



INDUSTRY MATTERS

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DISCLOSE YOUR CONVICTIONS, EVEN IF EXPUNGED!

By Gareth Lacy
Commissioner



While California has laws restricting the use of criminal records in making hiring or licensing decisions, these statutes generally do not apply to the Gambling Control Commission. Even if an applicant believes their criminal record was reduced, expunged, or dismissed, there is still a duty to disclose the conviction under the Gambling Control Act. If an application asks for the information, the applicant must disclose a criminal conviction. An exception would be if the records have been sealed pursuant to a court order.

A felony conviction generally prohibits a person from obtaining a cardroom or Third-Party Provider of Proposition Player Services license. Similarly, some misdemeanor convictions in the preceding 10 years may prohibit a person from obtaining a license, unless the conviction was expunged and dismissed. Expungement is a court process that allows a person to withdraw their guilty or no-contest plea and enter a plea of not guilty, or the court sets aside the guilty verdict. Dismissal is what happens to the conviction after a person's conviction is expunged. After the sentence is imposed, dismissal is available through [Penal Code 1203.4](#).

A criminal case can also be dismissed by a court under [Penal Code 1385](#), in which case there is no duty to disclose the conviction. Dismissal under this statute can only be obtained before the entry of a judgement, i.e., when the sentence is imposed.

Expungement and dismissal does not erase a criminal conviction or seal the record; all the information remains available to law enforcement, including the Bureau of Gambling Control. Expunged and dismissed conviction records must still be disclosed during the license application process. The failure to disclose an expunged conviction may be grounds for denial.

If you aren't sure about your California criminal history, you can obtain your official criminal record from the [California Department of Justice](#). You can also obtain records from the county where the conviction occurred.

Need more information about expungement and dismissal? Check out the following resources online:

[Restoration of Rights Project](#)

[Certificate of Rehabilitation](#)

[San Jose State University—Record Clearance Project](#)

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CGCC Calendar

Upcoming Licensing Meetings

April 11
April 29
May 16
May 30
June 13
June 27

Gaming Policy Advisory Committee

April 29 (1:30 p.m.)

Regulations

April 11 (1:30 p.m.)
(Hearing Regulations)
June 26 (Advertising Regulations)

Upcoming State Holidays (Office Closed)

Memorial Day (May 27)

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Commissioner

Trang To

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COMING SOON:
COMMISSION AND BUREAU TRAININGS NEAR YOU!

The Commission, in conjunction with the Bureau of Gambling Control, will conduct training sessions throughout California for the Cardroom and Third-Party Provider of Proposition Player Services (TPPPS) industries on the application and background investigation process. The training is primarily intended for those who assist or advise Cardroom and/or TPPPS applicants (e.g., Designated Agents, Human Resources Staff, Compliance Staff, etc.) through the application and background investigation process. The trainings will also be helpful for future applicants, as well as current licensees who will go through the renewal application process. The Commission will send out training registration information to all Designated Agents in mid-2019.

ADVERTISING REGULATIONS WORKSHOP TO BE HELD JUNE 26; MEETING ON HEARING REGS APRIL 11

By **Alex Hunter**

Regulatory and Legislative Specialist

The Commission will be holding a public workshop on June 26th to consider the initiation of the formal rulemaking process for advertising regulations that would implement [Business and Professions Code section 19841, subdivision \(f\)](#).



These regulations would establish the following criteria for the disapproval of deceptive advertisements by licensed gambling establishments and third-party providers of proposition player services, as determined by the Bureau of Gambling Control:

- ◆ Definitions concerning the solicitation of participation in controlled gambling activities;
- ◆ Content and information disclosure requirements, including problem gambling and minimum age statements;
- ◆ Criteria for how the required information is presented;
- ◆ Requirements concerning advertisement control and responsibility;
- ◆ Requirements concerning the distribution of direct advertisements; and,
- ◆ Certain exceptions, as specified.

The Commission will provide a comment period and documents that have been modified in response to the previous advertising workshop (held on December 4, 2018), including the invitation, draft text, and description. These materials will be emailed to interested parties and posted to the [Commission's website](#) prior to June 26th. Public comments from all interested parties will be heard and considered. While comments may be submitted up to the day of the workshop, we encourage you to submit comments to the Commission within the comment period to provide for adequate review time and effective discussion.

The Commission will also hold a hearing on April 11th at 1:30 p.m. to consider comments and take action on whether to proceed with the adoption of the proposed changes to existing hearing regulations. The proposed changes will further define the processes for approving, conditioning, and denying an application for licensure, or other approvals.

RECREATIONAL GAMBLING, FINANCE, AND TAXATION

By **Adrianna Alcalá-Beshara**

Deputy Director, Licensing Division



As a preliminary matter, this article is for informational purposes only and is not intended to serve as a substitute for legal or accounting advice for the reader's particular legal obligations or taxation requirements. It rather serves as a notice and discussion to engage the reader to seek out the aforesaid services to ensure they are in compliance with all legal and financial requirements or duties. Please also note that tax and accounting requirements are subject to change. This article is current as of the date of this article.

The Commission's Licensing Division is responsible for analyzing the reports generated by the Bureau of Gambling Control and serving as advisors to the Commissioners based upon relevant policy and law. Some of the more unique facets in this process are those related to taxation and proper recordkeeping regarding recreational and business venture gambling.

The Commission has seen applicants explain away large and numerous cash transactions as simply the "lifestyle of a gambler." Not only is this not a wise decision for one's own financial accountability, there are also legal requirements tied to adequate accounting and maintenance of one's own financial records.

What is Gambling Income?

The Internal Revenue Service (IRS) provides an abundance of material on its website regarding taxation as it relates to gambling. [IRS Topic Number 419](#) provides that, "Gambling income includes but isn't limited to winnings from lotteries, raffles, horse races, and casinos. It includes cash winnings and the fair market value of prizes, such as cars and trips."

So essentially and generally, all income, [including gambling income](#), should be reported on an individual's gross income and is subject to taxation. [The Office of the Chief Counsel, Internal Revenue Service advises](#) that a recreational gambler recognize a wagering gain or loss at the time of redemption (or equivalent) when a series of play in a visit has ended, not after each individual wager.

For an individual tax payer, why was gambling income withheld?

[IRS Publication 505](#) provides guidance in understanding why and when gambling winnings are withheld. In simplest terms, not all income is required to have a withholding at the time it is earned; it can later be taxed when reported on a return and filed.

Winnings are subject to federal income tax withholding when greater than \$5,000, and are from one of the following sources:

- ◆ Any sweepstakes; wagering pool, including payments made to winners of poker tournaments; or lottery;
- ◆ Any other wager if the proceeds are at least 300 times the amount of the bet.

Remember, even if one does not receive a Form W-2G, the income still must be reported.

Maintaining Gambling Records

[IRS Publication 529](#) states that a taxpayer must keep an accurate diary or other similar record of all losses and winnings. The diary should include dates, types of wagers, names and addresses of the establishments, and amounts won or lost.

DID YOU KNOW?

[The Bagley-Keene Open Meeting Act](#) requires the Commission to give at least 10 calendar days notice of each meeting. Items to be considered for each Commission Licensing Meeting usually go through about a month of review by Commission staff prior to posting of the agenda. Please keep these timelines in mind when requesting that a certain item be included on an upcoming Commission Meeting agenda.



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NOT PLANNING TO ATTEND YOUR GCA HEARING? CONSIDER THE CONSEQUENCES AND ALTERNATIVES

By Kate Patterson
 Staff Counsel



Sometimes the Commission refers an application to an evidentiary hearing to consider the application in a more thorough and formal setting than a regular Commission meeting. These hearings are held pursuant to the Gambling Control Act and are thus referred to as GCA hearings. Commissioners may refer an application to a GCA hearing when they need more information on a specific issue before making a decision. When a case is referred to a GCA hearing, the Commission will send the applicant a Notice of Defense form, through which the applicant can request, or waive their right to, a GCA hearing.

If the applicant waives their right to a GCA hearing, the Commission will normally issue a default decision. Default decisions deny the application, but contain very limited factual findings, limited mostly to the procedural history of the application. For instance, if a member of the public, such as a prospective employer, were to read a default decision on the Commission’s website, it would likely only reveal that the applicant submitted an application for licensure, the application was referred to a GCA hearing, and thereafter, the applicant was denied because they failed to offer supporting evidence at the GCA hearing.

If an applicant returns the Notice of Defense form requesting a hearing, a date will be scheduled for a prehearing conference and a GCA hearing. Failure to attend a GCA hearing can be more detrimental to the applicant than not requesting a hearing in the first place. Not attending a scheduled GCA hearing results in an unfavorable written decision, which is available to the public online. Unlike a default decision, a decision issued after a GCA hearing may contain detailed information about the applicant, such as criminal history, negative employment history, or other derogatory information presented by the Bureau of Gambling Control (Bureau) at the hearing. Having a license application denied can negatively impact an applicant’s future employment prospects. When an applicant decides that they do not want to go forward with a requested hearing, they can request to have the Notice of Defense withdrawn.

Request to Withdraw the Notice of Defense

After submitting a Notice of Defense, if an applicant is certain that they are not going to attend their hearing, the applicant still has the option of withdrawing their request for a hearing. This can be done by contacting the Commission’s Administrative Hearings Coordinator or the Presiding Officer in writing.

When the Commission and Bureau are aware in advance that an applicant has withdrawn their request for a hearing and does not intend to appear, the hearing will proceed in a more efficient fashion than if the applicant simply fails to show up at the hearing. In some cases, the Commission will be able to take the GCA hearing off calendar altogether and issue a default decision, which as explained above, can be less detrimental to the applicant. However, a default decision is still considered a denial of the application, which may impact future employment, especially in occupations that require licensure.

Comments, suggestions, questions, or ideas for future articles or newsletter topics are always accepted and can be submitted directly to the Commission at the address above or by emailing them to fcastano@cgcc.ca.gov.

HAIL AND FAREWELL

The Commission proudly welcomes **Erica Dennis**, who will be joining the Administration Division as the Tribal Nation Grant Fund Program Analyst. Erica joins us after working for the Department of Justice for the past 12 years.

Congratulations to Licensing Analyst **Sonny Xiong** on his promotion to Associate Governmental Program Analyst (AGPA) within the Licensing Division. Sonny has worked as a Staff Services Analyst within the Commission’s Licensing Division since July 2017.

Licensing Analyst **Brandon Carey’s** last day with the Commission was on January 25th. Brandon received a promotion as an AGPA with the Department of Consumer Affairs’ Bureau of Cannabis Control.

HEARING RESULTS

(January 1–March 31)

Cardroom Owner-Licensee:

Lewis & Lewis, Inc., dba Cameo Club, revoked via settlement January 10

Angela Harris and Gary Harris, Casino 99, approved with conditions via settlement February 7

Key Employee License:

Tom Bowling, approved with conditions January 11

Donald Ly, approved January 23

Alfred Perez, approved with conditions February 7

Tawni Vargas, denied March 6

Michael Lopez, approved March 28

Third-Party Provider License:

21 Vault Gaming, approved with conditions March 27

Third-Party Player License:

Vanessa Ellis, denied January 23

Diana Plong, denied January 24

Kamphan Keouopalath, denied January 24

Darion Griffith, denied February 7

Kenneth Searle, denied February 21

Sianna Hassenberg, denied February 21

Work Permit:

Chary Inthavong, denied January 24

Samantha Sales, denied January 24

Evan Jones, denied February 21