



# INDUSTRY MATTERS

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## U.S. SUPREME COURT ISSUES DECISION IN SPORTS GAMBLING CASE

By **Kate Patterson**  
*Staff Counsel*



The Professional and Amateur Sports Protection Act (PASPA) banned all but four states from authorizing sports gambling. In 2014, New Jersey passed legislation that partially repealed existing state law bans on

sports betting in casinos and racetracks. The National Collegiate Athletic Association (NCAA) and the four major professional sports leagues filed an action in federal district court, arguing that the 2014 law violated PASPA.

New Jersey argued that PASPA was unconstitutional. The district court ruled in favor of the NCAA and sports leagues, and the Third Circuit Court affirmed. The United States Supreme Court agreed to consider New Jersey's constitutional challenge to PASPA, and on May 14, 2018, the Court issued a decision concluding that PASPA's provisions prohibiting states from authorizing sports gambling were unconstitutional.



*(Murphy v. Nat'l Collegiate Athletic Ass'n (2018) 138 S.Ct. 1461.)*

The 10th Amendment provides that if the Constitution does not either give a power to the federal government or take that power away from the states, that power is reserved for the states or the people themselves. The Supreme Court has long interpreted this provision to bar the federal government from "commandeering" the states to enforce federal laws or policies. The Court held that PASPA violates the anti-commandeering clause because it bars states from authorizing sports gambling, which "unequivocally dictates what a state legislature may and may not do." As a result of the decision, PASPA was struck down.

Despite the Supreme Court outcome, sports gambling is prohibited by California



Photo by Baishampayan Ghos / CC BY

Penal Code section 337a and arguably violates Article 19(e) of the California Constitution. The California Legislature and/or voters will determine whether to amend state law to authorize and regulate sports gambling. Additionally, the Legislature will determine what, if any, role the Commission should have in regulating sports gambling in California. For now, the Commission will continue to monitor relevant legislation and evaluate the potential impact it may have on controlled gambling in California.

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### CGCC Calendar

#### Upcoming Licensing Meetings

July 12  
July 26  
August 23  
September 6  
September 20

**GPAC Meeting**  
July 26 (1:30 p.m.)

**Regulations Workshop**  
July 11

**Upcoming State Holidays (Office Closed)**  
July 4 (Independence Day)  
September 3 (Labor Day)

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## TRANSACTIONS REGULATIONS WORKSHOP SCHEDULED FOR JULY 11

By **Joshua Rosenstein**

*Regulatory and Legislative Specialist*



On Wednesday, July 11, 2018 at 10:00 a.m., the Commission will hold a regulations workshop in its Hearing Room to consider proposed regulations for the approval of transactions. Comments from all interested parties will be considered.

The Commission is considering proposed regulations to establish procedures related to the review and approval of transactions connected with every gambling enterprise (cardroom), Third-Party Provider of Proposition Player Services company, and gambling business. Transactions would generally refer to contracts, agreements, and any other business activities where goods, services, or monies are exchanged. The major provisions of these proposed regulations are as follows:

- ◆ Define Transactions and determine which transaction types would:
  - \* Require prior Commission approval, regardless of the dollar amount involved;
  - \* Require prior Commission approval if they meet a specific dollar amount;
  - \* Require Commission approval, but may be consummated prior to Commission approval; or,
  - \* Only be included in the annual report to the Bureau.
- ◆ Require all transactions needing prior approval to include an advisory that the licensee is subject to the provisions of the Gambling Control Act.
- ◆ Require any proceeds derived from the operation of a gambling enterprise during a transaction for its sale to be held in an escrow account and not disbursed to the new owner until the new owner has been approved by the Commission.

While you can submit comments up to July 11, we encourage you to submit them as early as possible in order to give the Commissioners time to review them. Documents for this workshop, including the invitation, proposed text, and description, have been posted on the [Commission's website](#).

We welcome this important opportunity to listen to and work with our stakeholders in the regulatory process, and we look forward to seeing you on July 11!

### HAIL AND FAREWELL

In the Commission's Licensing Division, **Shana Marquez** was promoted to Associate Governmental Program Analyst. Shana was a Staff Services Analyst in the Licensing Division for the previous four years. Shana's previous work experience also includes working as a Tax Technician and Child Support Technician at the California Department of Child Support Services.

The Bureau of Gambling Control recently expanded its Licensing Section by adding a third team to its Cardroom Owners Unit. **Christopher Walter** was promoted to Staff Services Manager I to lead the team. Chris was previously a Licensing Analyst with the same unit for three years. Chris also holds a B.S. Degree in Criminal Justice from California State University, Sacramento.

Congratulations Shana and Chris on your promotions!

## ANTI-MONEY LAUNDERING COMPLIANCE: THE BEST DEFENSE IS A GOOD OFFENSE

By Tyler G. Burtis, M.A.

California Department of Justice, Bureau of Gambling Control

Special Agent in Charge, Southern California

The Bureau of Gambling Control (BGC) has been proactively bringing stakeholders together to develop awareness, provide training, and facilitate dialogue with the gambling industry regarding the Bank Secrecy Act (BSA/Title 31) and Anti-Money Laundering (AML) programs. The BGC not only actively enforces the BSA, but also increases awareness of it and provides training opportunities for establishing effective AML programs. This is done through several initiatives: the LA Working Group, AML training at conferences, and the California Gambling Investigators Course. The BGC also hosted two very successful "Building a Culture of Compliance" symposiums with speakers and attendees from all over the United States. The BGC also presented their "California AML Model" to law enforcement and casino compliance executives in Las Vegas.

The BSA applies to all tribal casinos and California cardrooms with gross annual revenues over \$1 million. Violations of the BSA, which also violate sections of the Gambling Control Act and Tribal-State Compacts, may result in federal felonies that can lead to stiff fines, penalties, or incarceration.

Ensuring the integrity of gambling in California is not limited to investigating failures within the system, but also providing a good defense by preventing bad actors and illegal money from penetrating our gambling establishments. In keeping with the headline, I believe that by focusing on our offense, we are able to build a strong defense against money laundering. A strong offense should consist of training, identifying and addressing the weak links in the system, reinforcing internal communication, and asking the BGC for assistance before it is too late.

In addition to cardroom inspections, every year, our Compliance and Enforcement Section conducts Compact Compliance Reviews within each of the tribal casinos and identifies areas within the Tribal-State Compacts for review. This year, one of the sections under review is Section 10.2 Compliance, subsection (k), which requires the following of the Tribal Gaming Operation:

*Provisions of the Bank Secrecy Act, P.L. 91-508, October 26, 1970, 31 U.S.C. Sec. 5311-5314, as amended, and all reporting requirements of the Internal Revenue Service, insofar as such provisions and reporting requirements are applicable to casinos.*

### **Provide the following Title 31 requirements:**

- ◆ Provide written policies and procedures for internal controls
- ◆ Show proof of internal/external independent testing/independent review
- ◆ Assignment of an employee and/or committee to ensure day-to-day compliance
- ◆ Provide details on employee training
- ◆ Identify all available resources/software used in program
- ◆ Identify automated systems/software used in program
- ◆ Provide details of Risk Assessment

This is a good, very basic, framework to review your own AML program. I cannot emphasize enough: training, from a reputable AML expert, is the best offense and the first line of defense for your property. The more employees trained in what to look for (based on your individual risk assessment) and encouraged to report their observations, the more secure your AML program will be. AML does not start and stop with transactional analysis by a compliance officer. It may be your food server who observes something that does not look right, it may be your valet who knows what somebody "really" does for a living, and it may be your key employee who has received all of the AML training who is compromised and costs your establishment millions of dollars, or even your license.

Training is only effective in an AML-compliant culture. It does no good if the employees see possible violations or red flags and are afraid to report it. The executives that establish the culture in your casino should familiarize themselves with the Financial Crimes Enforcement Network's (FinCEN) Casino Assessments [that are available online](#).

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## ANTI-MONEY LAUNDERING COMPLIANCE (CONT...)

### Know Your Customer/Transactional vs. Subject-Based Analysis

As we fine-tune our transactional analysis for red flags, are we neglecting a subject-based analysis? Do we know our customer? Is it our customer that is actually conducting the transactions we are analyzing? Is our customer laundering proceeds from a fraud, or is our customer committing fraud, because they are a problem gambler?

According to the [National Money Laundering Risk Assessment](#) from the U.S. Department of the Treasury:

*The dollar volume of fraud dwarfs other illicit proceeds-generating crimes in the United States. Unlike drug trafficking, fraud proceeds rarely start off as a cash purchase. The transactions typically occur through normal, regulated financial channels and are intended to appear as legitimate. Criminals will, however, use check cashers, money transmitters, automated teller machines (ATMs), and normal withdrawals or transfers from bank or brokerage accounts to cash out fraud proceeds.*

Per the [2017 Hiscox Embezzlement Study](#), the median age of the perpetrators is 48 years old, 51% of embezzlers are women, and 37% of cases were committed by someone in the finance or accounting function. Thirty-seven percent of cases involved losses of more than \$500,000, and 23% of cases involved losses of over \$1 million. Over a quarter of the schemes lasted for more than five years.

This is an extreme shift from the money launderers portrayed in popular movies and television shows. Title 31 is here to stay and for good reason: we can all be victimized by the specified unlawful activities in the statutes associated with money laundering. There are many good people who find recreational value and entertainment in our regulated gambling establishments to support a thriving and honest gambling industry.

The BGC is here to assist California cardrooms and tribal casinos in developing and maintaining their culture of compliance, and are available to assist in "Knowing Your Customer." If you would like assistance or further investigation into suspicious activity, contact your local BGC office or e-mail [BGCCIU@doj.ca.gov](mailto:BGCCIU@doj.ca.gov).

*Tyler G. Burtis, M.A., is the Special Agent in Charge for the California Department of Justice, Bureau of Gambling Control (BGC), Southern California Office, and is the BGC management-level representative on the Los Angeles High Intensity Financial Crimes Area (HIFCA) Task Force. He can be reached at [tyler.burtis@doj.ca.gov](mailto:tyler.burtis@doj.ca.gov) or (858) 863-3647. Sign up for the CGIC Training in Palm Desert the week of October 8, 2018 by emailing [CGIC@doj.ca.gov](mailto:CGIC@doj.ca.gov).*

### Recommended Reading:

["Casinos: Building a Culture of Compliance"](#) by Peter S. Alvarado and Anita Provence, [acamstoday.org](http://acamstoday.org)

["Designing and Implementing a Casino BSA/AML Training Program"](#) by Peter S. Alvarado

[Internal Revenue Service – Title 31 FAQs](#)



### DID YOU KNOW?

With the advent of cryptocurrency, the Commission would like to remind eligible organizations that conduct charitable raffles of the provisions of Penal Code section 320.6(f)

*A raffle ticket shall not be sold in exchange for Bitcoin or any other cryptocurrency.*

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](mailto:fcastano@cgcc.ca.gov).

### HEARING RESULTS

(April 1 – June 30)

#### Key Employee License:

Kevin Chao, denied May 10

#### Third-Party Player License:

Kin Wong, approved April 2

Jonathan Xiong, denied April 12

Myron Lazo, denied April 12

Dianne Tran, denied May 23

#### Work Permit:

Gloria Sibbald, denied May 3

Duangmanee Charoensuk, denied May 23

Stephen Herrera, denied June 7

#### Tribal Key Employee Finding of Suitability:

Charles Bain, approved April 2

Gary Kirby, approved May 23