

California Gambling Control Commission
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MINUTES OF OCTOBER 5, 2009
REGULATION HEARING

OPEN SESSION

1. Call to Order and Pledge of Allegiance.

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

2. Roll Call of Commissioners.

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

3. Tribal-State Gaming Compact Gaming Device License Draw (1999 Tribal-State Gaming Compact section 4.3.2.2.)

Deputy Director Richard Ross indicated the Commission was ordered to complete the license draw pursuant to a federal court decision entered on August 19, 2009, in Cachil Dehe Band of Wintun Indians of the Colusa Indian Community v. State of California, under conditions specified in the order and to occur within 45 days of the filing of the order.

Mr. Ross further stated: that the state has appealed the order and the earlier judgment of April 21, 2009, requesting this draw be stayed pending the appeal of the underlying decision. On 10/1/09, the federal court of appeals denied the stay request; therefore, the draw has gone forward. The appeal, however, was set for hearing in February 2010. As a result, the license certificates approved today contain a caution statement relating to the outcome of the February 2010 hearing. The results were based on the announcement of a license draw that was made on August 27, 2009 to all Tribes eligible to draw licenses under the 1999 Tribal State Compact. The allocation was calculated according to the court's formula identified in its preliminary judgment dated April 21, 2009. The staff recommended approval of the issuance of 4,397 gaming device licenses; that several Tribes requested addressing the Commission regarding their license applications; and that Tribes presenting the prepayment fees could received their license certificates today

George Forman, counsel for Cachil Dehe Band of Wintun Indians of the Colusa Indian Reservation, provided background of the lawsuit and requested that the Commission dismiss its appeal, which is set for hearing in February 2010.

Scott Crowell, representing the Rincon Band of San Luiseno Mission Indians agreed with Mr. Forman and indicated that the Rincon Council might withdraw its claim, still pending in the Southern District regarding the number of machines available in the pool, if the Commission dropped its appeal.

Ted Pata, Chairman of the Tribal Gaming Agency for the Paskenta Band of Nomlaki Indians requested that the Commission reduce the Paskenta application for gaming device licenses from 226 to 27.

Sherry Rodriguez of the La Jolla Gaming Commission requested that the Commission withdraw the application for the 650 gaming device licenses for the La Jolla Band of Luiseno Mission Indians.

Steve Solomon, representing the San Pasqual band of Diegueno Mission Indians, requested clarification. He wanted to know if the tribes made their payment today, could they use those licensed devices today. Chairman Shelton indicated that yes they could.

Upon motion of Chairman Shelton, seconded by Commissioner Vuksich 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 including the requested reduction in licenses to 27 for the Paskenta Band of Nomlaki Indians and the withdrawal of the application from the La Jolla Band of Luiseno Mission Indians.

4. Consideration of Final Adoption of Regulations Establishing Minimum Internal Control Standards (MICS) for Gambling Establishments and Approval for Filing with the Office of Administrative Law (Amending Title 4, California Code of Regulations, Section 12388.)

- Extension of Credit.
- Check Cashing.

Rich Mundy, Research Program Specialist I, indicated staff recommended that the Commission adopt and approve for filing with the Office of Administrative Law (OAL), the proposed amendments to Title 4, CCR, Section 12388 and authorize staff to make any necessary non-substantive changes that may be required by OAL during its review process. Mr. Mundy reviewed the history of the regulation package and the most recent comments provided by David Fried, representing the California Gaming Association and Charles Bates, representing Bay 101.

Reverend James Butler of the California Coalition Against Gambling Expansion expressed his concerns regarding gambling establishments offering credit and allowing patrons to use checks for their transactions.

David Fried of the Golden State Gaming Association requested clarification on taking a replacement check for an installment payment that had bounced. Mr. Fried also wanted to make clear that the Golden State Gaming Association disagrees with the notion that poker is a banking game and they do not want that written into the regulation record.

Rich Mundy, Research Program Specialist I indicated that in the Final Text of Proposed Regulations, Section 12388(f)(2) states: "A subsequent personal check used by a patron to replace a previous personal check may not be replaced with another personal check at any time after receipt by the licensee."

Commissioner Vuksich opined that the acceptance of a subsequent personal check to replace a bounced installment payment check seemed like an extension of credit. The Chairman, the Commissioners, and Marty Horan of the Bureau of Gambling Control concurred that taking a personal check to replace a bounced installment payment check should not be allowed.

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich 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.

A transcript of the proceedings is incorporated into these minutes as Attachment A

ADJOURNMENT

Upon motion of Commissioner Shimazu, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Shimazu and Vuksich voting yes, the meeting was adjourned at 10:48 a.m.