

California Gambling Control Commission

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**MINUTES OF JANUARY 21, 2010
REGULATION HEARING**

OPEN SESSION

1. Call to Order and Pledge of Allegiance.

Chairman Dean Shelton called the meeting to order at 10:01 a.m., and asked everyone to stand for the Pledge of Allegiance.

2. A. Roll Call of Commissioners.

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

3. Commission Review and Consideration of, and Approval for Commencement of the Formal APA Rulemaking Process for, Regulations Concerning the Reactivation of Expired State Gambling Licenses (Amend Title 4, CCR, Sections 12002 and 12345; Adopt Title 4, CCR Sections 12348 and 12349)

- Definitions of Surrender (§ 12002)
- Late Submission of Renewal Applications; Abandonment of License (§ 12345)
- State Gambling License; Surrender, Abandonment and Reactivation; Future (§ 12348) and Past (§ 12349)

Regulations Analyst Shannon George indicated the staff recommended the Commission approve initiation of the formal rulemaking process for the proposed gambling establishment regulations relating to reactivating an expired gambling license and the surrender and abandonment of state gambling licenses. Ms. George further indicated that alternately if the Commission does not wish to approve initiation of the formal rulemaking process for the portion of the regulation proposal regarding closed cardrooms, staff recommends the Commission approve initiation of the rulemaking process for the portion that addresses future surrenders, abandonments, and failures to renew in a timely manner which is sections 12002, 12345, and 12348.

The Commission heard comments from Paul Justi, representing the Outpost; Rodney Blonien, representing Hemphills and Busted Flush; Ronald Werner, representing Bay 101; Alan Titus, representing Artichoke Joe's; David Fried, representing Oaks Card Club; Angela Harris, representing Angie's; Andy Schneiderman, representing Commerce Casino; and Robert Tabor.

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's first recommendation.

A complete transcript of the proceeding is incorporated into these minutes as Attachment A.

ADJOURNMENT

Chairman Shelton adjourned the meeting at 11:25 a.m.

STATE OF CALIFORNIA
GAMBLING CONTROL COMMISSION

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CERTIFIED
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COMMISSION MEETING

California Gambling Control Commission
2399 Gateway Oaks Drive
Suite 100
Sacramento, California 95833

JANUARY 21, 2010
10:00 A.M.

Reported by: PHYLLIS MANK, CSR No. 5093



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APPEARANCES

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DEAN SHELTON, Chairman
STEPHANIE SHIMAZU, Commissioner
ALEXANDRA VUKSICH, Commissioner
TERRI A. CIAU, Executive Director
JOE DHILLON, Chief Counsel, Legal Division
JOY CALKIN, Staff Services Analyst
SHANNON GEORGE, Staff Services Analyst

PUBLIC SPEAKERS:

PAUL JUSTI
ROD BLONIEN
ROBERT TABOR
RONALD WERNER
ALAN TITUS
DAVID FRIED
ANGELA HARRIS
ANDY SCHNEIDERMAN

1 BE IT REMEMBERED that, on Thursday, the 21st
2 day of January, 2010, commencing at the hour of 10:00
3 a.m., thereof, at the California Gambling Control
4 Commission, 2399 Gateway Oaks Drive, Suite 100,
5 Sacramento, California, before me, PHYLLIS MANK, a
6 Certified Shorthand Reporter in and for the County of
7 Sacramento, State of California, the following
8 proceedings took place:

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

11
12 CHAIRMAN SHELTON: I'd ask everybody to stand
13 for the pledge of allegiance.

14 (Pledge of Allegiance.)

15 CHAIRMAN SHELTON: Roll call, please.

16 JOY CALKIN: Chairman Shelton?

17 CHAIRMAN SHELTON: Here.

18 JOY CALKIN: Commissioner Shimazu?

19 COMMISSIONER SHIMAZU: Here.

20 JOY CALKIN: Commissioner Vuksich?

21 COMMISSIONER VUKSICH: Here.

22 JOY CALKIN: Thank you.

23 CHAIRMAN SHELTON: Our agenda today is quite
24 confusing. It was confusing to me, so let me try to
25 enlighten you to what we're going to do here. We're

1 going to do Item No. 3, Commission. Item No. 4 is
2 actually a workshop and should have been listed as a
3 workshop for the Bureau Commission employees and the
4 industry.

5 So with having said that, depending what time
6 we finish Item No. 3, the Commissioners and I will exit
7 and turn it over to you for your workshop. That
8 depends. That could be this morning or that could be at
9 1:30 this afternoon, after lunch.

10 So I apologize if you came here misinformed
11 with what was happening. Having said that, we're going
12 to move right into Item No. 3. Staff.

13 SHANNON GEORGE: Good morning Mr. Chairman and
14 Commissioners. For the record, my name is Shannon
15 George, G-e-o-r-g-e. I'm an analyst in the Commission's
16 Regulatory Actions Unit.

17 Before you this morning is the latest draft of
18 the regulation to address the reactivation of the
19 expired licenses and the surrender and abandonment of
20 state gambling licenses. Packets with a copy of the
21 draft text, an overview of the proposed regulation and
22 the comment letters received are also on the back
23 table.

24 Staff recommends that you approve initiation of
25 the formal rule-making process for proposed gambling

1 establishment regulations relating to reactivating an
2 expired gambling license and the surrender and
3 abandonment of state gambling licenses.

4 Alternately, if the Commission does not wish to
5 approve initiation of the formal rule-making process for
6 the portion regarding closed cardrooms, staff recommends
7 the Commission approve initiation of the rule-making
8 process for the portion that addresses future
9 surrenders, abandonments and failures to renew in a
10 timely manner, and that's Sections 12002, 12345 and
11 12348.

12 This draft is substantively similar to the
13 draft considered at the October 29th, 2009 regulation
14 workshop. Briefly, the key changes to the text are as
15 follows.

16 No. 1, Section 12345(c), page three, lines 12
17 through 18. If the application for the renewal of a
18 state gambling license is not submitted at least 120
19 days in advance of the expiration of the license, and
20 consequently the Bureau and the Commission cannot
21 complete their review and approval of the application
22 before the license expires, the gambling enterprise must
23 cease all gambling operations on the expiration date of
24 the license and cannot resume operations until the
25 Commission approves the renewal application.

1 I would add that staff recommends including
2 additional clarifying language in this section to state
3 that, if an application is received prior to the
4 statutory deadline of 120 days before the expiration,
5 the Commission may issue an extension of the license if
6 the final report is not completed, as is current
7 practice.

8 No. 2, Section 12345(d), page three, lines 19
9 through 22. If a complete renewal application including
10 all required fees has not been submitted to the
11 Commission within ten days after the expiration of the
12 current license, the license shall be deemed abandoned.

13 No. 3, Section 12349(a), page four, lines 17
14 through 28. Regarding licenses surrendered or expired
15 prior to the effective date of this regulation, the
16 person interested in reactivating his or her license
17 must inform the Commission of that intent within 30 days
18 of the effective date of this regulation.

19 No. 4, Section 12349(b), page four, lines 29
20 and 30, and page five, lines 1 through 21. An applicant
21 for a reactivated license must also submit an
22 explanation of the circumstances surrounding the prior
23 surrender or abandonment of the license in addition to
24 the other documentation required, which has been
25 included in every version of this draft.

1 Now, Mr. Chairman, does the Commission have any
2 questions for me, or would you prefer to open up for
3 discussion?

4 CHAIRMAN SHELTON: Commissioners, it would be
5 my desires to open it up for discussion unless you have
6 questions that you'd like to address immediately.

7 COMMISSIONER SHIMAZU: I just wanted to ask
8 Miss George one thing. Going back to what I just
9 listened to, but 1, 2, 3, 4, 5 and (c), so we would
10 maybe add some language because right now they would
11 have to cease operating if the -- if it wasn't done, the
12 expirational license, then we would have the option of
13 extending it which would allow them to continue
14 operating?

15 SHANNON GEORGE: Well, if they do not submit
16 their application by 120 days and we cannot complete the
17 required review and approval, then they would have to
18 stop operating. But if they do submit it 120 days in
19 advance and we still cannot complete the required, then
20 you can issue an extension rather than something --

21 COMMISSIONER SHIMAZU: Thank you.

22 CHAIRMAN SHELTON: Open up for public comment.
23 Hearing none --

24 MR. JUSTI: There was a sign-up sheet. I don't
25 know if the Commission's working off of the sign-up

1 sheet.

2 CHAIRMAN SHELTON: Did you have a sign-up
3 sheet? I'm not aware. That's just for signing in for
4 information we distributed so first come-first serve.

5 PAUL JUSTI: Good morning, Chairman Shelton,
6 Commission Members. My name is Paul Justi, and I
7 represent John Sherock and the Outpost in San Ramon down
8 in the Bay Area.

9 CHAIRMAN SHELTON: Mr. Justi, for the record,
10 would you please spell your last name. And everybody
11 who comes after Mr. Justi, would you please do that.

12 PAUL JUSTI: Certainly. Last named is spelled
13 J-u-s-t-i. I just had a couple of comments.

14 First of all, I do believe that this proposed
15 regulation to allow the reinstatement and reactivation
16 of surrendered, abandoned or expired licenses is
17 certainly a good idea, particularly in these financial
18 times when the state is obviously looking for various
19 sources of revenue.

20 The cardrooms are, obviously, a very positive
21 and good source of revenue, particularly when you
22 consider some of the proposals that are floating around
23 of legalizing marijuana in order to tax it as a way to
24 close budget gaps, the circumstances under which a
25 federal judge has ordered 40,000 prisoners released from

1 our prisons because the state can't afford the
2 appropriate level of health care for prisoners.

3 I think an opportunity for cardrooms to be
4 reopened that had previously been closed and to provide
5 substantial revenues that can be provided through
6 cardroom operations is certainly a very desirable and
7 better alternative than some of the other ones that
8 we're hearing about.

9 With respect to the regulations themselves, in
10 Section 12349(a)(1), it's referring to the applicant to
11 reinstate the actual license and seems to lock the
12 Commission into a particular applicant independent of
13 the historical and traditional local control that has
14 been exercised by the local municipalities of
15 determining who is going to be the applicant and who is
16 going to be allowed to operate the cardroom.

17 And the reason I point this out, I think a good
18 example of a potential problem with this language and
19 divesting the local municipality, local jurisdiction of
20 that control has to do with my particular client here.

21 Chairman Shelton, I think you're probably the
22 only one who's been around long enough for the history
23 of the Outpost and what happened with it. But it had
24 previously been owned or -- previously been owned for
25 several decades by Mr. Sherock, my client, and then

1 there was a purchase and sale contract. The would-be
2 owner of that -- or the would-be purchaser of the
3 business never performed on the contract, had an
4 application for a license pending on these trigger dates
5 but was found to have violated numerous regulatory
6 requirements, defaulted on the purchase and sale
7 contract so that the sale was never consummated and
8 eventually filed for bankruptcy and then there was a
9 whole history in the bankruptcy proceeding.

10 During the course of that, he failed to pay his
11 local license fees which resulted in the city revoking
12 his licensing and, as a result, the state then had
13 canceled his state license as well.

14 Under this language, there's an argument that
15 it's not the owner of the business of the cardroom who's
16 operated for several years who now has it back and is
17 operating it as a sport bar/restaurant but only this
18 other person who would be the person to be applying for
19 the license. Now, I note that -- or the reinstatement
20 of the license.

21 I note that Section 12349(c)(2) does call for
22 the circumstances under which the previous license was
23 surrendered, abandoned or allowed to expire and staff
24 had, I believe, recommended some language in there about
25 providing an explanation by the applicant.

1 The question arises, well, what happens if the
2 Commission hears that explanation as may apply in these
3 particular circumstances and decides, no, we're not
4 going to reinstate that license.

5 I believe that the language of the regulation
6 now locks the Commission into denying that application
7 for the license even though the City of San Ramon, in
8 this instance, wishes to have a cardroom and, in fact,
9 has addressed correspondence to the Commission that it
10 should be the current and historic owner of that
11 cardroom in their view and that's who they are prepared
12 to consider and, in all likelihood, issue the license
13 and for who, I might also add, had operated that
14 cardroom for over 20 years without any problems or
15 regulatory issues.

16 So I think that -- what I would suggest is that
17 the determination of the applicant and the licensure be
18 vested as it historically has been in the municipality,
19 and once they determine who is going to be the
20 reinstated licensee of the particular cardroom, that
21 then the Commission would be involved in the suitability
22 rather than the Commission being the one to determine
23 who's going to actually have the license, and if it's
24 not one specific person, then there won't be a license
25 issue. I don't know that there's flexibility in this

1 for there to be -- for the locality to determine who
2 they want to be the licensed operator in their local
3 jurisdiction.

4 Those are my only comments about this. Again,
5 I do think it's a very good idea and I would only urge
6 that the Commission vest that decision-making authority
7 primarily in the local jurisdiction.

8 If any of the Commissioners have any
9 questions --

10 COMMISSIONER SHIMAZU: I have a quick question.
11 Did you say your client is currently operating? Because
12 I know these are for closed cardrooms, but --

13 MR. JUSTI: Well, he's operating it as a sports
14 bar and restaurant.

15 COMMISSIONER SHIMAZU: That's not the cardroom?

16 MR. JUSTI: Correct. Correct. We'd certainly
17 be interested in doing that. Because of the unusual
18 circumstances and the moratorium on new cardroom
19 licenses, we've been sort of looking for ways to try and
20 reinstate the cardroom license and allow Mr. Sherock --
21 during the course of the bankruptcy, we had filed a
22 motion from relief from stay to take the premises back
23 and the trustee had abandoned all the personal property,
24 and there was a rather contentious issue about whether a
25 gaming license would be bought or sold, but it's an

1 expired license in any event, it's provisional, and I
2 believe that it actually -- his application had been
3 formally denied, but the denial was suspended for two
4 years which put it into even further limbo.

5 And all we know is Mr. Sherock now owns his
6 cardroom back -- or owns the building, the property, is
7 opening it -- is running it as a sports bar and
8 restaurant and wants to bring gaming back to San Ramon.

9 COMMISSIONER SHIMAZU: I just want to point out
10 that I know that this current draft limits it to the
11 last license owner, but I don't want to think -- people
12 to think that we strip local control because we do have
13 provisions in there to insure that it's okay with the
14 ordinance, that the local government agrees and the
15 chief of police has a sign-off, too. So I don't want
16 people to think we're stripping local control. It's
17 limiting it to a certain group of folks for them to take
18 a look at.

19 MR. JUSTI: Okay. And my -- well, my concern
20 is that -- although the local jurisdictions have to
21 approve the applicant, my question is whether the
22 regulation as presently drafted allows a local
23 government to consider more than one applicant and
24 that's my concern.

25 Maybe I'm simply being overcautious in light of

1 the history of this particular situation, but I wouldn't
2 like it to be one and only one person. The locals say
3 no, that's it, end of story and that cardroom will never
4 be opened again. I think at least in these
5 circumstances there is certainly another claimant to the
6 throne, if you will, and it's the person who owns the
7 actual business and had previously run it.

8 COMMISSIONER SHIMAZU: Thank you.

9 CHAIRMAN SHELTON: Any questions?

10 COMMISSIONER VUKSICH: No.

11 MR. JUSTI: Thank you, Chairman. Thank you,
12 Commission.

13 MR. BLONIEN: Good morning, Mr. Chairman,
14 members, staff. Rod Blonien on behalf of Hemphill's in
15 Napa and also on behalf of the Busted Flush in Nipomo.
16 Your proposed regulation relating to clubs that have
17 been closed and might be reacted is limited to the
18 person who last held the license. It does not take into
19 consideration what should happen if the person who held
20 the license is deceased, and that's the situation in
21 both cases that I'll talk to you about this morning.

22 First of all, in terms of Hemphill's,
23 Hemphill's was on your agenda for the 14th and was taken
24 off and earlier we had been told it would be placed on
25 the agenda in December and was taken off.

1 Here's a situation where the previous licensee,
2 who is the father of the applicant -- Tim Long is
3 currently the applicant -- his father passed away in
4 late '05. In '06, the son, the heir, Tim Long, filed
5 his application to get the gambling license. And then a
6 little bit later in '07 the possibility arose that
7 someone was interested in buying the club, so there was
8 a contract entered into between Mr. Long and BVK
9 Gaming. So we asked that Mr. Long's application be held
10 in abeyance.

11 During this time, the Commission continued to
12 license Hemphill's through the estate. That was until
13 November 29th of '07. And on November -- well, in the
14 meantime, we were informed that we'd be better off if
15 Mr. Long did not sell at this point, that he get the
16 license in his name and then turn around and convey to
17 BVK or someone else. And so we asked the Bureau to hold
18 the application of Tim Long in abeyance.

19 Then on November 29th this Commission voted to
20 allow Hemphill's license to expire. During the
21 Commission meeting, former chief counsel, Cy Rickards,
22 indicated that allowing the license to expire would not
23 prevent the Commission from approving the sale to BVK or
24 any new buyer as discussed below in the minutes of that
25 meeting.

1 And so we went forward and tried to have the
2 contract of sale approved to BVK. Staff informed us
3 that we'd be better off in having Mr. Long get the
4 license and then convey it if he was going to convey
5 it.

6 Now, through the passage of time, we are
7 informed that BVK Gaming is no longer interested in
8 purchasing the casino, and Mr. long wants to go ahead
9 and get the license and operate the facility himself.

10 We believe that, number one, your proposed
11 regulation needs to be amended to take into
12 consideration situations like this. Let's say that
13 tomorrow Mr. X who owns a card club that's doing very
14 well and has many employees decides that he is
15 temporarily going to close the cardroom for one reason
16 or another because he is ill and -- but the idea is he's
17 going to reopen it as some point and then becomes
18 deceased and now his heir or heirs want to reopen the
19 club, your regulations would not allow for that.

20 And I don't think it's your intent to, in
21 essence, dis-inherit these people. I can tell you, Mr.
22 Tim Long, the thing that he received from his father's
23 estate was the card club, and it would be a shame if, in
24 spite of Mr. Rickard's statements here in one of your
25 meetings that this license could expire and it wouldn't

1 be to the prejudice of the license holder, that now
2 somehow things are changing and Mr. Long is going to be,
3 in essence, dis-inherited and not allowed to get the
4 license.

5 And so that application has been pending since
6 March 17th, St. Patty's Day, in '06 and it's been on
7 your agenda at least once and almost on the agenda a
8 second time. And so we would hope that item could go
9 back on your agenda and allow Mr. Long to get his
10 license.

11 Now, we don't have a location in Napa, and he
12 asked me a year ago, should I get a location and start
13 paying rent and I said, no, hold off, and he has been
14 talking to the City of Napa and we can find a location
15 where we can open and have a successful business. So
16 that's one situation.

17 And the second situation is the Busted Flat in
18 Nipomo --

19 CHAIRMAN SHELTON: Excuse me. What?

20 MR. BLONIEN: Busted Flush -- excuse me, I said
21 Busted Flat -- in Nipomo and you have heard from the
22 people who are trying to open that club, and the
23 situation here is the -- Mr. Russ Shore has spoken to
24 you on a couple of occasions, and a number of years ago
25 he called and -- has a background in gaming and realized

1 there was a license in Nipomo, that the previous owner
2 had passed, what do we need to do to open and staff told
3 him.

4 So he went to the county and got the necessary
5 license and approval and conditional use permit from the
6 county, found a location, began to rent the location,
7 came to file the application and was told we're not
8 accepting the application because this license has
9 been -- has lapsed, it's been abandoned and you're not
10 able to open the club. And Mr. Shore says, but I have a
11 contract of sale from the heir of the previous licensee.
12 And so he has been before this Commission a number of
13 times talking about his situation. It's a small club.
14 I believe he's interested in opening four tables. It's
15 been a significant hardship on he and his family
16 continuing to pay the rent on the premises that isn't
17 able to operate.

18 And, again, I think it's an extraordinary
19 situation to a certain extent. He -- both he and Tim
20 Long got caught in this revolving door of things
21 changing from the time they first talked to the
22 Commission. And in the case of Mr. Long, from the time
23 he filed his application to where we are today.

24 You know, I don't think it's anyone's intent to
25 impose that type of hardship on people. I think both

1 cases cry out for some equitable relief. I think that,
2 again, the regulations need to take into consideration
3 situations like this where the previous applicant is
4 deceased, and perhaps where the -- if you want to draw
5 that even narrower in terms of what has happened in the
6 past, where the previous applicant is deceased and the
7 successor has applied for a license prior to January 1,
8 2010 or something because I think there are probably
9 only two people that would fall into that category. So
10 those are my comments relating to expired licenses.

11 Now I'd like to address the proposed regulation
12 that relates to someone applying late to have their
13 license extended, license renewed. I understand what
14 the Commission goes through and I understand what the
15 Bureau goes through. You're supposed to file 120 days
16 early, and there are people who don't. And, as a
17 result, the Bureau gets a package and it's 60 days or
18 it's 45 days before the license needs to be renewed, and
19 so they're running around trying to do their due
20 diligence and get it to the Commission, and we
21 understand that you need to get it more than the night
22 before to review it and determine whether or not this
23 license should be renewed.

24 You know, I recall a situation years ago before
25 the Gambling Control Act where we had the Gaming

1 Registration Program where a registered letter was sent
2 to a card club owner out in the Mojave Desert -- the
3 town escapes my memory at this point -- and it went to a
4 P.O. box. And so one day I get a call from the folks
5 running the Gaming Registration Program -- Winterhaven,
6 California -- and I'm told that, gee, the license for
7 the New Frontier is going to expire in ten days and we
8 haven't gotten the renewal application and we sent a
9 registered letter and no one has responded.

10 So we went huckle de buck and tried to get the
11 information to them and we couldn't find out what
12 happened to that letter because the owner of the club
13 did not get the letter. To make a long story short,
14 what happened is the person at the post office put it in
15 the P.O. box next to the one for the New Frontier and
16 that box happened to be a box that was not in use. And
17 so the postmaster found it, he got an affidavit, he sent
18 it up and the people in the Gaming Registration Program
19 were able to move mountains to get the thing done in
20 time so that the business could continue.

21 I'm wondering if it would be possible to say
22 that, if someone files, let's say, less than 90 days or
23 at some point, that the renewal fee is increased, that
24 they have to pay a penalty filing late. If you file for
25 your DMV license late, you have to pay extra. If you

1 file for your state bar license late, you have to pay
2 extra. There are many situation in state government
3 regulated professions where the required license, if you
4 don't submit it in time, you have to pay an extra fee.
5 So I'm wondering if that could be built into the reg.
6 That would certainly incentivize people to get it in
7 within 120 days or whatever the parameters would be that
8 you would set.

9 And, you know, I know that there are situations
10 that are going to arise, and I can't begin to tell you
11 or foresee what the problems might be, that people are
12 going to file late and everyone's going to try to have
13 to move heaven and earth to keep the club open because
14 you don't want people unemployed, you don't want the
15 city to lose the revenues, et cetera, but you should
16 have the ability to impose some sort of late filing fee
17 in those cases.

18 Thank you.

19 CHAIRMAN SHELTON: Do you think there's any
20 responsibility on the club owner to recognize when the
21 license expires?

22 MR. BLONIEN: Absolutely I think there is. And
23 at times it's confusing because someone will have a
24 license that's going to expire, let's say, January 1,
25 and so they'll come to the meeting in December and their

1 license will be extended until, let's say, March 31, and
2 then they come to the March 31 meeting and for one
3 reason or another it's continued to another period of
4 time. And so, you know, sometimes the date gets lost in
5 terms of when they are supposed to file for the next
6 time for renewal of their license. Now that we're going
7 to two-year licensing periods, I think people will have
8 a better understanding of when their license expires.

9 But, Mr. Chairman, you're absolutely correct.
10 I mean, that is the ticket that allows them to stay in
11 business and should be circled in big red letters on
12 their calendar in terms of this is when I need to submit
13 my application.

14 CHAIRMAN SHELTON: I'm open to the direction
15 you're going. However, this Commission has been so
16 criticized for having items on the agenda on numerous
17 times -- I think probably by you, too -- it's been out
18 there and we bring them back, we bring them back because
19 we've been so lenient and tried to work with the
20 industry and keep them in operation and not lose jobs.

21 So I look at this section as really being for
22 the Bureau to get their backgrounds done and have time
23 to do this and get it to the Commission for
24 consideration. So the criticism doesn't bother me.
25 We're pretty well used to criticism. But there's a way

1 to do this and get the information in.

2 The money doesn't interest me. The timely
3 fashion of people completing their paperwork and getting
4 it in does. If fines would cause that to happen, I
5 guess we could consider it.

6 MR. BLONIEN: And perhaps staff could advise
7 me. Jim, do we have the ability to impose fines in
8 regulation or do you need legislation to authorize
9 fines?

10 UNIDENTIFIED SPEAKER: That's not something
11 that I've looked into.

12 MR. BLONIEN: Well, I would be very --

13 CHAIRMAN SHELTON: That would be fine
14 conscience that way. Look at it this way. Maybe we
15 could raise some money for the governor.

16 MR. BLONIEN: I would be very happy to put some
17 provision in the bill that I'm certain to have that
18 would allow you to impose fines in those situations and
19 that would be sort of an interim step to be taken before
20 someone has to close their place.

21 Thank you very much.

22 CHAIRMAN SHELTON: Do you have any questions?

23 MR. TABOR: Mr. Chairman, Commissioners, good
24 morning. Robert Tabor, T-a-b-o-r. A few comments on
25 the proposed regulation.

1 It's my view that the regulation and its rule
2 only providing for a prior licensee to obtain the -- or
3 reactivate the license, as the regulation is
4 characterizing it, is fundamentally in conflict with the
5 history of gaming regulation in California. Well before
6 the Gambling Control Act, the only authority responsible
7 for issuing a license, in fact, the entities that owned
8 or controlled the licenses, were the local
9 jurisdictions.

10 The Gambling Control Act came in and gave the
11 state, in essence, oversight over that regulatory
12 process to insure that the state agreed with the locals
13 that the applicant for the license was, indeed, suitable
14 for gaming in California.

15 And then over the last few years the Gambling
16 Control Act under its regulations has become fleshed out
17 and now the state to a great extent has taken the lead
18 role in licensing and regulation of the applicants.
19 However, it has remained with the local jurisdictions
20 throughout this process to determine whom the applicant
21 will be for the license, and that goes back to when
22 California was founded. That's almost 200 years now --
23 150 years of history giving the locals the right to
24 determine which applicant they're going to approve, and
25 now that's been supplemented by the state -- giving the

1 state the right to determine or agree or not agree with
2 that applicant.

3 So it's my view that 19963 is silent as to who
4 the prior -- who the applicant is or shall be for -- to
5 be licensed by the locals and the state for a cardroom
6 license under one of these closed cardrooms. The only
7 requirement is that an establishment was licensed on or
8 before January 1 of 2000. I don't think 19963 changes
9 the right of the locals to determine who that applicant
10 is going to be.

11 The current regulation provides the locals with
12 only one choice; and if they don't like that choice or
13 if that prior license holder lost their license because
14 of criminal activity or some such, then that local
15 jurisdiction has completely lost and the state by -- via
16 this regulation has taken away from that jurisdiction,
17 in essence, the property right that that jurisdiction
18 owns through its local ordinances to issue that
19 license. I think that's a violation of the locals'
20 rights and their historical ability to issue these
21 licenses.

22 CHAIRMAN SHELTON: You don't -- on page five,
23 No. 5 --

24 MR. TABOR: I'm sorry. Page five, line five?

25 CHAIRMAN SHELTON: Yeah.

1 MR. TABOR: Okay.

2 CHAIRMAN SHELTON: See, I'm reading that as
3 giving the local jurisdiction just that authority. Do
4 you disagree with me on that?

5 MR. TABOR: Are you talking about Subsection 2?
6 Oh, No. 5, I'm sorry.

7 CHAIRMAN SHELTON: A copy of the formal
8 resolution or other evidence from the local jurisdiction
9 authorizing a license to an individual or company. I
10 see that that we don't see it until it comes before the
11 local jurisdiction and they approve it.

12 MR. TABOR: But isn't it also true --

13 CHAIRMAN SHELTON: Am I misreading that, staff?
14 Was that your intent?

15 SHANNON GEORGE: No, that's the intent, but I
16 think what Mr. Tabor is saying is that basically they
17 can only consider one applicant and that's the last
18 license holder; and if they don't want to license
19 that --

20 CHAIRMAN SHELTON: Oh, okay. Successor of
21 interest is what you're saying they can consider.

22 SHANNON GEORGE: The last license holder.

23 MR. TABOR: Not a successor in interest.

24 SHANNON GEORGE: Not a successor.

25 CHAIRMAN SHELTON: Just the last license

1 holder?

2 SHANNON GEORGE: Right.

3 MR. TABOR: Exactly. And if the last license
4 holder is deceased, as has been spoken about here
5 earlier, or is not able to be licensed because of
6 criminal activities of whatever the case may be, then
7 that -- the state through this regulation has usurped
8 the local's ability to issue a license pursuant to their
9 local ordinances.

10 CHAIRMAN SHELTON: That helps me. Thank you.

11 MR. TABOR: Yes, sir.

12 The second concern I have is related and that
13 is the following, that the language that has been used
14 here is somewhat free, I think, with the law. Staff had
15 indicated that the prior licensee could reactivate his
16 or her license. Well, who owns that license? Do we
17 have -- do licensees have a property right in that
18 gaming license? Can they sell or transfer that gaming
19 license? No.

20 This Commission has said so a number of times,
21 that's been the law in California, that's been the law
22 in most gaming jurisdictions that a gaming license is a
23 privilege. They actual -- and it's a license that's
24 granted to operate by the locals and now also by the
25 state. But it all starts with the locals, and it's that

1 local jurisdiction through its ordinance that owns that
2 license, that has the right to issue that license.

3 The prior licensee -- well, let's step back in
4 history. Prior to 19963 becoming law or -- yeah,
5 becoming law, if a cardroom was operating in a local
6 jurisdiction and was shut down for whatever reason and
7 possibly was shut down for a number of years, an
8 applicant could come forward thereafter and apply for
9 that gaming license and obtain that gaming license.

10 19963, in my view, has done nothing to change
11 that. 19963 merely requires that a license had been
12 issued on or before January 1 of 2000. If it closed
13 down after that, anybody should be able to come forward
14 and obtain that license because what property right --
15 what greater property right, if any property right at
16 all, does a prior licensee have to, quote-unquote,
17 reactivate a license? I would argue none. And, in
18 fact, what does reactivate mean? There's no license out
19 there right now.

20 In these jurisdictions -- take Nipomo, for
21 instance. There's no license. You can't reactivate
22 something that doesn't exist. It does not exist. All
23 that exists is the right for the local jurisdiction to
24 grant a brand new license to an applicant and then for
25 that applicant to come to this board -- or this

1 Commission and seek approval of their status as a
2 licensee in the state.

3 CHAIRMAN SHELTON: And does that -- work with
4 me here. I'm a little slow.

5 MR. TABOR: I am, too, this morning.

6 CHAIRMAN SHELTON: Does that brand new
7 license -- what does that do with the moratorium on
8 expansion?

9 MR. TABOR: Here's my -- and that's a very good
10 question. My reading of the moratorium merely provides
11 that the local jurisdictions -- that there was a
12 license, in fact, issued in that jurisdiction on or
13 before January 1 of 2000.

14 And if it closed down the day after that, that
15 is a -- that's on that list of, I believe it's something
16 like 45 closed jurisdictions, whatever the number is,
17 it's on that list, and all those jurisdictions now have
18 the ability to issue a license for -- that would have
19 been for that particular establishment.

20 And understand -- if you look up the definition
21 of an establishment, it talks about a going concern, an
22 operation, a business. None of these locations --
23 closed locations are in business right now, none of them
24 exist as a cardroom operation, but they did exist -- or
25 a business -- an establishment did exist in these 40

1 some locations that are on that list on January 21 of
2 2000.

3 And so it's my view that the local jurisdiction
4 has the authority to issue a license for that
5 jurisdiction -- out of that jurisdiction for -- and if
6 the local ordinance provided for three cardrooms but
7 only one was in operation on January 1 of 2000, then the
8 moratorium clearly only permits that local jurisdiction
9 to issue one cardroom license.

10 Lastly, as far as -- I do believe, and it's
11 been commented on here before so I won't be too long on
12 this, but getting into this successor in interest issue,
13 I think the current draft of this regulation really
14 invites problems down the road in dealing with who is
15 going to be the appropriate licensee.

16 At an absolute minimum, if nothing else I've
17 said here is taken with any import, then I believe the
18 Commission should very seriously consider at least
19 permitting successors in interest to have whatever
20 property right they may have to reopen the cardroom.

21 The reason, it goes back to this whole thing of
22 people being deceased, it gives local jurisdictions the
23 right they should have had to issue a license. If the
24 person is deceased, they can't issue that license. If
25 the person's a criminal, as I said earlier, they can't

1 issue the license for that location.

2 If there's any further questions, I'd be happy
3 to take them at this time.

4 CHAIRMAN SHELTON: No. But I might add on to
5 what you said. No matter what this Commission decides,
6 it will be challenged.

7 MR. TABOR: I don't think that's too unlikely.

8 CHAIRMAN SHELTON: Thank you.

9 COMMISSIONER SHIMAZU: Can I make a comment?
10 The whole property right interest, I'm kind of thinking
11 a little differently that, you know, I always thought
12 there needs to be a nexus between the licensee and the
13 gambling establishment. We don't issue licenses to the
14 establishments. We issue them to the individual
15 owners.

16 So what I was thinking what this does was
17 really just addresses the issue of retroactivity, which
18 is going to apply a consequence to those folks back in
19 December 31st, 1999 who were operating who thought that
20 maybe some day I'm going to have a shot at opening this
21 cardroom. It's kind of addressing those folks who may
22 have had that expectation.

23 So I don't think it's necessarily a property
24 right, that they have the right to reactivate it, but we
25 are trying to take care of these group of folks who may

1 have misunderstood or at the time thought that they
2 could operate and so we're trying to give them notice
3 and a fair shot at possibly reopening the cardroom, and
4 then through all this added all these requirements so
5 that we still maintain, you know, discretion and locals
6 still have input. So I was kind of looking at it maybe
7 a little differently, that we were trying to address
8 this group of folks.

9 MR. TABOR: If I may, Madam Commissioner,
10 there's value in what the Commission's goal -- as you
11 just expressed, but I don't think that it is -- in
12 constitutional terms, I don't think it provides equal
13 protection under the law for all California citizens. I
14 don't think that the -- as valid a concern the
15 Commissioners may have on this regard, I don't think
16 19963 addresses that.

17 19963, to me, is relatively clear that so long
18 as an operation was licensed on January 1 of 2000, that
19 that is a license that can be issued by the local
20 jurisdiction. And, again, the determination of who that
21 applicant should be or will be is primarily situated
22 within the control of the local jurisdiction.

23 Also, briefly on the issue of these prior
24 licensees, there's so many of them out there that we
25 don't -- it would be guesswork to try to determine for

1 what reason they allowed their license to lapse. Was it
2 revoked because of some nefarious behavior on their
3 part, or did they die, or was business just bad and they
4 shut it down?

5 And what -- and, again, this regulation as
6 currently drafted does give at least a type of a
7 property right now, or a certain right anyway, to
8 somebody who is similarly situated with everybody else
9 today in that they don't have a license, but this
10 Commission, if it adopts this regulation, would be
11 saying, well, we think that you're special because you
12 used to have a gaming license. But other applicants who
13 may be more well-suited now to operate and own a -- and
14 construct a successful cardroom are not given that
15 opportunity, and I just don't think that's fair.

16 Thank you.

17 COMMISSIONER VUKSICH: I have kind of a basic
18 question. Can anyone take a guess at why 19963 even
19 exists? Why it was included in the Act at all? I mean,
20 that's what we're trying to grapple with here to get
21 some clarity. This five line paragraph, when it could
22 have said, anyone who hasn't made the transition by "X"
23 date is longer eligible to --

24 MR. TABOR: Madam Commissioner, at that -- what
25 I believe was the first workshop on this matter, was

1 down in Northridge, I think, or Southern California at a
2 state school, university, if you go back and look at the
3 transcript of that, and I believe it was recorded and
4 transcribed, I think you'll get a pretty good idea of
5 why the statute was adopted and the intent behind it,
6 and that's going back now six, eight months. My memory
7 isn't what it used to be.

8 My recollection is that two of the key players
9 involved in that were Mr. Blonien and the prior director
10 of the division, Harland Goodson, and both of them spoke
11 at that workshop and indicated that the purpose of it
12 was to impose a cap on the total number of cardrooms in
13 California to allow those that were still existing to
14 actually have more of an ability to thrive.

15 But both of those gentlemen, I believe -- and I
16 don't want to put words in Mr. Blonien's mouth or
17 Harland Goodson's, and please look at the transcript --
18 but my recollection is they were very clear with the
19 staff at that point that the purpose was to impose a
20 cap. Not an ever decreasing cap either, but simply that
21 the number of cardrooms that were licensed in January
22 2000 were going to be the maximum number of cardrooms in
23 California. And that if one of those cardrooms closed
24 down, the local jurisdictions would have the right to
25 issue that license to another applicant.

1 COMMISSIONER VUKSICH: I understand that, and a
2 cap is normally what a moratorium imposes, but this
3 isn't a clean moratorium because have this language in
4 19963, Subsection (a), that kind of gives a little door
5 to a certain group of club owners and that's what all of
6 these workshops and hearings have been about.

7 MR. TABOR: I don't have that in front of me,
8 Madam Commissioner. Is that the section that goes back
9 and says or was on file?

10 COMMISSIONER VUKSICH: This is the one, in
11 addition to any other limitations on the expansion of
12 gambling imposed by Section 19962 or any provision of
13 this chapter, the Commission may not issue a gambling
14 license for a gambling establishment that was not
15 licensed to operate on December 31st, 1999 unless an
16 application to operate that establishment was on file
17 with the department prior to December 1, 2000.

18 MR. TABOR: And I don't think that's a special
19 window for anybody. I think that's the definition of a
20 cap. That's how it's defining it. It's saying that, so
21 long as an establishment is licensed and the locals had
22 issued a license for that establishment in their
23 jurisdiction, that those are the total number of
24 cardroom licenses that would be valid in the State of
25 California while the moratorium was in effect. It's not

1 really a special window for anybody other than those who
2 were licensed at that point or for those jurisdictions
3 that had licenses issued at that point.

4 MR. WERNER: Good morning, Commissioners, Mr.
5 Chairman. My name is Ronald Werner, W-e-r-n-e-r. I'm
6 from Bay 101 in San Jose, California. I, too, was
7 around when this was being drafted. Mr. Kim and I spent
8 many hours in then Senate Pro Tem Lockyer's office
9 discussing this language, and it seems to me that at the
10 time that one of the concerns was that -- well, there
11 was a proliferation of cardrooms in California, for
12 better or for worse, and that there was a concern that
13 these cardrooms need to be licensed, not by local
14 jurisdictions, but by the State of California.

15 And, frankly, it amazes to me that we're
16 alluding to the fact that after 1998 local jurisdictions
17 have the ability to license cardrooms. It is the state
18 that -- in our opinion, that has the ability to license
19 cardrooms and what local jurisdictions have the ability
20 to do is decide whether or not they want a licensed
21 cardroom in their jurisdiction. But they don't have the
22 right to issue a license and then have a cardroom
23 without the state first licensing the cardroom.

24 I think that the reason the language exists, in
25 answer to the Commission's question, is that if a

1 cardroom was not licensed by 2000, that that cardroom --
2 by the State of California, not the local
3 jurisdiction -- that cardroom license and that business
4 simply disappeared, was no longer allowed to be a
5 cardroom unless there were extenuating circumstances
6 decided by the Commission to provide an extension.

7 COMMISSIONER VUKSICH: So that would be
8 considered an abandoned?

9 MR. WERNER: That would be abandoned or
10 whatever. And it amazes me that we're even here today.
11 It would seem, if I were taking a cruise ship and I know
12 the cruise ship leaves at 9:00 o'clock and if I'm
13 standing on the gate at -- on the dock at 9:01 at the
14 gate and the cruise ship has left, it's not going to
15 turn around and come back for me. I have the
16 opportunity to get the next cruise ship.

17 And I think everybody in here who wants to
18 reactivate a license or get a new license has that
19 opportunity as well. Unfortunately, that doesn't occur
20 until 2015. And so it would seem to me we have spent a
21 lot of time, thanks to your desire to be generous and to
22 help people who may have missed the cruise ship and are
23 now standing at the dock, but I think it's too late.

24 And I would urge upon the Commission the fact
25 that, if a person did not get their -- for whatever

1 reason, did not get their license timely renewed or
2 application in by January 2000, it's just too late.
3 They'll have too wait until 2015, irrespective of the
4 circumstances. If they die, unfortunate circumstance,
5 but their executor had the ability to appear for before
6 this Commission to file an application on behalf of the
7 estate, the heirs could have shown up -- there are any
8 number of reasons.

9 So I just wish to put that forward that common
10 senses says that, once the ship has left the dock,
11 you've missed it, you have to wait for the next one.

12 Thank you.

13 COMMISSIONER VUKSICH: Actually, that could
14 have been resolved January 1st, 2010 had it not been
15 extended. So just a reminder.

16 CHAIRMAN SHELTON: Mr. Goodson doesn't care to
17 comment. Mr. Blonien, did you want to comment? I saw
18 you stand up. Any further input? Mr. Tyson? Mr.
19 Titus?

20 MR. TITUS: Good morning, Commissioners. My
21 name is Alan Titus, T-i-t-u-s. I'm here representing
22 Artichoke Joe's.

23 I have submitted some written comments on the
24 regulations, both on the main policy issue that you're
25 grappling with and on some technical questions which it

1 appears may be going forward without that. So I wanted
2 to just address some of these.

3 First, I wanted to address the policy issue.
4 So the question of why was 19963 adopted, and I just
5 want to remind the Commission that there's a whole
6 history even before that. So going back to when the
7 Gaming Registration Act was passed, there were rules
8 enacted requiring local citizens to have the right to
9 vote if there was going to be an allowance of gaming
10 coming into a jurisdiction.

11 So before that, maybe the city council would
12 get together with somebody who wanted to open up and
13 they'd make some sort of deal and a place would open up.
14 There was reaction to that, and the legislature decided,
15 no, we want the citizens, we want the voters in a local
16 jurisdiction to be able to vote on this and allow it
17 in.

18 In the early '90s, there were a number of
19 proposals to allow in new cardrooms in jurisdictions
20 that never before allowed this. And I know in San Mateo
21 County there was quite a number of proposals all around
22 San Francisco. It sort of under their -- seemed like
23 every small city wanted to see if their voters would
24 approve it and there was people proposing this. And
25 there was a reaction to that -- and this was not

1 industry driven -- there was a large reaction to that.
2 So the legislature enacted a moratorium, and they
3 couldn't do this anymore after 1996, I believe it was,
4 or going into 1996.

5 So that is really the background for a lot of
6 this. There was a very strong reaction to expansion in
7 gaming, and that's what happens when there's a huge
8 expansion, all of a sudden people wake up and they see
9 this.

10 Artichoke Joe's happens to be in an area that
11 over the years has changed. When it started 90 years
12 ago, San Bruno was the outskirts of anything, and now
13 when housing prices in the area can average a million
14 dollars, all of a sudden the cardroom in the area is not
15 looked upon the same way it used to be looked upon.
16 We're very sensitive to that. We're very sensitive to
17 the fact there will be expansion and negative reaction
18 to it.

19 So now you get -- 1996 comes in, and there
20 what happened was there were lots of cardrooms that had
21 closed, and I think that the number of cardrooms has
22 gone down from at least 250, I'm not sure there ever was
23 an accurate count, but I think it was probably closer to
24 350 cardrooms in the 1980s, to today you've got about 90
25 of them. So that's quite a dramatic decrease in the

1 number of cardrooms. The number of tables, that's a
2 different issue. I think that there's a lot of huge
3 cardrooms, so all these tables went to one place. I
4 think that's some of the background to 19963.

5 Part of the issue I raised with you before is
6 that, aside from 19963, what authority do you have to
7 allow for late renewal of licenses, to allow for
8 inactivation or activation of licenses? I don't see the
9 authority in the code. I just -- I mean, in the act. I
10 don't see it anywhere.

11 The one provision that I think staff has
12 pointed to in the past, 19876(e), I think that that
13 contemplates late renewal, but it doesn't authorize late
14 renewal. And to the extent it even contemplates late
15 renewal, it's contemplating that the late renewal is by
16 a cardroom that is operating still, not by a cardroom
17 that closes, goes away and comes back for a late
18 renewal. So I just have a fundamental problem there.
19 So I'll leave that with you, those comments on that.

20 In the definition section, 1202(j), you're
21 being asked to define the term surrender as voluntary
22 relinquishment, and I was pointing out that in 19877 of
23 the Act, it allows the Commission to deem a failure to
24 renew an application as a surrender. I think that a
25 deemed surrendered is different from a voluntary

1 surrender. So, to me, that definition does not really
2 work well with the Act. I would suggest that that be
3 looked at some more.

4 COMMISSIONER SHIMAZU: Just because it may not
5 be voluntary?

6 MR. WERNER: Yeah, deemed surrender is not a
7 voluntary surrender. You're deeming someone to have
8 surrendered. They may have done it voluntary. They may
9 not have as deemed by operation of law. So I would
10 suggest you re-look at that.

11 On the processing times for the applications,
12 I've suggested that maybe you could give the Bureau a
13 certain amount of time so they will have -- currently,
14 they'll have at least 75 days to review. That's the 120
15 days that we have to get the applications in, the 45
16 days that they have to get their recommendation to you.
17 That gives them 75 days. So if someone's late 30 days,
18 they still have 75 days to do their work. If someone is
19 late only one day, they still have their 75 days to do
20 their work. That's just an alternative way of handling
21 this section I threw out.

22 I think I'll leave my comments with those.
23 Thank you very much.

24 CHAIRMAN SHELTON: Thank you.

25 MR. FRIED: Good morning, Commissioners. David

1 Fried, F-r-i-e-d, speaking on behalf of the Oaks Card
2 Club and the California (inaudible) Casino.

3 Earlier you heard some comments about the San
4 Ramon license. I'm not going to address that today. I
5 disagree with the comments that were made, but I think
6 that the appropriate time to do that is when that matter
7 is on the calendar as its own item.

8 I'm going to instead address my comments to a
9 section of the regulation that begins on page five
10 toward the bottom, the use of the criteria that the
11 Commission may apply in looking at an application for a
12 closed cardroom. I think there are a couple possible
13 additions here that you might want to consider.

14 One is -- I heard Mr. Blonien's comment earlier
15 of whether or not whether someone had made an attempt
16 before now to file a license application or had actually
17 filed a license application, whether that should be a
18 factor, and that seems, to me, a good suggestion.

19 It seems to me, if someone prior to now has
20 made an attempt, whether it was in 2006 or 2008 to file
21 a license application or actually filed it, that should
22 be a positive factor because it shows that they have an
23 interest and had an interest prior to the adoption of
24 the regulations in getting that license.

25 I say that because I'm concerned that, if the

1 regulation is adopted as is, what we may see in a number
2 of cases is that people in this room who have never had
3 a gambling license before may simply go through the list
4 of closed cardrooms and contact every owner that's still
5 around and can be located and offer them \$10,000 to file
6 the application with the agreement that, if the
7 application is granted, this third-party for some fee
8 will simply purchase the rights, and we're right back in
9 the business of creating new cardrooms rather than
10 giving people an opportunity to -- if they miss the bus,
11 to try to catch the next one.

12 The second thing you may wish to consider, it
13 talks about the circumstances in subpart two under which
14 the previous license was surrendered or abandoned. I'm
15 wondering if we shouldn't be talking about extenuating
16 circumstances.

17 The reason I say that is, if somebody chose in
18 the year 2000 or 2003 not to renew their license or not
19 to proceed with their application, even if it was filed
20 before 2000 because they just didn't want to deal with
21 the system we have, the regulatory system, the
22 Commission, the Bureau, everything that was brought
23 about by the Gambling Control Act, it seems to me that's
24 a different case than somebody whose club burned down or
25 where someone is deceased.

1 And I'm wondering if we shouldn't narrow or at
2 least give the Commission a little better handle or
3 discretion on looking at the circumstances, to say that
4 we're looking for extenuating circumstances. We're not
5 looking simply for the other scenario where someone
6 who's shown no interest in reactivating the license and
7 where there was no extenuating fact simply is approached
8 by someone wanting to buy the license once it's
9 re-issued.

10 Thank you very much.

11 COMMISSIONER SHIMAZU: Just to comment on that
12 last point, Mr. Fried. I think I understand what you're
13 saying with extenuating circumstances, but I think the
14 way it's written kind of allows us to have more
15 discretion because, yeah, it could be extenuating, it
16 could be that they just didn't want to do it, but it
17 kind of gives us the full -- you know, all the
18 information so we know what happened previously.

19 MS. HARRIS: I'm Angela Harris, the owner of
20 Angie's Poker Club. That's A-n-g-i-e, Harris,
21 H-a-r-r-i-s.

22 I've come to you guys and talked to you guys
23 about this before. I originally opened my poker club
24 because the three poker clubs in my area were conducting
25 illegal activity and it was not a safe place for a woman

1 to gamble. I decided that with the state's coming in
2 and the Department of Justice going to be monitoring the
3 cardrooms, it was an opportunity for an honest cardroom
4 to go far and do good things.

5 We've now been in operation for almost 15
6 years. With these new regulations, I think that several
7 of the people who ran those prior cardrooms in the area
8 could actually come back into business.

9 Now, you have left me a little wiggle room
10 because you said the police have to like them and the
11 city council has to like them and the DA has to like
12 them, and that's not going to happen. And, hopefully,
13 those people who were in business, you know, ten years
14 ago that were the DA then and the active -- you know, I
15 can get them back and help them come testify at a city
16 council hearing and get these licenses not to come back
17 through.

18 But I think what you've done by just kind of
19 giving it a broad overscope of everybody who was in
20 business at this time can come back again and try again,
21 is that you've left the door open for those criminal
22 people who were running bad cardrooms and were behaving
23 in bad ways to come back in and try again with less
24 scrutiny on them. They went out of business because
25 they couldn't withstand the scrutiny that this panel was

1 going to put on their businesses, so they chose to close
2 their doors. And now we're giving them an opportunity
3 to come back where there's -- you know, it's two years
4 now for the licensing, it's a little less monitored, you
5 know, people have good behavior getting less rigidity
6 on them.

7 You know, we've jumped through our hoops. I'm
8 getting a little old. I can't fly that high anymore. I
9 can't tuck and roll through the fire. You know, it's
10 time we should be able to relax and say, hey, we did it,
11 we accomplished it, we stepped forward, we did
12 everything we're asked, everything we're told, we ran an
13 honest business.

14 And then now, all of a sudden, it's like --
15 they're just waiting. I hear them in the background
16 talking to my customers, telling them how they're going
17 to be re-opened and they're going to run the old game
18 they used to have which was played with Monopoly money,
19 and I just -- I don't want to see that happen.

20 So I was wondering if there is some way that
21 you guys right there under the circumstance under which
22 a previous license was surrendered, abandoned or allowed
23 to expire, if you could add something about bad
24 behavior, about sanctions, about, you know, police
25 reports and things that happened, and you guys can

1 determine that you just find them undesirable. You do
2 that all the time with key employees or, you know,
3 employees that you guys say, we find you undesirable.

4 CHAIRMAN SHELTON: We do that with licenses,
5 too.

6 MS. HARRIS: Right.

7 CHAIRMAN SHELTON: The Bureau does a thorough
8 investigation. If there's an element where there's
9 corruption, where the money came from, they would never
10 recommend to the Commission that they be approved.

11 MS. HARRIS: See, and I'm thinking I've got a
12 little wiggle room there, but I'm still frightened the
13 way it's worded. It's like anybody who had a license
14 during this time -- well, she was actually out of
15 business a time, but he held onto his license and fought
16 you guys for three years, and finally I believe it was
17 Gabrielle came and yanked his license away from him.

18 And, you know, I don't want to see him come
19 back into business. I don't want to see the criminal
20 aspect come back into cardrooms that we've worked so
21 hard to rise above. It's not the same place. All of
22 the gaming industry is not the same place it was 15
23 years ago, and those of us that are still in it are
24 proud of it.

25 CHAIRMAN SHELTON: Thank you.

1 MR. SCHNEIDERMAN: Good morning. Andy
2 Schneiderman, S-c-h-n-e-i-d-e-r-m-a-n, general counsel
3 with the Commerce Casino in Commerce, California.

4 I just wanted to say that I think that the
5 regulations that are drafted currently have struck a
6 very good balance between -- I think what you have is a
7 statute that has to be interpreted.

8 We have some people that are coming up and
9 saying it's clear on its face that licenses that were in
10 effect on a certain date will continue to exist whether
11 or not there's a change in ownership and other people
12 that are saying the exact opposite. I think it's up to
13 this Commission to interpret an ambiguous law. That is
14 your job under the Gambling Control Act.

15 I think you've struck a fine balance and I
16 think you've taken into consideration everybody's rights
17 and this isn't something that's going to last forever.
18 As -- using the ship analogy, this is something that
19 will go into effect until the moratorium expires in
20 2015. And I think, you know, this has been discussed
21 and I think it's time to make a decision and I would
22 support the regulations as drafted.

23 Thank you.

24 CHAIRMAN SHELTON: Thank you, Mr. Schneiderman.

25 Somebody has to say something. I guess I'm

1 always leading off. I have a lot of problems with
2 renewing licenses who were abandoned and people left
3 while other people struck out in the business and put
4 out money and went through the hard times, enjoyed some
5 good times, and are now back in the hard times and see
6 competition come along that would maybe lay employees
7 off in an existing facility out there.

8 However, having said that, I also have a
9 difficult time with, because I had a license, that
10 license is mine and I've abandoned it and walked away
11 and somebody else can't come in and pick up that
12 license. It just doesn't make sense to me because it's
13 not your license. It's a state license. You're given
14 the privilege to use it for a period of time that the
15 state issues that license as long as you obey the laws
16 and do things correctly.

17 I agree with my fellow Commissioner, this
18 wasn't clear. It could have been written a lot clearer.
19 I don't think when it was put together people thought
20 about what was going to happen down the road, and I
21 don't think you saw the moratorium going as far as it's
22 gone now to 2015.

23 I think you saw a stop gap there to get rid of
24 some of these clubs out there that were a real problem.
25 I don't want to usurp logical authority. I think the

1 locals do play a strong role here. And unless they --
2 they do give a license. They give a business license.
3 They give the authority for a cardroom to be in their
4 jurisdiction. So they determine at the local level.

5 What we do here is issue a state license after
6 everybody's investigated to know that this is an
7 upstanding person that's going to come in and run a
8 business and it's not going to be corrupt, it's not
9 going to be criminal.

10 So having said all that, we still have, what do
11 we do with a license past that that are abandoned and
12 walked away from. And, personally, I think that if we
13 fall into this and okay this today, that we have to say
14 any license abandoned in the future is abandoned. It's
15 gone. That's it. You can't come back.

16 And I'm really worried about -- somebody
17 said, I don't know who it was, about somebody -- and
18 it's what I think is going to happen, too. There's,
19 what, 40 some licenses out there? And I think some
20 people are going to be out there with checks trying to
21 buy licenses from whoever had that license before to get
22 them licensed so they can buy the cardroom and move on.
23 You know, that's business and that's going to happen.

24 So having said all that, I have a lot of
25 concerns. That's probably why I have put this off so

1 long, why some of you wanted on the agenda so you could
2 get some of this moving. I understand the
3 Commissioners -- I'm open to listen, too.

4 COMMISSIONER SHIMAZU: Well, and I absolutely
5 agree that I think from here on out there needs to be
6 something definite out there. I mean, just so everyone
7 knows what's happening.

8 With respect to the prior ones, again, I think
9 you've heard me. I've always -- I don't favor opening
10 it up to everybody. And, again, the last licensee was
11 just basically to address their retroactivity issue to
12 give them a shot of maybe at the time -- or at least now
13 they'd have an argument that at the time we thought we
14 could reopen at some later date.

15 And it does -- I have the concern, too, that
16 people would shop around and try and, you know,
17 financially back people to put in applications, but I
18 have some comfort that I think there's a lot of
19 information that they need to provide before it even
20 gets to us, and the locals basically have to bless it.

21 The economic feasibility study, the person
22 really doesn't have any funds, if they get funds from
23 someone else, that's going to come out in the report, so
24 it's something that we can take a look at.

25 And to Angie, we're going to scrutinize these

1 people just like we scrutinize all licensees. In fact,
2 we're going to have some additional information. We
3 have the historical why they abandoned it, were there
4 some disciplinary problems, were there financial
5 problems, and so I think we're actually requiring more.
6 And we're sensitive to the fact that, you know, there
7 may have been issues, and we have the discretion to take
8 that into consideration and deny someone.

9 It's not saying that all these licensees are
10 going to come and they're automatically going to get a
11 license. No, we're going to take a really hard look at
12 them.

13 So I am in support of the draft now. There's
14 probably some more work we can do on it. People have
15 brought up some issues. I think that the little one Mr.
16 Titus brought up with respect to surrender, we should
17 probably look at that definition again.

18 I also had another concern with respect to -- I
19 know most of the closed cardrooms were sole proprietors,
20 but there were some that were, like, corporations. I
21 was thinking, what happens if -- I know we worried about
22 people buying the cardroom. So if someone comes back,
23 sells a cardroom, this doesn't prevent that. What about
24 corporations? Can you sell a corporation and can that
25 corporation then come back and say, I was the last

1 licensee, because we're not looking at a person.

2 And that -- let's say that there was, just an
3 example, if there were some disciplinary problems with
4 the prior corporation, and so the corporation comes back
5 and applies and we say, well, you had all these problems
6 before and the person says, well, I wasn't here before,
7 I don't know what happened, I wasn't involved in any of
8 that. Do we take that into consideration?

9 So I'm just concerned about when it's not a
10 sole proprietor, when we look at the makeup of the
11 corporation, was it the same corporation, even if it's
12 the same in name, do we go beyond that and look at who
13 actually were the shareholders?

14 COMMISSIONER VUKSICH: On top of that, if the
15 corporation no longer exists and tries to reinstitute
16 itself.

17 JOE DHILLON: We'll be glad to work with the
18 licensing staff to address both of those issues. My --
19 it seems like the second issue is probably clear. If
20 the corporation doesn't exist and the license was in the
21 name of that corporation, using the language that's
22 currently in the draft, the last licensee would not
23 exist and there would be no entity eligible to apply.

24 I think it is something we do need to role up
25 our sleeves and address in regards to how we deal with

1 non-natural entities like corporations or partnerships
2 to address those concerns and we'll do that.

3 CHAIRMAN SHELTON: You know, I argued with
4 staff over this draft because of different concerns that
5 I have. With all the input today and the background and
6 being exposed to this now for six years, I think it's
7 time to move on. I think these things can be answered
8 at the time that -- if you're going to go ahead and
9 prove this, it comes up before us, those are the times
10 to look into this.

11 Yeah, there are things that may be tweaked
12 here, but there's no day we can sit here with a draft
13 that we're going to adopt and say, it needs changes.
14 There's just -- there's no perfection in what we do.

15 I, too, have a problem with 12349. Number one,
16 who can apply? Sooner or later, we're going to have to
17 make a decision here. I mean, I prefer to make it today
18 and move on and let the chips fall where they fall.

19 COMMISSIONER VUKSICH: I was hoping there was a
20 secret Santa out there in the legislature or reports
21 that would define this for us, but I think we have to
22 bite the bullet, and I think we have to --

23 CHAIRMAN SHELTON: I think it will be decided
24 by the legislature, whether the legislature disagrees
25 with --

1 COMMISSIONER SHIMAZU: And this is -- we are
2 just going to vote, hopefully, to start the regulatory
3 process, so we're just in the workshop stage still. So
4 I think we need to move on and give everyone some --
5 even if you don't like the decision, everyone knows what
6 to work with. I think, like, keeping people in the
7 dark, it doesn't serve anyone's best interest.

8 CHAIRMAN SHELTON: What would a vote today do
9 to improve this? Where does it go now?

10 SHANNON GEORGE: Then we would work on a final
11 draft to get ready to file with OAL to start the
12 process, start the 45 days.

13 CHAIRMAN SHELTON: Taking into consideration
14 the comments made today?

15 SHANNON GEORGE: Of course, yes.

16 COMMISSIONER VUKSICH: And that includes -- I
17 actually did -- on the abandonment issue, the doubling
18 the fees, whatever it is, having been a victim of not
19 registering their vehicle, a very expensive vehicle,
20 that sort of alerted me to the fact that it is the
21 licensee's responsibility, whether or not they receive a
22 notice, that is a state courtesy, to get their paperwork
23 in on time and pay for registration. So that might be a
24 motivator, even though in the Act closing down the club
25 is quite clearly spelled out.

1 SHANNON GEORGE: And we can certainly discuss
2 that and address that in a future draft.

3 CHAIRMAN SHELTON: So we've heard everybody's
4 concerns and what's going to be addressed and this gives
5 everybody a little bite of the apple before it comes
6 back for final adoption.

7 JOE DHILLON: Commissioners, just one concern
8 about the issue of additional fees if an application is
9 filed late, as Mr. Blonien suggested, a statutory
10 provision appears to be required. The statute specifies
11 the cap on fees. So I'll look at it closer, but that
12 may limit what we can do in a regulation hearing.

13 CHAIRMAN SHELTON: Doesn't mean it can't come
14 back to be amended.

15 JOE DHILLON: Exactly.

16 CHAIRMAN SHELTON: Move to approve.

17 COMMISSIONER VUKSICH: Second.

18 SHANNON GEORGE: Can we do a quick summary of
19 what we're going to look at in the future?

20 CHAIRMAN SHELTON: Oh, certainly.

21 SHANNON GEORGE: Okay. Make sure we've got
22 them all on the record.

23 Let's see. We've got the definition of
24 surrender, the issue of fees, and, Mr. Chair, you said
25 you had a concern with --

1 CHAIRMAN SHELTON: Number one, under
2 12349(a) (1), that alludes to the last licensed person,
3 and I just don't think that's the right way to go.
4 We've got to open it up to be fair.

5 SHANNON GEORGE: Okay. Is there anything that
6 I'm missing?

7 COMMISSIONER SHIMAZU: I wanted to look at
8 the --

9 CHAIRMAN SHELTON: Mr. Blonien's legislation
10 for big fines.

11 SHANNON GEORGE: Okay.

12 CHAIRMAN SHELTON: And he had on page three,
13 "C," an issue -- I think it was extensions. Did you get
14 that?

15 SHANNON GEORGE: Yes, that's what I said. Yes.

16 CHAIRMAN SHELTON: We covered?

17 SHANNON GEORGE: I believe so.

18 CHAIRMAN SHELTON: If not, you'll hear.

19 SHANNON GEORGE: Okay.

20 CHAIRMAN SHELTON: Can I have a second?

21 Call for the vote.

22 JOY CALKIN: Commissioner Shimazu?

23 COMMISSIONER SHIMAZU: Aye.

24 JOY CALKIN: Commissioner Vuksich?

25 COMMISSIONER VUKSICH: Aye.

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JOY CALKIN: Chairman Shelton?

CHAIRMAN SHELTON: Aye.

JOY CALKIN: Motion carried.

CHAIRMAN SHELTON: Commissioners are going to
cease and desist and leave and turn it over to the
workshop.

We're adjourned as Commissioners.

(Proceedings concluded at 11:25 a.m.)

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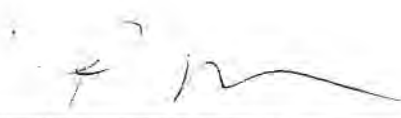
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COUNTY OF SACRAMENTO)

I, PHYLLIS MANK, CSR, hereby certify that I was duly appointed and qualified to take the foregoing matter;

That acting as such reporter, I took down in stenotype notes the testimony given and proceedings had;

That I thereafter transcribed said shorthand notes into typewritten longhand, the above and foregoing pages being a full, true and correct transcription of the testimony given and proceedings had.



PHYLLIS MANK, CSR No. 5093