
7 employees in that sense.

8 As a player, you don't stand a chance at all.

9 DAVID FRIED: To begin with, not sure it's a credit  
10 situation. We don't have enough information to know if  
11 there is any credit going on.

12 AARON WONG: Probably house money.

13 DAVID FRIED: No. You've got other controls in place.

14 CHAIRMAN SHELTON: We could beat it to death. Thank  
15 you. I'm going to move on.

16 CHAIRMAN SHELTON: Commissioners, your desire, Item  
17 Number 3?

18 COMMISSIONER SHIMAZU: The recommendation is to  
19 initiate the formal rulemaking process, correct?

20 CHAIRMAN SHELTON: Yes.

21 COMMISSIONER SHIMAZU: Move to approve staff  
22 recommendation then.

23 CHAIRMAN SHELTON: Second.

24 COMMISSIONER VUKSICH: Second that.

25 CHAIRMAN SHELTON: Calling for the vote.

1 JOY CALKIN: Commissioner Shimazu?

2 COMMISSIONER SHIMAZU: Aye.

3 JOY CALKIN: Commissioner Vuksich?

4 COMMISSIONER VUKSICH: Aye.

5 JOY CALKIN: Chairman Shelton?

6 CHAIRMAN SHELTON: Aye.

7 JOY CALKIN: Motion carried.

8 CHAIRMAN SHELTON: Item Number 4.

9 RICHARD MUNDY: Mr. Chairman and Commissioners, Agenda  
10 Item Number 4 concerns proposed regulations which would  
11 establish Minimum Internal Control Standards for cardrooms  
12 concerning Fire Safety, Security and Surveillance.

13 More specifically, the regulations would amend Section  
14 12370 within Title 4 and would establish new sections  
15 12372, 12395 and 12396, also, in Title 4.

16 In your binders there is a memorandum which contains  
17 staff's recommendation, the overview of the proposed  
18 action. The binder also contains a copy of the proposed  
19 regulation text and a summary of the informal public  
20 comments received.

21 Copies of these two documents are also available today  
22 at the back table.

23 Staff recommends that the Commission approve  
24 initiation of the formal rulemaking process for the  
25 proposed regulations.

1           The Commission's involvement in the development of  
2 these Minimum Internal Control Standards began with a joint  
3 workshop in June 2004, which included representatives from  
4 the Commission, the Bureau and the gambling industry.

5           September 2007 a joint workgroup was formed to  
6 continue the development of the regulations. Due to the  
7 number of subjects and complexity of the MICS requirements  
8 the workgroup separated the requirements into specific  
9 subject areas in order to propose or pursue regulations in  
10 phases, accord to their priority.

11           The workgroup then completed an initial draft proposal  
12 for the proposed Phase II Fire Safety, Security and  
13 Surveillance regulations and scheduled an informal comment  
14 period which began on April 10, 2008.

15           After additional changes to accommodate industry  
16 concerns, a modified draft proposal was completed and again  
17 distributed to interest parties on October 3rd, 2008.

18           Further revisions were made and proposed regulations  
19 were placed before the Commission in a workshop on April  
20 22, 2009. At that workshop it was agreed additional public  
21 comments and recommendations would be considered.

22           The proposed regulation package before you today is  
23 the result of extensive public comment and participation  
24 process. A great deal of effort has been made to include  
25 affected parties in the development of this proposed action

1 and careful consideration has been given to their views and  
2 suggestions.

3 These proposed regulations strive to accommodate  
4 industry concerns while simultaneously allowing the  
5 Commission and the Bureau to achieve their oversight  
6 responsibilities under the Act.

7 CHAIRMAN SHELTON: Public comment?

8 DAVID FRIED: Good morning, Commissioners. David  
9 Fried, F-r-i-e-d, speaking for California Gaming  
10 Association subcommittee.

11 Given the time we spent on the last set of regulations  
12 I'll be concise in commenting on these, especially since  
13 it's the commencement of the process.

14 Most of the issues, many of them technical, were  
15 resolved during the informal comment period. There are  
16 only three issues that remain that we outlined in our  
17 letter and they have one thing in common. I think they all  
18 involved technical issues and where the Commission's  
19 decision making would benefit from outside input.

20 They involve an issue for security services for Tier 3  
21 clubs; and, two, what I call "camera issues." And our  
22 intention is during the 45-day period that this rulemaking  
23 would commence today, we will get you outside comments from  
24 professionals involved in surveillance and security that  
25 will illustrate the technical issues in the three areas.

1           Briefly, the security services I've now been given to  
2 understand based on telephone conversations I had  
3 yesterday, do some type of fingerprint and background  
4 checks of employees. One of the issues will be whether the  
5 regs require some redundancy there for independent security  
6 services.

7           With respect to the recording speeds, there is a  
8 trade-off between frames per second and the type of camera  
9 you're using. The quality of the image and frames per  
10 second are different issues. Frames per second is how many  
11 pictures every second you're taking; whereas the quality of  
12 the camera, which actually will be more important in  
13 looking at images, is a separate issue.

14           We're going to get outside comments and make  
15 recommendations to you about given certain quality of  
16 cameras what frames per second may be appropriate in  
17 different environments.

18           The last issue, which I think Andy is going to  
19 discuss, is an issue involving the technical aspects of how  
20 you deal with pan, tilt and zoom cameras.

21           In all of these issues, I think getting outside  
22 comments would be beneficial to the Commission. We're  
23 going to undertake to do that.

24           The only other question I wanted to raise with you is  
25 the prior agenda item, the adoption of the staff's

1 recommendation. Staff recommended two changes in the draft  
2 of those regulations which the Bureau concurred in, in  
3 which I think the speakers concurred in. I wondered if you  
4 might make the opportunity to clarify your vote a moment  
5 ago that it includes the two changes in the regulation?

6 CHAIRMAN SHELTON: Commissioners?

7 COMMISSIONER SHIMAZU: Remind me what the two changes  
8 were. I know one was pursuant to (A) (2) (b).

9 What was other one?

10 DAVID FRIED: Non-sufficient funds. Getting rid of  
11 those words and saying if the check is dishonored we can  
12 take a replacement.

13 RICHARD MUNDY: Again, that would be Page 2, line 27.  
14 And we would be using, from my understanding, the Bureau's  
15 recommendation to cite actually that (b) as when a credit  
16 report would be kept. And then again on Page 3, line 27,  
17 we would end the sentence with "dishonored."

18 EVELYN MATTEUCCI: Do we want to do another vote to  
19 make it clear this vote was for those?

20 CHAIRMAN SHELTON: I don't think we need to. There  
21 was a clarification on the record.

22 EVELYN MATTEUCCI: All right. Fine.

23 CHAIRMAN SHELTON: If anyone is unhappy, we can bring  
24 it back again.

25 ANDY SCHNEIDERMAN: Commissioners, Andy Schneiderman,

1 S-c-h-n-e-i-d-e-r-m-a-n, again, with the Commerce Casino  
2 and also a member of the California Gaming Association  
3 regulatory Committee.

4 First of all, I -- just as a general matter, I think  
5 this is a very exciting time in the history of the Gambling  
6 Control Act. After ten years of having the Gambling  
7 Control Act, we're now getting into the meat of good  
8 regulation of the casino industry, which is the minimum  
9 internal control standard regulations.

10 I would like to congratulate the Commissioners, staff,  
11 Bureau of Gambling Control for the work you have done. We  
12 feel that -- we feel honored to have been given a role in  
13 providing input in this process and we truly appreciate  
14 that opportunity.

15 And we can assure you, despite the fact there were  
16 some differences we're still raising, we do fully support  
17 minimum control standard regulations with respect to our  
18 industry.

19 So both thank you for opportunity to participate and  
20 also for your taking the leading role in moving these  
21 things forward.

22 With respect to the security and surveillance  
23 regulations, there is one important point that -- and I  
24 just wanted to bring to your minds now, as we go into this  
25 45-day formal comment period. That relates specifically to

1 Section 12396(D)(7) which applies only to Tier 5 licensees  
2 and mandates that we use what is called a PTZ camera, pan,  
3 tilt and zoom camera, to pan the faces of -- pan the faces  
4 for identification purposes of all patrons and dealers on  
5 an hourly basis.

6 We think that the -- we understand the control benefit  
7 of this. But I don't think there has been sufficient  
8 thought in terms of the logistics of how it would actually  
9 be accomplished.

10 First of all, it is clear that surveillance is an  
11 extremely powerful tool in maintaining controls at a  
12 cardroom. And the use of surveillance as a powerful tool  
13 is completely dependent on having a well-trained staff that  
14 can observe and report on the activity within the casino,  
15 not only on the casino floor but in the cage, count room,  
16 parking lots and all of the public areas of the casino  
17 facility.

18 Now, the Commission has obviously recognized the value  
19 of this tool. We already have regulations that mandates a  
20 surveillance coverage of the count room, cage, box  
21 collection process. We are now talking about additional  
22 regulations, a minimum regulation that would require hourly  
23 screening of the faces of players and dealers on the casino  
24 floor.

25 Here is the danger of this kind of micromanagement of

1 the surveillance function of a casino. The more the  
2 Commission dictates how the surveillance tool is used, the  
3 less time there will be for the trained surveillance staff  
4 to be able to use their training to focus in on the needed  
5 aspects of the -- and deal with the actual issues on the  
6 casino floor in terms of their duty to observe and report.

7 The Commission recognized this danger when we were  
8 talking about the regulations related to the cage and the  
9 count room and the box collection process when you revised  
10 the draft regulations to eliminate the requirement of  
11 continuous surveillance monitoring of the count and box  
12 collection processes to simply mandate there be a  
13 designated person responsible for monitoring those  
14 processes but not that it be a continuous monitoring.

15 We're basically going to be asking the Commissioners  
16 in this case to recognize the fact that when it comes to  
17 panning of the faces of all of the people in the casino,  
18 that that is going to be an extremely time consuming  
19 process which will divert our surveillance operator of  
20 their other required duties and may not be the best use of  
21 their time and the valuable resources of our surveillance  
22 cameras at any given moment in time.

23 The one thing that is clear is that there is a  
24 misunderstanding between Commission and staff and the  
25 industry in terms of how this could be accomplished. The

1 comments we received back from the Commission staff on this  
2 requirement is we could simply have a mechanized PTZ  
3 camera, I guess, that would do -- automatically pan the  
4 faces of our patrons and dealers on an hourly basis. Both  
5 the Bicycle Casino and the Commerce Casino have studied  
6 this. We had our surveillance departments actually try to  
7 accomplish the task. I think you received written comments  
8 from the Bicycle Casino which indicated it would consume --  
9 I don't remember the exact time frame. At the Bicycle  
10 Casino it would not be accomplishable within an hour.  
11 Every hour you would be starting the process over again.

12 At Commerce Casino where we have 243 tables and  
13 basically six distinct gaming areas, we think it would take  
14 in excess of an hour to accomplish the goal on an hourly  
15 basis as well.

16 Basically what you're talking about is having one or  
17 two surveillance -- dedicated surveillance operators simply  
18 performing this task. I guess the question is: Is that  
19 really the best use of that valuable resource? Or is it  
20 sufficient to satisfy the regulatory goal of which is  
21 already mandated by the regulations that every entrance and  
22 exit to the casino must have a camera which basically  
23 permits you to determine who is coming into your casino and  
24 who is leaving. There we have a record of the identities  
25 of the people coming into our casino. It is not something

1 that requires a surveillance operator to pan in and tilt  
2 and adjust the cameras to be able to see the face of the  
3 person in the casino. It is simply done automatically as  
4 they enter and exit the casino facility.

5 I guess this is an area where I think it -- we would  
6 welcome the opportunity to have Commissioners or Commission  
7 staff and, of course, the Bureau come down to the clubs and  
8 actually go into our surveillance room and we can  
9 demonstrate to you exactly the cumbersomeness of this  
10 regulation and so you can appreciate the complexity we  
11 would have to comply with should this become a formal  
12 regulation.

13 CHAIRMAN SHELTON: Questions?

14 COMMISSIONER VUKSICH: Do you have a response?

15 RICHARD MUNDY: Mr. Chairman and Commissioners, this  
16 issue was originally raised during informal public comment  
17 period in October 2008.

18 At the request of industry, Tier 4 cardrooms were  
19 deleted from the pan, zoom, tilt requirement, leaving only  
20 Tier 5. Responses from staff also explained the panning of  
21 the faces could be automated negating the need for  
22 additional staff.

23 This comment was not reiterated at the Commission  
24 meeting April 22, 2009; nor was it mentioned in a written  
25 document submitted to the Commission and Bureau staff at a

1 meeting on April 29, 2009.

2 As a result, Commission and Bureau staff were under  
3 the understanding this issue was resolved. This concern  
4 has now resurfaced after two subsequent industry comment  
5 opportunities.

6 However, in the absence of any compelling reason from  
7 the Bureau, Commission staff is agreeable to modify the  
8 language before the commencement of the formal rulemaking  
9 process.

10 MARTY HORAN: The Bureau would like to comment that I  
11 think, keep in mind, we're not reinventing the wheel here  
12 with Minimum Internal Control Standards for California's  
13 industry. We've got many other regulations and laws in  
14 place in other states. And I think the Bureau would have  
15 to probably go back and look at the initial request that  
16 was made or review other industry standards in place  
17 currently.

18 CHAIRMAN SHELTON: Can somebody tell me the purpose of  
19 the hourly review of the faces at the tables?

20 AARON WONG: Aaron Wong, W-o-n-g. Many times we have  
21 conducted investigations days, if not weeks, after the  
22 incident occurred.

23 We felt the PTZ's capturing videos of faces of patrons  
24 at the table, you're relying on overhead shots. All you're  
25 going to see is the top of the people's heads. It is hard

1 to identify people that way. You know, in a case you're  
2 trying to catch something that happened. Somebody might  
3 have ripped somebody off. Somebody might have been  
4 cheating at the table. It is almost impossible for you to  
5 identify somebody just looking at the top of their head.

6 With that capability and being able to capture that on  
7 recording and hopefully keep the recording long enough for  
8 you to look at it, then you should reasonably have a lot  
9 better shot at solving whatever investigation you're trying  
10 to solve here versus not having anything at all.

11 CHAIRMAN SHELTON: Okay. My difficulty is -- I've  
12 been in a lot of surveillances for tribal gaming and Nevada  
13 gaming -- and every time we had a criminal investigation  
14 going on in the Nevada side and we need a face, we usually  
15 got a camera of somebody walking away, a stand up, not at  
16 the table. But we -- the positions of the cameras I saw  
17 were positions where you can see the face of the front of  
18 the people. We want to see the front, want to see if they  
19 were activating any devices and cheating with devices.

20 I'm trying to get through my mind why we need them at  
21 an hourly thing. I'm not saying we don't. Trying to get  
22 my arms around it. Help me here.

23 COMMISSIONER VUKSICH: I would be interested in  
24 knowing if this standard is used in other -- specifically  
25 in which other jurisdictions, what type of establishments,

1 if they're card clubs like this or full on casinos or --

2 MARTY HORAN: Bureau agrees. We would need to do a  
3 little research and confirm that.

4 CHAIRMAN SHELTON: Excuse me. Go ahead.

5 ANDY SCHNEIDERMAN: One comment being there is a --  
6 the surveillance tool is a very powerful tool. If you  
7 start mandating too much, it is going to start losing its  
8 value. The discretion of our operators or professional  
9 operators are going to be compromised.

10 I think everything would be nice. I think you need  
11 to -- these are Minimum Internal Control Standards. I  
12 think you need to seize on what the minimum standards  
13 should be.

14 CHAIRMAN SHELTON: Anybody on any other topics? This  
15 topic?

16 ALAN TITUS: Alan Titus for Artichoke Joe's. And I've  
17 got three comments on these regulations.

18 The first one is on Page 5, line 16 through 18,  
19 paragraph (B)(1). This is a requirement in the security  
20 plan for releasing of names of the employees who are  
21 responsible for making decisions that involve security of  
22 patrons, patrons' property, employees, employees' property.

23 And I commented on this previously and I think some  
24 change was made but I still find the language very vague.  
25 And I'm not clear at all whose names we're supposed to be

1 listing on this.

2 Is this asking for the security manager's name? Is it  
3 asking for the security officer's name? This is not an  
4 issue of liking it or not liking it. I simply don't  
5 understand who is going to come within the ambit of this  
6 language.

7 CHAIRMAN SHELTON: The way I read it, it is to --  
8 you're leaving it up to the casino. You're giving  
9 discretion.

10 Am I misreading it?

11 RICHARD MUNDY: Correct.

12 ALAN TITUS: Leaving it up to us to what? We have  
13 people making decisions. There is decisions made by the  
14 officers, decisions made by the security manager.

15 CHAIRMAN SHELTON: You're not -- you want us to tell  
16 you who to put in charge of this?

17 ALAN TITUS: No, I was not asking who is in charge,  
18 asking who is making decisions. Everyone makes decisions.  
19 Everyone down to a janitor makes some decisions. I just  
20 don't want a situation where we submit a report and it is  
21 not complete enough later. Someone says later you should  
22 have included so and so on it.

23 I'm looking for clarity for that purpose.

24 CHAIRMAN SHELTON: I can't help you. Commissioners?

25 COMMISSIONER SHIMAZU: I -- I think it would include

1 the folks you just mentioned. I -- I don't know if there  
2 are others. Everyone -- security officers, managers, they  
3 would be involved in the decision making. I don't want to  
4 spell out who it would be. I don't know who is in your  
5 organization. I wouldn't want to make a mistake so --

6 CHAIRMAN SHELTON: I accept the language.

7 ALAN TITUS: Moving on to comment number 2, this has  
8 to do with the incident reports on Page 7, starting at line  
9 25. There is two situations where incident reports will be  
10 required and both of them use some similar language. Both  
11 of them use the phrase: Any law that regulates controlled  
12 gambling.

13 There again, I'm not -- I'm not sure if that is just  
14 meant to refer to the Act and the Penal Code, if it is  
15 meant to encompass some other codes. It is very vague.

16 CHAIRMAN SHELTON: What would you offer in exchange?

17 ALAN TITUS: I would prefer if it just said Gambling  
18 Control Act and the Penal Code because I'm not aware of  
19 anything else that would be included. If there is intent  
20 to include something else it would be nice to -- I'd like  
21 to know what that is.

22 MARTY HORAN: The Bureau has some language we can  
23 propose. This was talked about at a prior meeting.

24 One question I have is it says: Suspected violation  
25 of the Act, this division.

1 By limiting it to this division, would that prevent or  
2 not require them to report any violations of the other  
3 regulations, like Bureau regulations?

4 CHAIRMAN SHELTON: I don't know because --

5 MARTY HORAN: Because I believe --

6 RICHARD MUNDY: Yes.

7 MARTY HORAN: Because that -- because that falls under  
8 a different division?

9 ALAN TITUS: Yes.

10 MARTY HORAN: So for some clarification language on  
11 that, we recommend it say: Reasonably suspected violation  
12 of the Act or implemented regulations. And I don't know if  
13 that is clear enough, comma, for any suspected misdemeanor  
14 or felony criminal act with the exception of intoxication  
15 in public.

16 And the reason being is, like Mr. Titus said, there is  
17 a whole variety of crimes that are out there that can be  
18 committed inside of the gambling establishment that may not  
19 be directly related to a game but, for instance, health and  
20 Safety Code violations with drug distribution and  
21 trafficking. Counterfeiting violations would involve other  
22 statutes like Federal Codes. Loansharking itself involves  
23 a Civil Code.

24 It is very difficult to encompass everything we may  
25 come across that we would want them to report to us without

1 leaving it broad enough to say suspected misdemeanor or  
2 felony criminal acts.

3 CHAIRMAN SHELTON: Looking over here. You're ignoring  
4 me.

5 RICHARD MUNDY: Mr. Chairman, Commissioners, first of  
6 all, the Act is clearly defined.

7 Staff would be agreeable to change "this division" to  
8 some language that might say: Regulations implemented  
9 thereto to account for Title 11 as well as Division 18.

10 CHAIRMAN SHELTON: We couldn't say something like:  
11 Any criminal violation -- any criminal act, misdemeanor or  
12 felony or regulations constructed by the Bureau or the  
13 Commission?

14 RICHARD MUNDY: And then obviously, as you mentioned  
15 there, as we progress further in that section, modifying  
16 any law that regulates controlled gambling to include  
17 things such as what the Bureau just mentioned.

18 CHAIRMAN SHELTON: That would be all-inclusive, right?

19 MARTY HORAN: It sounds like as long as it, again, is  
20 not limited to gambling-specific type crimes, for instance,  
21 drug trafficking in there and so forth.

22 RICHARD MUNDY: We can -- we can wordsmith that so the  
23 "regulates controlled gambling." It sounds like that is  
24 where the rub is. Make it apply under other situations.

25 CHAIRMAN SHELTON: I see the Bureau's concern. I want

1 to be sure we cover it, even if it is outside of the realms  
2 of the regulations and they don't report it then we need it  
3 reported. So can you -- how soon can you come up with some  
4 wording for it?

5 RICHARD MUNDY: We just sit down with the Bureau and  
6 figure out what those specific issues are because I think  
7 if you just say any law you have to come up with the acts  
8 probably -- the violating acts that are perpetrated that  
9 that would cover.

10 CHAIRMAN SHELTON: We can't approve something unless  
11 we know what the wording is so we can move it on.

12 DAVID FRIED: Can I comment?

13 CHAIRMAN SHELTON: Certainly.

14 DAVID FRIED: We had an extensive discussion of this.  
15 It is a difficult problem to come up with the wording but I  
16 do have a recommendation about it.

17 The problem is if you require any felony or  
18 misdemeanor except public drunkenness you'll get so many  
19 reports that the Bureau I don't think has the staffing for  
20 or interest to deal with, whether it is loitering or  
21 anything conceivable under the Penal Code.

22 One way to come at the problem is to say what should  
23 be reported is violation of the Act, Bureau or Commission  
24 regulations or those parts of the Penal Code or local law  
25 or federal law that relate to controlled gambling. If you

1 think you've left something out, then I would say specify  
2 what you've left out. If loansharking is only under the  
3 Civil Code, add it in. And if you look at the disciplinary  
4 regs where the Commission laid out the types of offenses  
5 that could lead to discipline, there is actually a list of  
6 specific sections that the Commission was concerned with;  
7 that the problem of saying "any felony or misdemeanor"  
8 everything that gets reported to the local police, no  
9 matter how trivial and no matter how unrelated to gambling,  
10 it is now going to get reported to the Bureau. What is the  
11 Bureau going to do with that?

12 If you want to know what the things are, I believe as  
13 part of the licensing process, you either have the right to  
14 or automatically get the local police reports.

15 When the license comes up for renewal with respect to  
16 one of my clients, they called the city and said give us  
17 your laws. That was sent up as part of the licensee  
18 process.

19 If what you want in this section are reports you're  
20 going to do something about or act on, I think it should be  
21 defined as related to controlled gambling or the specific  
22 offenses like loansharking or drug dealing that are in the  
23 disciplinary regs. If you say it is anything, you'll get  
24 inundated with reports.

25 COMMISSIONER SHIMAZU: Well, I see both sides. Just

1 saying misdemeanor felonies is broad but I understand  
2 having to spell out every single violation of the Penal  
3 Code to make sure we've captured everything is a problem,  
4 too.

5 Maybe it is just language we need to work on and, you  
6 know, just move with the reg as it is written with the  
7 commitment we're going to somehow fix it to include some  
8 things that the Bureau is concerned about.

9 CHAIRMAN SHELTON: Go back to work on it.

10 COMMISSIONER SHIMAZU: Yes.

11 RICHARD MUNDY: Remember, also, this is just  
12 commencement of the formal rulemaking process, not the  
13 final language.

14 MARTY HORAN: The Bureau can review the disciplinary  
15 regulations and find out how all encompassing that is and  
16 see if that suggestion would help.

17 The suggestion made about the reports once a year for  
18 licensing is problematic just because it is not timely.  
19 What we're interested in is crimes are being committed or  
20 suspected of being committed and we're notified of those  
21 for crime trend reasons. They may be crimes committed at  
22 other cardrooms or tribal casinos throughout the state.  
23 The intelligence needs to be up-to-date and accurate, not  
24 just once a year.

25 CHAIRMAN SHELTON: So we'll put that as a caveat for

1 changes in the future. Okay.

2 ALAN TITUS: Commissioners, I have another comment  
3 about this particular regulation. It is really just a  
4 comment that there is one case I'm aware of that addresses  
5 whether you can have an owner -- require an owner to let  
6 you know of the violation that could result in Penal  
7 penalties against him. And the case says you cannot compel  
8 production of evidence and disregard the public against  
9 self-incrimination.

10 I don't know if that affects the way this is drafted  
11 or anything. I just want to put it on the record.

12 CHAIRMAN SHELTON: Thank you.

13 ALAN TITUS: But I think that is an issue for the  
14 future.

15 The third comment I have is really my main comment on  
16 all of the regulations today. It is an issue that been  
17 raised before. It has to do with the surveillance. And  
18 the requirement both that there be surveillance and that  
19 Bureau can come in at any time and essentially seize that  
20 surveillance without warrant, without any sort of process.  
21 And it is my belief that that is unconstitutional.

22 There are rules against search and seizure. That is  
23 the 4th Amendment. And there are state rules that grant  
24 the right to privacy. And we have customers that come in.  
25 They play. They're not doing anything wrong. And you are,

1 in these regulations, passing a requirement that the Bureau  
2 can come in and look at these tapes without any suspicion  
3 of criminal wrongdoing. You're not requiring that. You're  
4 not requiring any sort of probable cause be established.  
5 You're certainly not requiring they go to court and do it.  
6 Yet they will be able to look at these tapes, see who is  
7 playing, see who is there. That is an invasion of the  
8 right to privacy.

9 There is a case that is somewhat similar. It had to  
10 do with the medical board. They were investigating a  
11 doctor. Again, a licensed person, a doctor. And so the  
12 medical board issued subpoenas to get the records of five  
13 of the doctor's patients and issued the subpoena to a  
14 hospital. The hospital fought it. And the Court said  
15 basically -- vehemently said that the medical board was not  
16 entitled to those records because of the right to privacy  
17 of those patients.

18 I think here our customers have similar rights to  
19 privacy and our -- and are not subject to this  
20 undisciplined invasion.

21 There have been similar -- have been other cases on  
22 this. There is a case regarding Pacific Union Club in San  
23 Francisco where there was a request for a list of club  
24 members and the Court said no. Those club members have a  
25 right to privacy.

1           There is another case of -- that is also important.  
2           It was down in Garden Grove. There was a coffee shop like  
3           a Starbucks. The city passed an ordinance requiring that  
4           there be surveillance -- camera surveillance. And the City  
5           also said that it had the right to come and inspect the  
6           cameras. So the Starbucks challenged this. The Court  
7           said, no, that is fine. But it also in the opinion based  
8           that on the fact that everyone interpreted the language to  
9           limit the City's right to inspect the camera itself, not to  
10          inspect the videotape and made very clear in order to  
11          inspect the videotape they would have to get a search  
12          warrant to do that.

13           There has been a very recent case in New York state by  
14          the Supreme Court. It is not called the Supreme Court  
15          there but I'll call it that. It just came out last week.  
16          That had to do with putting a tracking device on a car.  
17          The car was parked on a public street. Police put a  
18          tracking device on it and tracked it for 65 days. The  
19          Court said that is an illegal search and violates rights of  
20          privacy. The Court was very vehement about the misconduct  
21          here.

22           Here these cardrooms operate lawfully. There is  
23          nothing for the most part that goes on there that does not  
24          go on anywhere else in any other type of business. There  
25          is no reason for cardrooms to be subject to this kind of

1 police state mentality and Artichoke Joe's is very opposed  
2 to this.

3 Thank you very much.

4 CHAIRMAN SHELTON: Any further public input?

5 MARTY HORAN: The Bureau has comment to respond to  
6 Mr. Titus' comments.

7 CHAIRMAN SHELTON: You may, if you wish.

8 MARTY HORAN: Okay. The Bureau firmly believes under  
9 the Gambling Control Act, Section 19827, it expressly  
10 states we have access to those records and documents,  
11 including those videos.

12 The regulations, I think, further clarify that we have  
13 access to those. The state of the Nevada has similar laws  
14 and regulations in place that allow them do that.

15 In addition, the regulation also covers language on  
16 Page 12 at the bottom: Notice to all patrons. That would  
17 indicate all public areas, entrances and exits of this  
18 establishment are subject to surveillance and video  
19 recording. You know, basically, they don't have a right to  
20 privacy in this public venue, when playing and gambling at  
21 games.

22 If it is being video recorded and we have an  
23 investigation or purpose or reason to ask for records or  
24 documents or videos, we should be able to have access to  
25 them.

1           CHAIRMAN SHELTON: What changes the rule? Do we need  
2 to clarify for the motion?

3           RICHARD MUNDY: In this case on Page 13 of your  
4 comments, staff has responded to Mr. Titus' comment in the  
5 past. It is Item 24.

6           CHAIRMAN SHELTON: I don't want to go through the  
7 responses.

8           What changes did we make? Did we make any changes?

9           RICHARD MUNDY: No. This particular comment that was  
10 made we have rejected it in the past based on the same  
11 reasons that Bureau just cited.

12          CHAIRMAN SHELTON: Okay. Let's move on. Did we make  
13 any changes we need to make notes on to adopt this  
14 regulation, except the caveat we'll sit -- we'll have a  
15 committee to sit down and work on some wording of the  
16 section. And I got that right?

17          MARTY HORAN: Correct.

18          RICHARD MUNDY: Correct.

19          MARTY HORAN: The Bureau has a couple comments.

20          CHAIRMAN SHELTON: Industry is going to bring forward  
21 some expert opinion. You're going to bring forward some.

22          I move to approve staff's recommendation. Starting to  
23 sound like a --

24          COMMISSIONER SHIMAZU: The Bureau had additional  
25 comments.

1           MARTY HORAN: I can be brief. I hope. As we  
2 discussed earlier, Section 12395 on Page 7, and it is  
3 subsection (A)(3)(a). That is the draft language we'll go  
4 back and try and construct. We think the language should  
5 be also applied to 12395(A)(3)(b), the section right below.

6           Okay. The next comment is on Page 12, Section 12396,  
7 subsection(A)(d)(7), refers to three-day retention.

8           RICHARD MUNDY: Line 10, Page 12.

9           COMMISSIONER SHIMAZU: Glad you're bringing it up. I  
10 know Mr. Wong was talking about days, weeks, months. I  
11 thought it's three days, I think.

12          MARTY HORAN: The Bureau's recommendation is change it  
13 to a minimum of seven days.

14          The next comment is on Page 13. I apologize. Going  
15 back and forth with the draft of today and the prior draft.  
16 Section 12396 subsection (D).

17          UNIDENTIFIED SPEAKER: What page?

18          MARTY HORAN: 12396 subsection (D). That, again, the  
19 Bureau -- and we had written comments to the effect the  
20 Bureau believes Tier 4 should be included with Tier 5 and  
21 the below listed conditions.

22          Next comment is on Page 14, 12396(D)(4). And let's  
23 see, line 6. We recommend language being added where it  
24 says: No gambling activity, comma -- we want it to say  
25 "drop, or count process may take place when a surveillance

1 employee is not present and on duty in the gambling  
2 establishment."

3 And the last comment I have is on Page 11. This is  
4 12396(A)(1). It is line 11. Says: System may have  
5 remote, off-site access capabilities. We would like to  
6 have some language in there to have off-site access  
7 capabilities that the Bureau have access to that. This is  
8 similar to systems that are in place in San Jose  
9 jurisdiction with the cardrooms there, as well as Nevada.

10 CHAIRMAN SHELTON: Say it --

11 MARTY HORAN: If they have remote access viewing of  
12 the remote surveillance system, for instance, the owner can  
13 tap into that from their home or residence through computer  
14 or internet that the Bureau would also have access to be  
15 able to monitor that.

16 That is it for now for Bureau comments.

17 CHAIRMAN SHELTON: Commissioners, do you have any  
18 questions?

19 COMMISSIONER SHIMAZU: I think there are issues we  
20 have dealt with some of them before. I think we can save  
21 the discussion until later.

22 DAVID FRIED: Agreed. I -- we oppose the  
23 recommendations either because we actually thought about  
24 them and opposed them or we'd like to get outside comments  
25 from surveillance people on a couple of the issues.

1 CHAIRMAN SHELTON: They're not dead. We're going to  
2 look at them again.

3 COMMISSIONER SHIMAZU: There are some issues  
4 Commission staff already looked at and didn't agree with  
5 the Bureau but we can look at those.

6 CHAIRMAN SHELTON: I have a motion on the floor.

7 COMMISSIONER SHIMAZU: Second. Did you make the  
8 motion?

9 CHAIRMAN SHELTON: I made the motion.

10 COMMISSIONER SHIMAZU: Then I second.

11 CHAIRMAN SHELTON: Further discussion?

12 Call for the vote.

13 JOY CALKIN: Commissioner Shimazu?

14 COMMISSIONER SHIMAZU: Aye.

15 JOY CALKIN: Commissioner Vuksich?

16 COMMISSIONER VUKSICH: Aye.

17 JOY CALKIN: Chairman Shelton?

18 CHAIRMAN SHELTON: Aye.

19 JOY CALKIN: Motion carried.

20 CHAIRMAN SHELTON: Thank you for coming today. Not  
21 even calling for a vote. We're adjourned.

22 (End of proceedings.)  
23  
24  
25

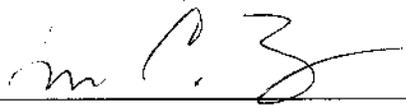
1 CERTIFICATE  
2 OF  
3 CERTIFIED SHORTHAND REPORTER  
4

5 The undersigned certified shorthand reporter of the  
6 state of California does hereby certify:

7 That the foregoing Commission meeting was taken before  
8 me at the time and place therein set forth;

9 That the testimony of the public and all objections  
10 made at the time of the hearing were recorded  
11 stenographically by me and thereafter transcribed, said  
12 transcript being a true copy of my shorthand notes thereof.

13 In witness whereof, I have subscribed my name this  
14 date 1/15/74.

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18 Desiree C. Tawney

19 Certificate Number 12414  
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