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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

Yocha Dehe Wintun Nation; Viejas Band  
of KumeYaaay Indians; and Syquan Band of  
the KumeYaaay Nation,

Plaintiffs,

v.

Edmund G. Brown, Governor of  
California; State of California,

Defendants.

Case No.

**COMPLAINT FOR:**

- (1) **BREACH OF COMPACT**
- (2) **BREACH OF IMPLIED  
COVENANT OF GOOD FAITH  
AND FAIR DEALING**

1 Plaintiffs the Yocha Dehe Wintun Nation, the Viejas Band of Kumeyaay Indians, and the  
2 Sycuan Band of the Kumeyaay Nation allege:

3 1. California law, as enshrined in the California Constitution, prohibits “banking  
4 games,” including banked card games such as twenty-one (i.e., blackjack) and baccarat, where  
5 one or more players wager against a banker who collects losing bets and pays winnings. Banked  
6 card games are legal within California only where offered by sovereign Indian nations in  
7 accordance with approved tribal-state gaming compacts. Over time, however, California’s  
8 cardrooms have devised an ingenious four-prong system by which, under the guise of “player-  
9 dealer” games, they offer banked card games like those played at Indian casinos, in violation of  
10 the California Constitution and California Penal Code. Rather than enforcing the laws plainly  
11 prohibiting the cardrooms’ scheme and essential to holding up the State’s bargain with Indian  
12 nations in California, the State has been complicit in permitting, and at times even encouraging,  
13 the cardrooms’ unlawful conduct. This lawsuit asks the Court to require the State to uphold  
14 California law and fulfill its legal duty to California voters and contractual obligations to  
15 sovereign Indian nations.

#### 16 **PARTIES**

17 2. Plaintiff Yocha Dehe Wintun Nation is a sovereign Indian nation, recognized by  
18 the United States. In 1907, Yocha Dehe was forced off its ancestral lands and onto a federally  
19 created Rancheria, land the United States holds in trust for Yocha Dehe’s use and benefit in the  
20 Capay Valley of Yolo County near Brooks, California. Yocha Dehe remains on this trust land  
21 today.

22 3. Plaintiff Viejas Band of Kumeyaay Indians is a sovereign Indian nation, officially  
23 recognized by the United States, with its reservation located in Alpine, California.

24 4. Plaintiff Sycuan Band of the Kumeyaay Nation is a federally recognized tribe and  
25 a sovereign Indian nation, that was officially recognized by Executive Order of Ulysses S. Grant  
26 in 1875, and whose reservation is located in El Cajon, California.

27 5. Defendant Edmund G. Brown is the Governor of the state of California and is sued  
28 here in his official capacity.

6. Defendant State of California is the 31st state of the Union, and a dependent political and governmental body within the constitutional framework of the United States of America.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. sections 1331, 1362, and 1367(a).

8. Venue in this District is proper under section 13.1(e) of the Compacts between Plaintiffs and the State, and under 28 U.S.C. section 1391, because the State is located in this District, a substantial part of the events or omissions giving rise to this action occurred in this District, a substantial part of property that is the subject of the action is situated in this District, and the State is subject to personal jurisdiction within this District.

9. The State has waived Eleventh Amendment Immunity from suit under the Compacts, and under California Government Code section 98005.

#### **GENERAL ALLEGATIONS**

##### **A. CALIFORNIA’S GAMBLING PROHIBITION**

10. California became a state in 1850. Since 1855, the California Legislature has prohibited certain types of gambling. *See* 1855 Cal. Stat. ch. 103. When the California Penal Code was enacted in 1872, Penal Code section 330 (“Section 330”) incorporated the list of prohibited activities, then existing games of chance and banked games. *See* 1872 Cal. Stat. ch. 278. In 1891, Section 330’s list of prohibited games was amended to include the popular game known as “twenty-one.” 1891 Stats. ch. 62, p. 57.

11. The game “twenty-one” is also commonly known as “blackjack.” *Oliver v. Los Angeles County*, 66 Cal. App. 4th 1397, 1401 n.1 (1998) (“‘Blackjack’ is another name for the game of ‘21.’”); *Kelly v. First Astri Corp.*, 72 Cal. App. 4th 462, 466 n.1 (1999) (“Blackjack is defined as, ‘a card game the object of which is to be dealt cards having a higher count than those of the dealer up to but not exceeding 21– called also *twenty-one*, *vingt-et-un*.’”).

12. Section 330 today exposes to criminal liability “[e]very person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee,

whether for hire or not, any game of . . . twenty-one . . . or any banking or percentage game played with cards . . . , for money, checks, credit, or other representative of value . . . .”

13. A “banking game,” in turn, “has come to have a fixed and accepted meaning: the ‘house’ or ‘bank’ is a participant in the game, taking on all comers, paying all winners, and collecting from all losers.” *Sullivan v. Fox*, 189 Cal. App. 3d 673, 678 (1987). “[A] game will be determined to be a banking game if under the rules of that game, it is possible that the house, another entity, a player, or an observer can maintain a bank or operate as a bank during the play of the game.”

14. In 1984, California voters amended the State’s Constitution to give Section 330 constitutional effect, providing that “[t]he Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.” Cal. Const. art. IV, § 19(e); *Hotel Employees & Rest. Employees Int’l Union v. Davis*, 21 Cal. 4th 585, 605-06 (1999) (1984 amendment to the California Constitution “was designed, precisely, to elevate statutory prohibitions on a set of gambling activities to a constitutional level.”)

15. Thus, anyone (other than an Indian tribe, as explained below) who plays either blackjack or a banked card game engages in illegal activity under the Penal Code and the Constitution.

#### **B. BACKGROUND ON TRIBAL GAMING**

16. The history of Indian tribes in California is sobering. Many California Indian nations, including the ancestors of the plaintiffs here, were decimated by the Gold Rush, as well as state and federal policies that sanctioned genocide, forced enslavement and Indian people’s removal from the lands upon which they depended to live. As a result the people of those Indian nations were relegated to living in grinding poverty, depending on the United States for survival.

17. The Supreme Court’s decision in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), began to change the outlook for the tribes. The factual predicate for that decision was the attempts by the Cabazon Band of Mission Indians and the Morongo Band of Mission Indians to provide for their impoverished communities by running bingo halls in the early 1980s (just as Yocha Dehe, the Viejas Band, and the Sycuan Band did). The State and



1 county sued to shut down those bingo halls as unlawful under California Penal Code section  
 2 326.5 and a county ordinance. Those lawsuits eventually made their way to the United States  
 3 Supreme Court, which invalidated the State's attempt to enforce section 326.5 against the tribes'  
 4 bingo halls. The Supreme Court held that because California permitted a substantial amount of  
 5 gaming activity, including lotteries and bingo, the bingo statute could not be enforced on Indian  
 6 lands. *Id.* at 209.

7 18. In 1988, in response to the Supreme Court's *Cabazon* decision, Congress enacted  
 8 the Indian Gaming Regulatory Act (the "IGRA"). Pub. L. No. 100-497, 102 Stat. 2467 (1988)  
 9 (codified at 25 U.S.C. §§ 2701-21). The IGRA allowed those tribes that negotiated compacts  
 10 with the State (a "Tribal-State Compact") to play the types of games usually associated with  
 11 casino-style gambling, such as slot machines and banked card games, including blackjack and  
 12 baccarat.

### 13 C. HISTORY OF CALIFORNIA COMPACTS

14 19. Following the IGRA's enactment, the State of California and various California  
 15 Indian tribes, including Yocha Dehe, the Viejas Band and the Sycuan Band, attempted to  
 16 negotiate Tribal-State Compacts. Governor Gray Davis received requests from thirty-nine Indian  
 17 tribes to enter a standard "Tribal-State Gaming Compact" approved by the Proposition 5 ballot  
 18 initiative, which permitted tribes to operate slot machines and banked card games. But  
 19 Proposition 5 faced an immediate legal challenge in the California Supreme Court alleging it  
 20 violated California's Constitutional prohibition on Nevada-style casinos. *See Hotel Employees*,  
 21 21 Cal. 4th 585.

22 20. In August 1999, while the Supreme Court's decision was pending, Governor Gray  
 23 Davis proposed an amendment to Section 19 of Article IV of the California Constitution that  
 24 would exempt tribal gaming from the prohibition on Nevada-style casinos, "effectively granting  
 25 tribes a constitutionally-protected monopoly on most types of class III games in California." *In*  
 26 *re Indian Gaming Related Cases*, 331 F.3d 1094, 1103 (9th Cir. 2003). This amendment became  
 27 Proposition 1A. Although voters did not consider Proposition 1A until March of 2000, Governor  
 28 Davis and tribes continued negotiating compacts, conditioned upon passage of the proposition.

21. On September 10, 1999, Governor Davis approved fifty-seven Class III gaming compacts (the “1999 Compacts”), which the Legislature ratified. The core of the negotiated compacts was that California granted tribes the exclusive right to conduct Class III gaming, free from non-tribal competition in the State, in exchange for a number of restrictions and obligations on tribal gaming enterprises.

22. The 1999 Compacts recognized that “[t]he exclusive rights that Indian tribes in California, including the Tribe, will enjoy under this Compact create a unique opportunity for the Tribe to operate its Gaming Facility in an economic environment free of competition from the Class III gaming referred to in Section 4.0 of this Compact on non-Indian lands in California.” Section 4.0 of the 1999 Compacts, in turn, authorized the operation of “Gaming Devices” and “[a]ny banking or percentage card game.”

23. On March 7, 2000, California voters approved Proposition 1A, which amended the California Constitution to provide:

Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

Cal. Const. art. IV, § 19(f).

24. In 2015, the Sycuan Band entered into a new Tribal-State Compact with the State of California, and Yocha Dehe and the Viejas Band each did the same in 2016 (the “2015-16 Compacts”). As was the case with the 1999 Compacts, the preamble to the 2015-16 Compacts recognized the tribes’ right to offer banked card games exclusively: “the State and the Tribe recognize the *exclusive rights the Tribe will enjoy under this Compact* create a unique opportunity for the Tribe to operate a Gaming Facility in an economic environment *free of competition from the operation of slot machines and banked card games on non-Indian lands* in California and that this unique economic environment is of great value to the Tribe.” That section of the 2015-16 Compacts also acknowledged that “in consideration” of the tribes’ “exclusive rights . . . to engage

1 in the Gaming Activities” specified in the compacts (which activities include the play of “[a]ny  
2 banking or percentage card game”), the tribes committed, “on a sovereign-to-sovereign basis” to  
3 pay the State “fair cost reimbursement and mitigation.”

4 25. The 2015-16 Compacts’ final preamble recital provides that the State and the  
5 tribes agree that all terms and provisions of the Compacts are intended to be binding and  
6 enforceable. This is a point further confirmed by Section 1.0 of the 2015-16 Compacts, which  
7 provides, among other things, that a purpose of the Compacts is to “[a]chieve the objectives set  
8 forth in the preamble.”

9 26. The effects of Indian gaming are profound, far beyond the sovereign nations’  
10 ability to provide for the future of their people. A 2016 economic impact study prepared on  
11 behalf of the California Nations Indian Gaming Association (“CNIGA”) found that in 2014,  
12 Indian gaming generated \$7.8 billion in economic output in the State, supported 63,000 jobs  
13 statewide, provided \$3.3 billion in worker earnings, and produced nearly \$400 million in state and  
14 local revenue.

15 **D. TRADITIONAL GAMING AT CALIFORNIA CARDROOMS**

16 27. Cardrooms have existed in California for many years. Traditionally, cardrooms  
17 made money by charging each player a per-hand fee – called a “collection” – for the privilege of  
18 using the cardroom’s facilities, usually playing “round” games such as poker, where there is no  
19 bank or house against which players bet. The deal would continuously rotate among the players,  
20 with the cardroom having no interest in the results of any hand or the winnings of any player  
21 dealer.

22 28. To bolster their business, the cardrooms developed the concept of a “proposition  
23 player,” an individual paid by the cardroom to sit at the tables and reinvigorate games with  
24 dwindling action and thereby stimulate additional revenue for the cardroom in the form of per-  
25 hand fees collected from every player. While the proposition players were paid to sit at the  
26 tables, they were required to gamble with their own money – a key point.

27 29. Over time, the California Legislature has developed various statutory schemes to  
28 regulate gaming in cardrooms. Each legislative scheme was required to be in harmony with the

1 constitutional prohibition on the play of specific games such as blackjack, or, generally, the play  
2 of banked games.

3 30. For example, in 1997, the Legislature enacted the Gambling Control Act, which,  
4 among other things, created the California Gambling Control Commission (the “Commission”),  
5 which is vested with primary jurisdiction and supervision “over gambling establishments in this  
6 state and over all persons or things having to do with the operations of gambling establishments.”  
7 Cal. Bus. & Prof. Code § 19811. The Gambling Control Act also required regulation by the  
8 Division of Gambling Control, an agency within the Attorney General’s Office, which is now  
9 known as the Bureau of Gambling Control (the “Bureau”). The Bureau regulates the gambling  
10 industry in California, in cooperation with the Commission.

11 31. In terms of the play of games in cardrooms, the Gambling Control Act addressed  
12 regulation of proposition players, including licensing and contracting. One example is Business  
13 & Professions Code section 19984, which specifically allows cardrooms to “contract with a third  
14 party for the purpose of providing proposition player services,” subject to certain conditions. A  
15 principal condition is that the contracts with these so-called third-party proposition players  
16 (known in short hand as “TPPs”) may not give the cardroom “any interest, whether direct or  
17 indirect, in funds wagered, lost, or won.” Bus & Prof. Code § 19984(a).

18 32. Another concern about the play in cardrooms over the years has been the “player-  
19 dealer” position. Any player at a table, including the TPP, can be the player-dealer, that is, the  
20 person who is dealing the hand and against whom the other players bet. If it is possible for one  
21 person to maintain that player-dealer position, however, the game effectively becomes “banked,”  
22 and therefore illegal under Section 330.

23 33. Various decisions have analyzed the legality of specific games at California  
24 cardrooms. In *Huntington Park Club v. Los Angeles County*, 206 Cal. App. 3d 241 (1988), the  
25 court found that Pai Gow was not a banking game where “the dealer position continually and  
26 systematically rotates among each of the participants.”

27 34. By contrast, the court in *Oliver v. Los Angeles County*, 66 Cal. App. 4th 1397  
28 (1999), found a game called “Newjack” illegal under Section 330. As the *Oliver* court explained,

“a game will be determined to be a banking game if under the rules of that game, it is possible that the house, another entity, a player, or an observer can maintain a bank or operate as a bank during the play of the game.” *Id.*, at 1408. While Newjack permitted a player to serve as player-dealer for two consecutive hands before the option to deal passed to other players, it did not *require* the rotation of the deal “if all the other players at the table decline to be player-dealer.” *Id.*, at 1407. The court concluded Newjack violated Section 330 because, “in Newjack, the player-dealer position does not *have* to rotate among the players. If the other players decline to accept the player-dealer position, one player can act as a player-dealer for repeated hands and such a player need not go broke after a few hands.” *Id.* at 1408-09. Therefore, “[a] player with a significant amount of money to bet can hold the position of player-dealer for a long time, and thus keep the inherent playing advantage for him or herself.” *Id.* at 1409.

35. Following *Oliver*, the Legislature enacted Penal Code section 330.11 (“Section 330.11”), to make clear what constitutes a banking game for purposes of Section 330. As the statute explains:

“Banking game” or “banked game” does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means. The house shall not occupy the player-dealer position.

36. The legislative history of Section 330.11 confirms its narrow scope:

This bill attempts to clarify that card clubs may offer games that feature a player-dealer position, so long as the rules of the game require a continuous and systematic rotation of the player-dealer position . . . . This bill clarifies that these games are not “banked games.” Moreover, this bill does not legalize 21 or any other new card game.

Chapter 1023, AB 1416 (1999-2000 Session), Author’s Senate floor sponsor’s statement and notes, Feb. 26, 1999 (Assembly Member Herb Wesson).

37. From the tribes' perspective, both *Oliver* and Section 330.11 were flawed in one respect: ***No amount of rotation*** could legitimize the play of constitutionally-prohibited games such as blackjack. Stated otherwise, banking even a ***single hand*** of blackjack is still playing an impermissible banked game.

38. In any event, to comply with Section 330.11 and the *Oliver* decision, California's cardrooms voluntarily submitted, and the Bureau approved, rules providing that the player-dealer position cannot be occupied by one person for more than two consecutive hands. This two-hand rotation requirement became the industry standard. Consistent with this industry standard to which the Bureau and cardrooms tacitly agreed, a 2016 review of cardroom rules on the (prohibited) game of blackjack on the Bureau's website revealed that 98 percent of them (204 out of 208 sets of rules) expressly set out the two-hand rotation mandate. The following is a typical example of the rotation language in one set of rules for a cardroom:

**LEGAL**

The Player-Dealer position must rotate in a continuous and systematic fashion, and cannot be occupied by one person for more than two consecutive hands. There must be an intervening player-dealer so that no single player can continually occupy the player-dealer position within the meaning of *Oliver v. County of Los Angeles* (1998) 66 Cal. App. 4<sup>th</sup> 1397, 1408-1409. If there is not an intervening person occupying the Player-Dealer's position, the game will be "broke" or stopped, as required by the California Penal Code.

39. With respect to the (also prohibited) game of baccarat, the results are just as remarkable. Out of the 122 approved game rules on the Bureau's website in 2016, 104 (or 85 percent) explicitly required two-hand rotation and the rest stated that rotation of the banker position is "the same as industry standard games and complies with 330.11 of the California Penal Code." To ensure there was no doubt about what that standard is, a number of the 104 game rules requiring rotation every two hands *also* contained the "industry standard" provision. The following is an example of the relevant language from a game of EZ Baccarat:



**Standards of Play**

The game features a rotating player/dealer position that collects from all losers and pays all winners to the extent that their wager covers the action. The rotation of the Player/Dealer position is the same of industry standard games and complies with 330.11 of the California Penal Code. The object of the game is to form a hand that equals nine (9) or as close to it as possible. The player's hand is compared with the player/dealer's hand. The hand closest to "9" wins.

\* \* \*

**PLAYER-DEALER & DEAL**

The player/dealer position rotates in a systematic and continuous way so that the opportunity to act as the player/dealer does not constantly remain with a single person for many hands. The person in player/dealer position may not act as player/dealer position more than two consecutive hands or rounds of play. The opportunity to act as the player/dealer must be offered to all seated players after two hands or rounds of play so that a single player cannot repeatedly act as the player/dealer within the meaning of *Oliver v. County of Los Angeles*, (1998) 66 Cal.App.4<sup>th</sup> 1397, 1408-09 or section 330.11 of the California Penal Code, relating to gambling establishments and any future regulatory guideline from the California Bureau of Gambling Control or the California Gambling Control Commission with respect to the operation of controlled games featuring a player/dealer position.

40. Consistent with the dictates of Section 330.11 and the two-hand rotation industry standard the Bureau and cardrooms established, the Bureau created (and maintained on its website) a "Gambling Establishment Compliance Inspection Checklist" that required its agents, when inspecting a cardroom, to, among other things, verify that "the player-dealer position [is] continuously and systematically routed amongst each player during the play of CA/Asian games." (Exhibit A, p. 13.)

41. Collections have also been the subject of legislative focus. Penal Code section 337j(f) ("Section 337j(f)") "is intended to be dispositive of the law relating to the collection of player fees in gambling establishments." It sets forth limited grounds for waiving collection of a per-hand fee, providing that "the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public." The legislative history of Assembly Bill 278, which added Section 337j(f)'s collection fee waiver language, explained the use of the collection fee waiver in particular hands or rounds of play:

The bill also will clarify the law relating to the collection of fees in in card clubs by allowing the club to waive specified fees, a "player-friendly" change benefiting those players who do not receive action on their wager, or where a hand folds and there is no betting.

Thus, the Legislature envisioned allowing a cardroom to waive the collection fee only in limited circumstances, namely, where a player received no action on his wager or where the entire hand



1 folds with no betting at all.

2 42. Moreover, the Commission promulgated regulations governing contracts between  
3 TPPs and cardrooms. Consistent with the language and history of Section 337j(f), those  
4 regulations specifically provide “[t]hat collection fees charged by the house for participation in  
5 any controlled game shall be the same as those charged to other participants during the play of the  
6 game.” Cal. Code Regs. tit. 4, § 12200.7(b)(12). This necessarily means that TPPs and other  
7 players in any game must pay the same collection rate.

8 **E. ILLEGAL GAMING IN CALIFORNIA CARDROOMS**

9 43. There was an inescapable problem for cardroom operators adhering to the legal  
10 requirements described above: They wanted to make more money. In short, they wanted what  
11 the tribes had – the ability to play popular games such as blackjack, and to do so in a banked  
12 format. To that end, beginning around the early-2000s, California cardrooms dramatically  
13 restructured how they operated player-dealer card games. There are four inter-connected aspects  
14 to this restructuring: (1) cardrooms fail to rotate the “banker” position at their tables, (2) they  
15 routinely waive per-hand collection fees for all but the TPPs, (3) they obtain an improper interest  
16 in the funds wagered in their establishments through the use of TPPs, and (4) they play (and  
17 boldly advertise the play of) expressly prohibited card games.

18 **i. FAILURE TO ROTATE THE BANKER POSITION**

19 44. As a preliminary matter, the tribes contend that rotation of the banker position is  
20 irrelevant, because banking even a single hand of a game makes that an illegal banked game. The  
21 cardrooms, however, fail to rotate the banker position *at all*.

22 45. As noted above, consistent with the *Oliver* decision and Section 330.11, the  
23 cardrooms and Bureau implemented a two-hand industry standard for the rotation of the banker or  
24 player-dealer position. That rotation standard, however, had a significant drawback for the  
25 cardrooms, because it forced the players at their tables to take that banker position or the game  
26 would have to stop. Because tribal casinos (like those in Las Vegas or New Jersey) did not have  
27 to rotate the banker position, customers preferred to go there rather than the cardrooms.

28 46. The cardrooms, however, devised a way to avoid the straightforward requirement

1 that the banker position rotate: The infamous “Lytle Letter.”

2 47. In 2003, Robert Lytle became the Director of the Bureau (then still known as the  
3 Division of Gambling Control). In this position, Lytle was responsible for overseeing regulation  
4 of California cardrooms.

5 48. On December 20, 2007, Lytle, in his official capacity, wrote to the presidents of  
6 the Southern California Cardroom Association and the Golden State Gaming Association, two  
7 groups lobbying for California cardrooms. (**Exhibit B.**) The Lytle Letter opined on “the  
8 inspection practice of the Bureau of Gambling Control” regarding rotation of the deal in a game  
9 with a player-dealer position. The Lytle Letter cited Section 330.11’s requirement that the  
10 “player-dealer position . . . must be continuously and systematically rotated amongst each of the  
11 participants during the play of the game,” but instead of committing the Bureau to enforce that  
12 statute as written, it stated that “the Bureau of Gambling Control has mandated that all game rules  
13 include a provision that the player-dealer position must continuously and systematically *be*  
14 *offered* to all seated players.” (Emphasis added.) The Lytle Letter further stated that, “[i]f, after  
15 a player acts as the player-dealer for two consecutive hands, the casino *offers* this opportunity to  
16 all other seated players . . . the requirement that the opportunity to act as the player-dealer be  
17 continuously and systematically offered to all seated players has been satisfied.” (Emphasis  
18 added.) Thus, the Lytle Letter purported to wipe out the statutory requirement and long-  
19 established industry standard of *actual* rotation of the player-dealer position and instituted a  
20 system by which that position only had to be *offered* to the other players, and if they did not want  
21 to take it – which they never did – the play would continue without rotation.

22 49. The problem with the Lytle Letter – aside from the fact it contradicted the law – is  
23 that it was patently self-interested and improper. At the end of 2007, just a few days after sending  
24 his letter to the cardroom associations, Lytle left the Bureau to work as a representative of a San  
25 Jose cardroom. In December 2014, the Bureau, Lytle’s former employer, filed with the  
26 Commission a formal accusation (the “Accusation”) against Lytle seeking to revoke his state-  
27 issued gaming licenses because of improper conduct. A copy of the Accusation is attached as  
28 **Exhibit C.** In the Accusation the Bureau concluded that, among other bad acts, “prior to

December 4, 2007” – that is, a few days before he sent the letter to the cardroom associations – Lytle entered into “negotiations with [the San Jose cardroom] concerning prospective engagement as its compliance director.” Thus, Lytle negotiated for employment at a cardroom while still the Bureau’s Director, then issued the letter providing cardrooms the ability to skirt the law on game rotation, and a few days later left to work at a cardroom.

50. Not surprisingly, the Bureau concluded in the Accusation that Lytle acted “for personal gain and the gain of those whom he came to represent, he abandoned the basic principles of the state agency, and the general public, that he served” and that he “is not a person of good character, honesty, and integrity.” In a July 2016 stipulated settlement, Lytle admitted wrongdoing, admitted that he was unqualified for Bureau licensure, consented to revocation of his temporary state gambling licenses and denial of pending applications, agreed to sell any ownership in a gambling establishment or enterprise, agreed to pay a fine of at least \$75,000, and agreed to a lifetime ban from licensure by the Commission, Bureau, or any successor agency.

51. Armed with the Lytle Letter – which they evidently bought from Lytle – the cardrooms ceased rotating the player-dealer position “continuously and systematically” as the Penal Code requires. Instead, cardrooms began a farcical practice of merely offering the deal to players other than the TPPs. The other players, seeking the experience of playing a banked game “against the house” without traveling to Nevada or an Indian reservation, virtually never accept the offer to bank a game themselves.

52. Despite its decidedly illegitimate origin, the Bureau left the Lytle Letter in effect for nearly a decade, and, as explained below, after “suspending” it briefly, has once again allowed cardrooms to return to the non-rotation standard it created.

## **ii. THE WHOLESALE WAIVER OF COLLECTIONS**

53. Playing banked games by not rotating the player-dealer position was only one aspect of the cardrooms’ illegal scheme. To achieve their goal – offering Nevada casino-style gaming – the cardrooms had to eliminate the collection. After all, the collection put the cardrooms at a distinct economic disadvantage, because their customers could not use all their funds to gamble – they had to dedicate a portion of those funds to paying the collection.

54. While nothing in California law requires a collection in the first place, the cardrooms historically had no choice but to impose it. The collection was the only way the cardrooms made money from the gambling at their establishments. Thus, in the context of traditional cardroom play, not charging a collection would be akin to running a non-profit business.

55. The cardrooms thus waived the collection for all players other than the TPP, and many submitted to the Bureau game rules to that effect, which the Bureau approved. This waiver of collections contravenes California law and as a consequence, Plaintiffs' exclusivity rights. As explained above, Section 337j(f), the "dispositive" statute on collections allows for the waiver of collections, but only for a particular "hand or round of play" in a game, not in a wholesale manner, as the cardrooms do now. Moreover, as the legislative history of that statute demonstrates, that waiver is supposed to occur *only* where a player received no action on his wager or where the entire hand folds with no betting at all. Further, section 12200.7(b)(12) of the Commission's regulations prohibits a differential in collection fees charged to players at a table. Thus, the Commission's regulations do not allow the cardrooms to charge the TPPs (who act only as player-dealers in cardrooms) a different rate than the rest of the players in the game, though that is just what they are doing.

### iii. THE FUNDAMENTAL MORPHING OF THE TPP ROLE

56. If the cardrooms abandoned their traditional form of income, a natural question arises: How do the cardrooms make money now? The answer is through the TPPs.

57. A by-product of the cardrooms illegally reshaping their games to match those banked card games played in Nevada and Indian casinos, is the redefinition of the TPP role in very fundamental ways. Whereas the cardrooms used to pay the TPPs to maintain interest in their poker games, the TPPs now pay the cardrooms for the privilege of banking the games, and the TPPs make the money for those payments by permanently occupying the lucrative banker position (which explains the failure to rotate the bank, as the TPPs need to maximize the inherent advantage that results from acting as the "house"). Because the TPPs make 100% of their revenue from the "funds wagered, lost, or won," paying any of that money back to the cardrooms

1 necessarily means the cardrooms have an “interest” in those funds in violation of Business &  
2 Professions Code section 19984.

3 58. While the cardrooms claim the contracts between them and the TPPs allow the  
4 latter to pay only for the goods and services the TPP employees use while on the property, this  
5 justification is misleading, because those goods and services are for such things such as  
6 equipment (surveillance cameras and monitors, cards, and shuffling machines), rent and  
7 advertising. These items are all among the customary incidents of running a business. The TPPs,  
8 then, have become a form of partner with the cardrooms and thus, the “house.” In any event,  
9 because the TPPs’ income is derived solely from “funds wagered, lost, or won,” paying any  
10 portion of those funds to the cardrooms is illegal.

11 **iv. THE PLAY OF ILLEGAL GAMES**

12 59. A critical aspect of the cardroom’s scheme was the play of banked card games  
13 such as blackjack and baccarat. To compete with Nevada and tribal casinos, the cardrooms had to  
14 offer the same games offered there. The fact that blackjack and baccarat are played in Nevada  
15 and New Jersey, however, means it is constitutionally impermissible for anyone other than an  
16 Indian tribe with a negotiated tribal-state compact to play those games in California. If that were  
17 not enough, blackjack is specifically prohibited (as “twenty-one”) by Section 330.

18 60. As for baccarat, the game *does not have* a “player-dealer position.” Rather, the  
19 players at the table simply make wagers based on a single shared set of cards. The dealer, who  
20 has no hand in the game, acts as nothing but a bank. Consequently, Section 330.11’s exemption  
21 for games where the player-dealer position rotates cannot apply to this game. By definition,  
22 baccarat cannot be played *other* than as a “house-banked” game.

23 61. Aware of the prohibition on playing these games, the cardrooms devised a  
24 misguided (but profitable) scheme to circumvent the law, which the Bureau enabled when  
25 approving game rules. For example, the cardrooms created, and the Bureau approved, a game  
26 known as Pure 21.5 Blackjack. The sole difference between Pure 21.5 Blackjack and standard  
27 blackjack (also known as 21) is that the face and ten cards have a value of 10.5 when dealt with  
28 an ace, rather than the standard value of 10. Thus, when paired with an ace, these cards add up to

21.5, rather than 21. Not surprisingly, when cardroom guests ask a dealer how to play the game, they are told it plays just the same as regular blackjack. Further, some cardrooms, like Casino M8trix in San Jose and Lucky Chances in Colma, until recently, advertised this game on their websites as “Vegas style Blackjack.” Along the same lines, the cardrooms created another game called “21<sup>st</sup> Century Blackjack,” the object of which, as some cardrooms explain, is “the same as standard Blackjack – to get as close to 21 as possible without going over.”

62. The cardrooms also recognized that to lure customers to their doors and away from tribal casinos they needed to advertise their play of these illegal games on their websites and on billboards lining major freeways. One particularly egregious example, from the Hollywood Park Casino website, unabashedly admitted the play of blackjack and went so far as to call it by its prohibited name:



63. There is an important, and ironic, point to note with respect to the cardrooms’ illegal gaming. The Indian tribes bargained, and pay for, the exclusive right to offer Las Vegas-style banking games. The tribes, however, can game only on their reservations, which are in most cases remote and therefore not near the urban centers from which they draw their customers. The cardrooms, by contrast, are not limited geographically. Thus, they violate the tribes’ exclusivity by playing their illegal games, and get to do so much closer to where many Indian casino customers live.

**F. THE STATE ABETS THE CARDROOM'S ILLEGAL GAMING**

64. The State (through its Bureau and Commission representatives) had to know it was allowing illegal gaming when that gaming began. After all, at a minimum:

- Robert Lytle was the head of the Bureau when he issued to the two associations the letter that allowed the cardrooms to stop rotating the player-dealer position in direct violation of Section 330.11;
- The Bureau approved rules allowing the cardrooms to waive collections for all but one player, the TPP, in violation of Section 337j(f) and section 12200.7(b)(12) of the Commission's regulations;
- The Bureau approved cardrooms playing games such as Pure 21.5 Blackjack and baccarat, both of which are prohibited by the Constitution as games played in Nevada and New Jersey, and the former of which is specifically prohibited – as “twenty-one” – by Section 330; and
- The Commission approved the regulations which morphed the TPP position, allowing the TPPs to contract with the cardrooms to obtain an illegal interest in the “funds wagered, lost, or won” at their facilities.

65. The tribes did not recognize the cardrooms' illegal gaming until late 2011, at which time they began investigating the concern. At an April 12, 2012 meeting of the Tribal-State Association (a group formed by the Tribal-State Compacts and made up of tribal and state gaming regulators) Yocha Dehe representatives for the first time informed the Bureau and Commission officials present (including Martin Horan, then the acting Bureau Chief, and Stephanie Shimazu, the Commission's Chairwoman) that the cardrooms were playing illegal banked games at their facilities.

66. By April 2012, then, the State was unquestionably on notice of the cardrooms' blatant violation of California law to the tribes' detriment. Rather than do what the tribes requested – enforce the laws as they exist and thereby protect the exclusivity for which tribes bargained – the State began a multi-year campaign of promising action, but doing little. Worse, while the State has conceded the tribes are correct on the law, the little the State has done further



1 *enabled* the cardrooms' illegal gaming scheme.

2 67. Over the months following the April 2012 Association meeting, tribal  
3 representatives discussed and met on several occasions (including June 19, August 2, and October  
4 9, 2012) with staff from the Bureau and Commission to explain the illegal gaming concerns,  
5 including providing tutorials at blackjack and baccarat tables. From the tribes' perspective, the  
6 position was – and continues to be – the same: Enforce the laws and respect the tribes'  
7 exclusivity. The State representatives' response to these early communications was that they  
8 were investigating the tribes' claims, though they acknowledged the existence of a "problem."  
9 While the Bureau refused to commit to any particular action or timeline, by the October 9  
10 meeting, its representatives agreed to begin a review of the cardroom game rules it had approved,  
11 and stated such review might result in changes to the collection fee and game rotation issues. As  
12 for the Commission, it acknowledged the need to "clean up" its TPP regulations and agreed to  
13 schedule workshops to begin that process.

14 68. In an October 2012 letter Yocha Dehe wrote to the Bureau and the Commission  
15 for the first time detailing its concerns with illegal gaming at cardrooms. (**Exhibit D.**) As the  
16 letter explained, the point was relatively simple: "The cardrooms have, over time, manipulated  
17 the system the State put in place and have been allowed to advertise and play illegal games in a  
18 way that is indistinguishable from those played at Indian casinos." With this in mind, Yocha  
19 Dehe asked the State to describe, with specificity, the steps it intended to take to remedy the  
20 situation and the timeframe involved.

21 69. On December 10, 2012, the Viejas Band also wrote to the Bureau and Commission  
22 to memorialize the concerns its representatives had raised at the October 9, 2012 meeting, and to  
23 confirm the Bureau's and Commission's commitments at that meeting to combat the illegal  
24 gambling. (**Exhibit E.**)

25 70. On December 27, 2012, more than two months after Yocha Dehe sent its October  
26 2012 letter, the Bureau's then-Chief, Wayne Quint, wrote back offering no concrete actions, but  
27 simply expressing the Bureau's appreciation for bringing these "serious issues" to the Bureau's  
28 attention and stating that the Bureau was "investigating and evaluating these allegations as

1 appropriate.” This untimely letter typified the State’s response to the illegal gaming problem over  
2 the years: Assurances of investigation and action, but ultimately nothing concrete, at least for the  
3 tribes.

4 71. In a November 6, 2013 letter, Yocha Dehe elevated to the Attorney General,  
5 Kamala Harris, its concerns about the illegal gaming at cardrooms. In that letter, Yocha Dehe  
6 requested a meeting with Harris out of “frustration with the Bureau of Gambling Control’s failure  
7 to address these issues, which [the tribes had] raised with Bureau representatives multiple times  
8 over the past eighteen months.” Yocha Dehe then set out a brief history of the problem and  
9 attached a copy of its more detailed October 25, 2012 letter. (**Exhibit F** (without attachment).)  
10 Around the same time, CNIGA reached out to the Attorney General on behalf of its 35 member  
11 tribes to express its concerns regarding the illegal gaming practices at cardrooms. (**Exhibit G.**)

12 72. The Attorney General’s office did not bother to respond to Yocha Dehe’s  
13 November 2013 letter. As a result, Yocha Dehe followed up on March 25, 2014. In the new  
14 letter, Yocha Dehe explained that other tribes had contacted the Attorney General seeking  
15 resolution to the illegal gaming but had also received no response to their inquiry. As Yocha  
16 Dehe explained, the tribes’ concern over illegal gaming at the cardrooms “will not disappear by  
17 ignoring it.” As before, Yocha Dehe requested that the Attorney General meet with the tribes to  
18 address that concern. (**Exhibit H.**)

19 73. The tribes were individually unsuccessful in persuading the Attorney General to  
20 meet. To take a different approach, on February 20, 2015, elected leaders of the Agua Caliente  
21 Band of Cahuilla Indians, Pechanga Band of Luiseño Indians, the Sycuan Band, Table Mountain  
22 Rancheria, the Viejas Band, and Yocha Dehe (the “Coalition Tribes,” which later also included  
23 the Barona Band of Mission Indians), wrote the Attorney General. (**Exhibit I.**) As some of the  
24 tribes had done individually, the Coalition Tribes requested a meeting to discuss the three issues  
25 of illegal gaming within the Bureau’s purview (bank rotation, collection fees, and the play of  
26 illegal games). While the Coalition Tribes acknowledged some work by the Bureau on the issue  
27 of collections, they decried the Bureau’s insistence that it would do nothing on the other aspects  
28 of illegal gaming while it was focused on collections. As the tribes explained, there was no

1 “reason why the Bureau should shrug off its obligation to enforce the law until it is convenient for  
2 the Bureau to do so, particularly where the problem is of the Bureau’s own making.”

3 74. As described in more detail below, the Coalition Tribes finally met with  
4 representatives from the Department of Justice, and eventually, with Attorney General Harris and  
5 later her successor, Xavier Becerra. Those meetings produced nothing of substance beyond some  
6 “guidelines” by the Bureau whereby it officially sanctioned illegal banked card gaming in breach  
7 of Plaintiffs’ Compacts.

8 75. The following summarizes how the State has abetted the cardrooms as to each of  
9 the four illegal gaming issues.

10 **i. THE COMMISSION TACKLES, BUT THEN DROPS, THE TPP ISSUE**

11 76. As noted above, the Commission early on recognized that its regulations – which,  
12 among other things, set forth the specific requirements for the contracts between the TPPs and  
13 cardrooms – required substantial revision. As such, the Commission began a regulatory review  
14 process in which all interested stakeholders participated.

15 77. To that end, on June 19, 2013, the Commission held an initial roundtable to  
16 discuss potential revisions to its regulations on TPP contracts, as well as a follow up workshop on  
17 August 27, 2013. Following the workshop, a number of tribes, including Yocha Dehe, wrote to  
18 the Commission’s then-Chairman, Richard Lopes, to suggest particular regulations requiring  
19 revision to remedy the illegal gaming problem (a copy of Yocha Dehe’s September 16, 2013  
20 letter is attached as **Exhibit J.**)

21 78. The Commission followed up with additional meetings, including formal hearings,  
22 and prepared more than one set of proposed revised regulations to incorporate input from the  
23 various stakeholders. The tribes’ position never wavered – the Commission’s regulations should,  
24 at a minimum, preclude payments from the TPPs to the cardrooms, because those payments  
25 necessarily violate the Gambling Control Act’s prohibition on the cardrooms having an “interest,  
26 whether direct or indirect, in funds wagered, lost, or won.” Moreover, in no circumstance could  
27 the TPP bank a card game.

28 79. The Bureau representatives who attended the Commission’s regulation workshops

1 and hearings in effect supported the tribes' position. While the Commission's regulations set the  
2 parameters and requirements for contracts between TPPs and cardrooms generally, the Bureau is  
3 charged with approving the terms of the particular contracts between specific entities. The  
4 Bureau, however, has acknowledged that the regulations effectively place no limitations on what  
5 the TPPs can pay to the cardrooms. For example, at the June 19, 2013 roundtable, the Bureau's  
6 Marty Horan explained to the commissioners that the regulations were written so broadly they  
7 "allowed everything but the kitchen sink to be thrown" into the contracts between the TPPs and  
8 the cardrooms and he noted the Bureau's concern "about how much of the actual cost of the day-  
9 to-day operations of the cardrooms are being passed on to the third-party provider."

10 80. In response to an inquiry by the Commission's Chairman at an August 18, 2015  
11 hearing, a Bureau Senior Manager wrote to the Commission explaining the types of cardroom  
12 expenses a TPP could cover and the concerns those payments created. (**Exhibit K.**) As the  
13 Bureau's Manager explained in her September 25, 2015 letter, "[t]here are currently no specific  
14 expenses that are prohibited. As currently written, the regulations allow for nearly all expenses  
15 that can be categorized as services, facilities, advertising, or equipment to be paid for by the  
16 TPPPS company." The Manager then explained that the "largest issue for the Bureau is the  
17 debate with the industry as to what can be placed in these categories." While the Bureau believes  
18 that some items should not be included as they provide "no value to the TPPPS company," the  
19 "industry" – that is, the cardrooms – argued that the Bureau may not have "the authority to make  
20 these determinations."

21 81. The Bureau Manager's letter explained that "[a]dvertising is another issue." The  
22 cardrooms argued "that any advertisement of the Cardroom benefits the TPPPS company and  
23 they should therefore share that expense (this would include poker advertisements)." The Bureau,  
24 on the other hand, believes that under the regulations, the TPPs should "only share in the cost of  
25 advertisement for games in which the TPPPS company participates," which does not include  
26 poker. The cardrooms, however, "rarely separate this expense and the Bureau has a difficult time  
27 discerning the TPPPS company's reasonable share."

28 82. The Bureau Manager's letter also lists 15 types of expenses which the cardrooms

1 routinely try to share with the TPPs but which the Bureau believes “create a conflict” that  
2 “enhances the dangers of unsuitable practices.” The list includes items such as cardroom “Payroll  
3 Processing Fees,” “Taxes,” “Cardroom Charitable Donations,” “Cardroom Employee Recruiting  
4 and Hiring,” and “Other Expenses Relating Specifically to Poker.”

5 83. The Bureau’s September 25, 2015 letter is hardly the only evidence from the  
6 Bureau of the problems created by the fundamental up-ending of the TPP role in cardrooms. At  
7 more than one of the Commission’s regulation review gatherings, Bureau representatives present  
8 admitted they lacked the ability and manpower to adequately evaluate the propriety of the  
9 payments the TPPs make to the cardrooms. As just one example, Bureau representatives  
10 explained that they had inadequate knowledge and resources to accurately value the claimed rent  
11 payments the TPPs make to the cardrooms. Moreover, sometimes those rent payments were for  
12 only a portion of the cardrooms’ facilities (presumably the portion the TPPs claimed to occupy)  
13 and thus there was no viable market comparisons even *if* the Bureau *had* the requisite real estate  
14 knowledge and resources.

15 84. The Bureau’s own comments prove that the Commission’s regulatory scheme,  
16 which allows the TPPs to pay the cardrooms (instead of the other way around) is untenable. Not  
17 only does that scheme give the cardrooms an “interest” in the “funds wagered, lost, or won” (the  
18 only funds the TPPs get from their work in cardrooms) in violation of the Gambling Control Act,  
19 the Bureau has repeatedly admitted it has no viable way to adequately police the exchange of  
20 those funds. This was a point with which at least one of the Commission’s commissioners,  
21 Richard Schuetz, agreed. During the August 27, 2013 workshop, he referred to California’s  
22 system as “almost a caricature of a gambling environment” and explained that “[i]f you allow  
23 money to transfer [between TPPs and cardrooms] because of marketing, because of office space  
24 agreements, because of this, because of that . . . you have blurred the distinction between those  
25 two entities in a very difficult fashion, and there is no bureau in the entire world that can, in a true  
26 sense, audit that so as to come to a conclusion as to whether it makes sense or not. They just  
27 can’t.”  
28

85. Thus, the only way to ensure compliance with the law is a prohibition on the TPPs paying *anything at all* to the cardrooms. Moreover, the current system means the TPPs are effectively the cardrooms' partners by paying for virtually every type of expense the cardrooms incur, thereby making the TPPs part of the "house" which means the games they run are house-banked in violation of the California Constitution. To quote Commissioner Schuetz at an August 18, 2015 regulatory hearing, the current system "does seem to put [the TPPs] into the gambling business."

86. The Commission held its last meeting regarding the TPP contracts on December 9, 2015. The tribes have asked on several occasions when the regulatory review process will commence again. While the Commission has acknowledged the need to re-start that process, it has yet to commit to any dates.

**ii. THE BUREAU BEGINS, BUT THEN DROPS, COLLECTION REFORM**

87. In response to the tribes' push for action with respect to the illegal gaming problem, the Bureau announced on March 21, 2014 that it was "proposing amendments to its existing regulations pertaining to gaming activity authorization, . . . specifically to the approval of collection rates associated with Bureau authorized gaming activities." This announcement, however, set no date for the beginning of this regulatory review.

88. The Bureau eventually set a roundtable meeting for stakeholders to occur on May 6, 2014. The Bureau's notice of the roundtable explained that the "discussion will focus solely on the parameters for which the licensee may waive the collection fee, pursuant to Penal Code section 337j(f)."

89. On May 15, 2014, Yocha Dehe wrote to the Bureau's Chief, Wayne Quint, to provide its comments regarding the discussion at the roundtable. (**Exhibit L.**) Specifically, Yocha Dehe's letter concluded that "allowing cardrooms to waive collections the way they currently do is inconsistent with both that statute [Section 337j(f)], and also violates applicable regulations." The letter went on to explain the particular reasons why the cardrooms could neither waive on a wholesale basis the collection fees for all but one player at the table – the TPP – nor charge the TPPs a different rate than the rest of the players in the game.

90. On October 31, 2014, the Bureau issued three different versions of proposed regulations based on the comments the Bureau received. In response, on November 20, 2014, Yocha Dehe again wrote to the Bureau to comment on the three proposals and to emphasize that any regulation must spell out the narrow circumstances in which fees can be waived, must prohibit the wholesale waiver of fees, and must require the payment of fees from a player's own funds.

91. On January 23, 2015, the Bureau held a workshop on the regulation amendments proposed in October 2014. At the outset of the workshop, moderator and Bureau representative Susanne George gave a brief overview of the process. In doing so, she essentially echoed the input the tribes had provided regarding the entire illegal gaming scheme. For example, George explained that "[t]he proposed rules relating to collection rates are intended to encourage *actual rotation and the acceptance* of the player/dealer position *as a means to prevent unlawful de facto banking* from occurring." She further stated that "[c]ollection rates and *continuous and systematic rotation of the bank to avoid prohibited sole source banking of games* do go hand in hand." Further, George reported that, based on the Bureau's meetings with members of the cardroom industry, changes to collection fees were "a reasonable means to encourage the *legally required actual rotation* of the player/dealer position in a manner that is the least disruptive to current card room operational practices."

92. The January 2015 workshop was remarkable for another reason – the disparity in the positions articulated by the tribal and cardroom representatives present. Only two tribal representatives spoke at the workshop – one attorney for Yocha Dehe and one for the United Auburn Indian Community and the Pala Band of Mission Indians. Both addressed the specifics of the three regulatory versions and explained the need to enforce Section 337j(f) as it exists. The cardrooms, by contrast, bussed in several hundred employees, and also brought in an economist, representatives from various municipalities, and even former San Francisco Mayor Willie Brown. Many of these individuals spoke at the workshop, but none addressed a single aspect of the three regulatory options the Bureau presented. Rather, *every* presenter had a single theme: Any proposed collections fix would cause the loss of many cardroom jobs, and would therefore harm



1 the economy. The economist, Mike Bracken from Development Management Group, even  
 2 claimed to have prepared an “economic impact analysis” of the cardroom industry. As Yocha  
 3 Dehe’s attorney explained to the Bureau personnel present, however, the Bureau is a *law*  
 4 *enforcement agency*, and that should be its focus regarding collections. Whether enforcing the  
 5 law and thereby honoring the requirements of negotiated Tribal-State Compacts results in the loss  
 6 of jobs and an economic impact in the State is an issue for the Legislature to consider.

7 93. The Bureau never held another meeting regarding collections. At an Association  
 8 meeting on April 2, 2015, the tribes asked the Bureau the status of the collections review process.  
 9 To the tribes’ surprise, the Bureau representatives said the unsupported comments by the  
 10 economist at the January workshop required the Bureau to conduct an economic impact study  
 11 because the proposed collections regulation might qualify as a “major regulation” – that is one  
 12 with an economic impact of \$50 million or more. The tribes explained the following points to the  
 13 Bureau:

- 14 • A regulation was not necessary to apply the law as reflected in Section 337j(f). Stated  
 15 otherwise, there is no need for a regulation to provide what the law already requires;
- 16 • The statements by the cardrooms’ economist were unsupported by any research or  
 17 analysis;
- 18 • The Bureau was already taking whatever actions it felt necessary – albeit ones which  
 19 fostered the illegal gaming – without the proposed regulation and thus there was no  
 20 need for that regulation; and
- 21 • The economic impact study would take years to finalize.

22 94. The Bureau representatives present at the Association meeting, including Chief  
 23 Wayne Quint, rejected each of these arguments and specifically said the economic impact study  
 24 could be done in months and they would begin right away. As far as the tribes know, the Bureau  
 25 has never commissioned the economic impact study and, as noted above, has held no further  
 26 meetings about regulatory review. Worse, at one of the meetings between the tribes and Attorney  
 27 General Harris and her staff, the tribes asked about the progress on the collections issue. The  
 28 response was that the Bureau was focusing on other aspects of illegal gaming and thus could not

1 address collections. This is a theme the Bureau echoed at an August 30, 2018 meeting with tribal  
 2 representatives, where Bureau Chief Stephanie Shimazu (formerly the Commission's  
 3 Chairwoman, but later replaced Wayne Quint at the Bureau) advised those present that the Bureau  
 4 would not address collections for the foreseeable future. As noted in the Coalition Tribes'  
 5 February 20, 2015 letter, however, the Bureau had told the tribes it was focusing on collections  
 6 and thus could not work on the other issues.

7 **iii. THE STATE ALLOWS THE CARDROOMS TO HOUSE BANK THEIR GAMES**

8 95. From the very beginning – April 2012 – the tribes have explained to the State that  
 9 the failure to rotate the banker position is the easiest aspect of illegal gaming to understand. After  
 10 all, (1) the Penal Code (and Constitution) prohibit “any banking or percentage game played with  
 11 cards,” (2) a banking game is where one person maintains the banking position as is the case at  
 12 Indian casinos and those in Nevada and New Jersey, and (3) the TPPs maintain the banker  
 13 position at cardrooms (because they need to keep the inherent advantage that results from acting  
 14 as the “house” so they can pay under the contracts with the cardrooms). The State has never  
 15 argued that this situation is proper. To the contrary, state officials have repeatedly admitted it is  
 16 not. For example, in an April 26, 2016 email, Chief Deputy Attorney General Nathan Barankin  
 17 admitted there is “little room for debate regarding whether an individual can operate as the bank  
 18 in a card room game for an indefinite period of time.”

19 96. From the tribes' perspective, the concern has been not only that the Department of  
 20 Justice failed to stop the cardrooms' illegal gaming, but that it actually *created* that illegal gaming,  
 21 because even the Bureau's own agents acknowledge they approved games allowing the mere  
 22 offer of rotation – rather than the actual rotation Section 330.11 requires – based on the letter their  
 23 own Chief, Robert Lytle, issued in 2007.

24 97. On February 12, 2016, tribal leaders met with Attorney General Harris (this was  
 25 the second meeting with her) to discuss the rotation practices the Lytle Letter authorized. No one  
 26 disputed the impropriety of that letter or its troubling origin. Rather, the Attorney General and  
 27 her staff claimed the lack of a definition for the word “continuously” in Section 330.11 meant  
 28 there was no guidance on how often the banker position needed to rotate to avoid a game

1 becoming banked and therefore prohibited. Thus, at that meeting, the Attorney General said her  
2 office would “suspend” – but not revoke or disavow – the Lytle Letter and then follow up with  
3 guidelines to establish appropriate rotation standards. She also said her office would hold  
4 meetings with all the interested stakeholders to obtain input on the meaning of the term  
5 “continuous and systematic” in Section 330.11, the very thing the guidelines were to elucidate.

6 98. Three days later, Bureau Chief Wayne Quint issued the Lytle Letter suspension  
7 notice and announced that, “effective immediately, the Bureau will not approve any new game  
8 rules if they permit only offering the player-dealer position.” The notice explained that, “[b]y  
9 June 30, 2016, the Bureau will issue a notification of the revised enforcement and game approval  
10 practice relating to the rotation of the player dealer position in a controlled game.”

11 99. Because the Bureau’s notice said nothing about the promised meetings to get  
12 stakeholder input, on February 22, 2016, Yocha Dehe’s attorney wrote to Deputy Attorney  
13 General Barankin asking whether the Bureau intended to hold those meetings, if so how many  
14 and when, and whether the stakeholders would be allowed to submit written comments.

15 100. Representatives of the Coalition Tribes met with Bureau Chief Wayne Quint on  
16 March 21, 2016, to discuss how cardrooms could comply with Section 330.11’s requirement that  
17 the player-dealer position be “continuously and systematically rotated.” At that meeting, the  
18 tribal representatives explained that the Oxford English Dictionary defines “continuously” as “in  
19 a continuous manner; uninterruptedly, without break; continually, constantly,” and thus rotation  
20 of the banker position in cardrooms had to occur in that fashion to be legal. Further, the tribes  
21 explained that there was no need to define the term, since the cardrooms and Bureau themselves  
22 had done so by creating the two-hand industry standard. While two-hand rotation was not in fact  
23 “continuous,” it was better than the existing no-rotation practice.

24 101. In response, Chief Quint said it would be unfair to force the cardrooms to adhere  
25 to a two-hand rotation, because for nine years – that is, since his predecessor Robert Lytle issued  
26 his improper December 2007 letter – they had been allowed to avoid that standard. The tribal  
27 representatives present at the meeting pointed out that Quint’s statement ignored three important  
28 facts: (1) The tribes had complained about the conduct since early 2012, (2) the conduct was still

1 illegal and the Bureau was charged with enforcing the law, and (3) the Lytle Letter was an  
2 obvious fraud from the inception and thus could not legitimize illegal conduct. As one tribal  
3 representative at the meeting explained, if Chief Quint's observation were a guide for law  
4 enforcement, drug dealers who had plied their trade for a few years would also be immune from  
5 prosecution, because it would be "unfair" to stop them.

6 102. The Bureau representatives committed themselves to no rotation standard at the  
7 March 21 meeting, but said they were working on the issue. They also asked the tribal  
8 representatives about their view of a "game break" should the player-banker position fail to rotate.

9 103. On April 15, 2016, the Coalition Tribes wrote to the Bureau providing their  
10 detailed comments on the rotation issue. (**Exhibit M.**) The letter also addressed the question the  
11 Bureau posed at the March 21 meeting: What happens when the banker position at a cardroom  
12 fails to rotate? The answer, the tribes asserted, was that "[a]fter the TPP at a California cardroom  
13 has held the banker position for two hands, the game must stop, and cannot begin again, unless  
14 and until another player who has no business relationship with the cardroom or a TPP takes the  
15 banker position."

16 104. The Coalition Tribes are not the only ones to weigh in on the issue of the  
17 cardrooms' banked games. On April 20, 2016, the Santa Ynez Band of Chumash Indians wrote  
18 to the Bureau and Commission to express approval of the Coalition Tribes' position, but also to  
19 explain that the agencies "have lost sight of the State Constitutional mandate that precludes any  
20 law that allows for banked card games to operate on non-Indian lands." (**Exhibit N.**) The  
21 Chumash letter also explained a significant point: Before the passage of Proposition 1A in 2000,  
22 the tribes had tried to do something akin to what the cardrooms are doing now, but were shut  
23 down by the State. Thus, the Chumash letter argued, the "card rooms face the same fate, unless  
24 the State believes that "*casinos of the type currently operating in Nevada and New Jersey*" means  
25 one thing when dealing with Tribes in 1999 and another when dealing with card rooms in 2016."  
26 (Emphasis in original.)  
27  
28

105. On May 24, 2016, the Bureau acknowledged the Coalition Tribes' April 15 submission and claimed the "Bureau is taking every step to evaluate and address your various issues." (**Exhibit O.**) The Bureau identified no single step it was actually taking.

106. On June 21, 2016, the Coalition Tribes again wrote to Chief Quint. (**Exhibit P.**) They explained their "serious concerns" about the Bureau's efforts regarding game rotation practice reform, because with just over a week before the Bureau was to release the June 30 revised rotation guidelines, there had been none of the promised "robust, open, transparent and participatory process" to "stop the illegal gaming in cardrooms which the so-called 'Lytle letter' created." The tribes asked for very specific information about the status of the Bureau's work.

107. The Bureau did not respond to the Coalition Tribes' June 21 letter. Instead, on June 30, 2016, the Bureau released its new rotation guidelines. (**Exhibit Q.**) Though the Attorney General assured the tribes that the guidelines' express purpose was to define the word "continuously" in Section 330.11, the guidelines did not even mention that word. Moreover, far from eliminating the Lytle Letter's offensive offer of rotation every two hands, the first point in the guidelines specifically endorsed that practice. Further, while the guidelines did require actual rotation of the banker position, that rotation need happen only once every 60 minutes and if the cardrooms failed to mind that requirement, the penalty would be that they had to stop play at the table for two minutes.

108. In December 2016 the Coalition Tribes wrote to Chief Quint and CNIGA wrote to the Attorney General to express their deep disappointment in the rotation guidelines. (**Exhibits R** (without attachment) **and S.**) As the Coalition Tribes explained, between "fifty and sixty hands of blackjack and forty and fifty hands of baccarat can be dealt per hour at a table. Thus, the Bureau has effectively converted a long-standing cardroom industry standard of rotation every two hands into a new standard of rotation every fifty hands. There is no justification for this radical change (other than to put the State's seal of approval on the cardrooms' continued violation of California law)." The Coalition Tribes also argued that the remedy for the cardrooms' failure to comply with the rotation requirement was illusory. All the cardrooms had to do was stop dealing cards for two minutes, and then "the very same third party proposition player who

1 held the banker position during the prior hour and violated the once-an-hour rotation requirement  
 2 can go back to doing exactly that for the next hour, and so on indefinitely. This is no remedy and  
 3 these are still banked games.” As the Coalition Tribes noted, the State, by virtue of the Lytle  
 4 Letter, effectively created the illegal gaming scheme the cardrooms enjoy. While the Bureau  
 5 could originally deny it knew of the letter’s less-than-respectable origin, that “defense is no  
 6 longer available to the Bureau. Now, the Bureau has officially enabled and sanctioned the  
 7 cardrooms’ play of plainly illegal banked games.”

8 109. The June 2016 guidelines never really took effect, because soon after the Bureau  
 9 issued them, they were challenged administratively by cardroom interests. During this period,  
 10 and until now, the Bureau has allowed the cardrooms to operate without rotating the player-dealer  
 11 position. At the August 30, 2018 meeting, Chief Shimazu acknowledged the June 2016  
 12 guidelines would not become effective and said the Bureau would undertake a rule-making  
 13 process to determine the meaning of “continuous” rotation. While this seems a step forward, it is,  
 14 again, illusory. As Yocha Dehe explained in a September 12, 2018 letter to Chief Shimazu, the  
 15 Bureau’s chosen approach suffers from several problems, including that it will take years to  
 16 complete and is unnecessary. (**Exhibit T.**) Worst of all, at the meeting, Chief Shimazu expressly  
 17 admitted that while this lengthy process takes place, the Bureau will allow the cardrooms to revert  
 18 to the Lytle Letter “standard” of never rotating the player-dealer position. As Yocha Dehe put the  
 19 matter, “[b]ecause *no one* can argue the Lytle letter standard is proper or legal, it leaves us to  
 20 wonder how the Bureau can justify returning to it and allowing the cardrooms to continue  
 21 benefiting from the very conduct the Bureau now appears to admit is illegal.”

22 **iv. THE STATE ALLOWS THE PLAY OF EXPRESSLY PROHIBITED GAMES**

23 110. At one of the early meetings with Bureau representatives – and after tribal  
 24 regulators provided them a full tutorial – the Bureau told the tribes at an Association meeting that  
 25 it had looked at the play of baccarat in cardrooms and concluded it was legal. Though the tribes  
 26 requested that the Bureau provide them the research supporting that conclusion, the Bureau never  
 27 did. The Bureau’s failure to do so was understandable. After all, there simply is no way to refute  
 28 that baccarat has no player-dealer position and thus there is nothing to rotate – baccarat cannot be

1 played as anything but a banked game and is thus constitutionally prohibited. Of course, even if  
2 the game had a player-dealer position to rotate, the cardrooms fail to do that, as described above.

3 111. The history of the discussions between the tribes and State about blackjack is more  
4 involved. As mentioned before, Section 330 specifically prohibits the game of “twenty-one,” as  
5 well as any banked game, and that prohibition has been raised to a constitutional level. The tribes  
6 complained about the play of this game from the beginning and the State’s agents continually  
7 assured the tribes they were researching the matter.

8 112. On May 29, 2015, representatives of the Coalition Tribes met with various  
9 representatives from the California Department of Justice, including Chief Deputy Attorney  
10 General Barankin, Division of Law Enforcement Director Larry Wallace, Indian Gaming Law  
11 Section Deputy Attorney General Timothy Muscat, and Bureau Chief Quint, to discuss the  
12 various illegal gaming issues. When blackjack came up, Barankin confidently asserted that the  
13 prohibited game – “twenty-one” – and blackjack were not the same. Prepared for this argument,  
14 the tribes cited the cases identified in paragraph 11 of this complaint, which expressly contradict  
15 Barankin’s statement. Barankin held steady on his assertion, claiming his agency had research to  
16 support it. Naturally, the tribes asked for that research.

17 113. On July 24, 2015, Barankin wrote an email providing “some sources for your  
18 consideration.” The first of those “sources” purportedly supporting the notion that the games  
19 were different was a section of a book called “Scarne’s New Complete Guide to Gambling” by  
20 John Scarne, an American magician. According to Barankin, that section of Scarne’s book  
21 “[d]escribes the games of 21 and the development of blackjack.” As it turns out, no State agent,  
22 including Barankin, could have actually read the Scarne citation, because it directly *contradicts*  
23 the State’s position. Indeed, the chapter discussing the game begins with the following heading:



12.  
*Black Jack,  
 or Twenty-One:  
 Casino Style*

114. In case that heading left any doubt that the two games are the same, the first sentence of the chapter reads as follows: “Black Jack or Twenty-One, is the most widely played banking card game in the world today.”

115. As described above, the State’s failure to remedy the tribes’ concerns led to the meetings with Attorney General Harris. At the second meeting with her (on February 12, 2016), the tribes again addressed the play of illegal games. From the tribes’ perspective, the concern was simple – the cardrooms were either playing blackjack or they were falsely advertising they were doing so. Either way, their conduct was illegal. Attorney General Harris agreed, saying they had looked into the matter and concluded the cardrooms were engaging in the latter, but not the former. She then said advertising was not the Department of Justice’s concern, but, rather is an issue in the Commission’s purview and therefore that body (which is not part of the Department of Justice) would revise its regulations on the topic of advertising.

116. As they had done at the May 2015 meeting with Barankin, the tribes asked for the research to support the position that the games of blackjack played in cardrooms were different than those played in Nevada or New Jersey. The Attorney General said the tribes would have that research the following week (which began on February 15, 2016). The Attorney General’s office failed to provide the research as promised. After many emails and phone calls from tribal representatives, on April 26, 2016 (more than ten weeks after the meeting) Barankin provided “the answer to your question.” That “answer” was that the “games that have been approved by the Bureau (many of which include the name ‘Blackjack’) utilize different rules and, therefore,

1 have different probabilities than the statutorily prohibited game of ‘twenty-one’ and the  
 2 Nevada/New Jersey game of Blackjack. As a result, our current conclusion is that these are not  
 3 prohibited games.” This facile “answer” identified no single specific difference between the rules  
 4 of the standard game of blackjack and the games by the same name played in the cardrooms.  
 5 This “answer” also failed to explain why the cardrooms themselves tell their customers that the  
 6 games they play are just like blackjack played anywhere else. Thus, this “answer” highlighted the  
 7 State’s apparent intent to protect the illegal gaming occurring in cardrooms.

8 117. The Commission has only recently (December 2018) begun any regulatory review  
 9 with respect to the admitted false advertisement by the cardrooms, but even then, the Commission  
 10 has refused to discuss any *specific* false advertisement, including that of blackjack. Nevertheless,  
 11 and contrary to the Attorney General’s assertion in February 2016 that the Department of Justice  
 12 had no control over the illegal advertising, at the August 30, 2018 meeting, Chief Shimazu said  
 13 the Bureau would take action against this conduct, but only after it allows the cardrooms to come  
 14 into voluntary compliance.

15 118. With respect to the play of blackjack, the Bureau again changed course at the  
 16 August 30 meeting. There, Chief Shimazu (again contradicting the Attorney General’s express  
 17 statements in February 2016) admitted that at least some of the games played at the cardrooms  
 18 (she specifically named Pure 21.5 Blackjack and 21<sup>st</sup> Century Blackjack) *are* in fact illegal and  
 19 therefore would be shut down. Chief Shimazu, however, said it would take no action against  
 20 these games for several months to allow the cardrooms the opportunity to come up with other  
 21 games to take their place. As Yocha Dehe explained in its September 12, 2018 letter, it “failed to  
 22 see why the agency in charge of enforcement should allow the cardrooms to continue playing  
 23 games the agency has finally conceded are illegal. This appears to be yet another example of the  
 24 State ignoring its own laws to accommodate the cardroom industry.”

25 119. As for baccarat, Chief Shimazu said at the August 30 meeting that the Bureau  
 26 would take no action to stop the cardrooms from playing that game.

27 **G. THE TRIBES COMPLIED WITH THE COMPACT DISPUTE RESOLUTION PROCESS**

28 120. On November 8, 2018 Yocha Dehe and the Viejas Band gave the State written

notice setting forth the facts giving rise to this dispute and the issues to be resolved, pursuant to the requirements of each Plaintiff's Tribal-State Compact. On November 14, 2018 Defendants responded to Plaintiffs' letter. On December 3, 2018, the parties met and conferred to attempt to resolve this dispute through negotiation, pursuant to the requirements of the applicable Tribal-State Compacts. However, the parties did not resolve the dispute.

121. On December 14, 2018 the Sycuan Band gave the State written notice setting forth the facts giving rise to this dispute and the issues to be resolved, pursuant to the requirements of each the Sycuan Band's Tribal-State Compact. On January 2, 2019, the Sycuan Band and the State met and conferred to attempt to resolve this dispute through negotiation, pursuant to the requirements of the Sycuan Band's Tribal-State Compact. However, the parties did not resolve the dispute.

122. Under each of the Tribal-State Compacts, neither party is required to submit unresolved disputes to arbitration.

123. As a result, Plaintiffs commenced this suit to seek resolution in this Court, consistent with the requirements of each Tribal-State Compact.

#### **FIRST CLAIM FOR RELIEF**

#### **(BREACH OF COMPACT)**

124. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 123 by this reference.

125. On September 2, 2015, the Sycuan Band and the State of California entered into the 2015 Compact. On August 2, 2016, Yocha Dehe and the State of California entered into the 2016 Compact. On June 28, 2016, the Viejas Band and the State of California entered into the 2016 Compact.

126. Pursuant to the Tribal-State Compacts, the State promised Plaintiffs the rights to conduct certain Class III games, specifically including any banking or percentage card game, exclusive of non-Indian competition.

127. The promise of exclusivity was a material and essential asset of the bargain between Plaintiffs and the State.

128. Contrary to the agreements of the parties as set forth in the Tribal-State Compacts, the State has breached its promise in the Tribal-State Compacts of providing Plaintiffs the exclusive right to offer banking or percentage card games exclusive of non-Indian competition. Specifically, the State has permitted and failed to prevent non-Indian persons from offering banking card games, including twenty-one, even though California law only permits Indian tribes to offer such games. These are ongoing acts and omissions by the State that continue to this day.

129. As a direct, proximate, and foreseeable result the State's breach, Plaintiffs have been denied the benefit of their bargain.

**SECOND CLAIM FOR RELIEF**

**(BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING)**

130. Plaintiffs reallege and incorporate the allegations in paragraphs 1 through 129 by this reference.

131. Plaintiffs have duly performed all conditions, covenants, obligations, and promises under the Tribal-State Compacts. In addition to express conditions, covenants, obligations, representations and warranties, the Tribal-State Compacts contains an implied covenant of good faith and fair dealing, which obligated the State to perform its responsibilities fairly and in good faith, and to refrain from committing or omitting any act that would deprive Plaintiffs of the fruits and benefits of their bargain under the Tribal-State Compacts.

132. The State has engaged in conduct in bad faith and with the intent to deprive Plaintiffs of their benefits and rights under the Tribal-State Compacts, as set forth here. More specifically, the State has not only failed to enforce California law that prohibits banked games played with cards and prohibits the game of twenty-one, in some respects it even helped facilitate such banked gaming in violation of California law and in breach of its contractual obligations under the 2015-16 Compacts. These are ongoing acts and omissions by the State that continue to this day.

133. These actions were undertaken in bad faith and had the effect of depriving Plaintiff of their benefits and rights under the Tribal-State Compacts.

134. By the acts described above, the State has breached the covenant of good faith and

1 fair dealing implicit in Tribal-State Compacts.

2 135. As a direct, proximate, and foreseeable result of the State's violations of the  
3 implied covenant of good faith and fair dealing, Plaintiffs have been denied the benefits of their  
4 bargain.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for relief and judgment in their favor and against  
7 Defendants, and each of them, as follows:

8 1. For an injunction directing the State to enforce its laws prohibiting the play in  
9 cardrooms of banking card games and twenty-one in violation of the terms of the Tribal-State  
10 Compacts.

11 2. For a declaration that the State has breached, and continues to breach, the Tribal-  
12 State Compacts by failing to enforce against California cardrooms its laws prohibiting the play  
13 of banking card games, including twenty-one.


14 3. For a decree requiring specific performance of the State's obligation with respect  
15 to the gaming exclusivity promised in the Tribal-State Compacts.

16 4. For judgment for costs of suit; and  
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5. For such other relief as is fair, just, and equitable.

Dated: January 3, 2019

DENTONS US LLP

By:   
Jeffrey Butler  
Attorneys for Plaintiff  
Yocha Dehe Wintun Nation

Dated: January 3, 2019

OFFICE OF THE ATTORNEY GENERAL  
VIEJAS BAND OF KUMEYAAY INDIANS

By: /s/ (as authorized on 1/3/19)  
Tuari N. Bigknife  
Attorney for Plaintiff  
VIEJAS BAND OF KUMEYAAY INDIANS

Dated: January 3, 2019

OFFICE OF THE GENERAL COUNSEL  
SYCUAN BAND OF THE KUMEYAAY NATION

By: /s/ (as authorized on 1/3/19)  
Mark A. Radoff  
Attorneys for Plaintiff  
SYCUAN BAND OF THE KUMEYAAY  
NATION

# EXHIBIT A



## **GAMBLING ESTABLISHMENT COMPLIANCE INSPECTION CHECKLIST**

### **CALIFORNIA DEPARTMENT OF JUSTICE DIVISION OF LAW ENFORCEMENT / BUREAU OF GAMBLING CONTROL COMPLIANCE AND ENFORCEMENT SECTION / LICENSING SECTION**

#### Authority References:

- Gambling Control Act-Business and Professions Code, Division 8, Chapter 5
- California Code of Regulations, Title 11, Division 3 (CGCC initiated)
- California Code of Regulations, Title 4, Division 18 (DOJ/BGC initiated)
- California Penal Code (PC)
- Local Ordinance or Municipal Codes

**LOCAL ORDINANCE / MUNICIPAL CODE**

Authority	Description	Circle One
B&P 19803(a)(b)	<ul style="list-style-type: none"> <li>Name of local ordinance jurisdiction: _____</li> <li>Date of ordinance used: _____</li> </ul>	
B&P 19923	<ul style="list-style-type: none"> <li>Source of ordinance used: _____</li> </ul>	

<ul style="list-style-type: none"> <li>Maximum number of card tables permitted in the city: _____</li> <li>Maximum number of GEs permitted in the jurisdiction: _____</li> <li>Maximum number of tables permitted in each GE: _____</li> <li>Maximum number of players at table, if limited by local ordinance: _____</li> <li>Restriction of employee and/or owner gambling while on duty: _____</li> <li>Limitations on hours of operation: _____</li> <li>Limitations on wagering limits: _____</li> <li>Limitations on games or gaming activities played or offered: _____</li> </ul>	
<ul style="list-style-type: none"> <li>Specifics regarding the Patron Security and Safety Plan in and around the GE: _____</li> </ul>	
<ul style="list-style-type: none"> <li>What signs are required to be posted, and where? _____</li> </ul>	
<ul style="list-style-type: none"> <li>Is consumption of alcohol permitted on the premises? _____</li> <li>Does the bar/lounge need to be separate from the GE? _____</li> <li>Does the ordinance govern the issuance of work permits? _____</li> <li>Are all employees required to have work permits? (including TPPPS) _____</li> <li>Does the ordinance address the renewal cycle for work permits? _____</li> <li>Can a temporary work permit be issued? _____</li> <li>Are employees required to wear their work permits on duty? _____</li> </ul>	Yes / No Yes / No Yes / No Yes / No Yes / No Yes / No Yes / No

**Additional Notes:**

**PHYSICAL INSPECTION / LICENSES**

Authority	Description	Circle One
	<b>Document the Following:</b> <ul style="list-style-type: none"> <li>Hours of Operation: _____</li> <li>Total tables on floor: _____</li> <li>Number of tables in use: _____</li> <li>Temporary tables covered: _____</li> <li>Number of players per table: _____</li> </ul>	
Reg 12388(j)	• Is the ATM accessible to seated players?	Yes / No
Reg 12388(k)	• Does the ATM restrict the use of Electronic Benefit Transfer Cards (EBTs)?	Yes / No
B&P 19850	<b>State Gambling License (SGL)</b>	
	SGL Number: _____	
PC 337j	SGL Expiration Date: _____	
B&P 19875	Location of SGL: _____	
	• Are there conditions associated with the SGL?	Yes / No
	If yes, list: _____	
	_____	
	_____	
B&P 19964	<b>Local Business License</b>	
	License Number: _____	
PC 337j	Expiration Date: _____	
	Location of License: _____	
	<b>Local Special License</b>	
	License Number: _____	
	Expiration Date: _____	
	Type of License: _____	
	Location of License: _____	
B&P 24046	<b>Alcoholic Beverage Control (ABC) License</b>	
(ABC Act)	License Number: _____	
	Expiration Date: _____	
	Location of License: _____	
<b>Additional Notes:</b>		

**EMPLOYEES / WORK PERMITS / BADGES**

Authority	Description	Circle one
<b>B&amp;P 19911</b>	Are employees that have work permits 21 years or older? If no, explain: _____ _____ _____ _____	Yes / No
<b>B&amp;P 19921</b>	Does any person under the age of 21 have access to the gaming area? If yes, explain: _____ _____ _____ _____	Yes / No
<b>B&amp;P 19912(a)</b>	<b>Work Permits</b> <ul style="list-style-type: none"> <li>Who issues the employee work permits? _____</li> <li>Do all employees have a work permit? _____</li> </ul>	Yes / No
<b>Reg 12120(a)</b>	<ul style="list-style-type: none"> <li>At any time do your employees have temporary permits? _____</li> </ul>	Yes / No
<b>Local Ordinance</b>	<ul style="list-style-type: none"> <li>Can they work while their work permit is being renewed? _____</li> <li>Are the employees required to wear work permits on duty? _____</li> </ul>	Yes / No
	If not worn, where are the work permits displayed/stored? _____ _____	
<b>Reg 2050</b>	<b>Key Employees</b>	
<b>2050(a)</b>	<ul style="list-style-type: none"> <li>Is the GE required to have Key Employees? _____</li> </ul>	Yes / No
<b>2050(b)</b>	If no, is there a Contact Plan available? _____	Yes / No
<b>12353(c)</b>	<ul style="list-style-type: none"> <li>Are Key Employees wearing their badge while on duty? _____</li> </ul>	Yes / No
<b>12354(a)</b>	<ul style="list-style-type: none"> <li>Have any employees requested an Interim Key Employee license? _____</li> </ul>	Yes / No
	If yes, has application been submitted within ten days? _____	Yes / No
<b>12350(a)</b>	<ul style="list-style-type: none"> <li>Do you have any Key Employees that have a portable license? _____</li> </ul>	Yes / No
<b>Reg 2060(a)</b>	<ul style="list-style-type: none"> <li>Can the GE supply a list of all employees/job classifications/descriptions? _____</li> </ul>	Yes / No
<b>2060(b)</b>	<ul style="list-style-type: none"> <li>Can the GE supply a current organization chart? _____</li> </ul>	Yes / No

**PROBLEM GAMBLING PROGRAM**

Authority	Description	Circle One
<b>Reg 12463</b>	<b>Self-Restriction Program</b>	
	<ul style="list-style-type: none"> <li>Are there Policies and Procedures (P&amp;P's) in place?</li> </ul> Do the P&P's include the following:	Yes / No
<b>12463(a)(1)</b>	<ul style="list-style-type: none"> <li>Development of written material available to patrons that explain the program?</li> </ul>	Yes / No
<b>12463(a)(3)</b>	<ul style="list-style-type: none"> <li>Maintenance and updates to the list of self-restricted patrons?</li> <li>Employee access to the list?</li> </ul>	Yes / No
<b>12463(a)(4)</b>	<ul style="list-style-type: none"> <li>Patron exclusion from entering the gambling area?</li> </ul>	Yes / No
<b>12463(a)(4)(A)</b>	<ul style="list-style-type: none"> <li>Removing a patron from the gambling establishment?</li> </ul>	Yes / No
<b>12463(a)(4)(C)</b>	<ul style="list-style-type: none"> <li>The forfeiture of any money or prizes won, or losses recovered?</li> </ul>	Yes / No
<b>12463(a)(5)</b>	<ul style="list-style-type: none"> <li>Excluded from check cashing and issuance of credit?</li> </ul>	Yes / No
<b>12463(a)(6)</b>	<ul style="list-style-type: none"> <li>Excluded from customer marketing lists?</li> </ul>	Yes / No
<b>Reg 12464</b>	<b>Self-Exclusion Program</b>	
	<ul style="list-style-type: none"> <li>Are there Policies and Procedures (P&amp;P's) in place?</li> </ul> Do the P&P's include the following:	Yes / No
<b>12464(a)(2)</b>	<ul style="list-style-type: none"> <li>Maintenance and updates to the list of self-excluded patrons?</li> <li>Employee access to the list?</li> </ul>	Yes / No
<b>12464(a)(3)</b>	<ul style="list-style-type: none"> <li>Patron exclusion from entering the gambling area?</li> </ul>	Yes / No
<b>12464(a)(4)</b>	<ul style="list-style-type: none"> <li>The forfeiture of any money or prized won, or losses recovered?</li> </ul>	Yes / No
<b>12464(a)(5)</b>	<ul style="list-style-type: none"> <li>Removal from customer marketing lists?</li> </ul>	Yes / No
<b>12464(a)(6)</b>	<ul style="list-style-type: none"> <li>Removal from check cashing and issuance of credit?</li> </ul>	Yes / No
<b>12362(a)</b>	<b>Statewide Involuntary Exclusion List</b>	
	<ul style="list-style-type: none"> <li>Does the GE have a Statewide Involuntary Exclusion List?</li> </ul>	Yes / No
<b>12464</b>	<b>Exclusion Management System (EMS)</b>	
	<ul style="list-style-type: none"> <li>Does the GE use the EMS database?</li> <li>Who has access to the EMS database/computer?</li> <li>Is the computer with access to the EMS database in a secure location?</li> </ul>	Yes / No
<b>12362(a)</b>	<b>Internal GE List of Excluded Persons</b>	
	<ul style="list-style-type: none"> <li>Does the GE have an Internal Removal List?</li> </ul> If yes, is the excluded/ejected list available for review?	Yes / No
	Where is the list stored? _____	
	Who has access to the list? _____	

**PROBLEM GAMBLING PROGRAM, CONT.**

Authority	Description	Circle One
<b>Reg 12461</b>	<b>Problem Gambling Material</b>	
<b>12461(a)</b>	Are there Problem Gambling signs posted or written material available?	Yes / No
<b>12461(b)</b>	If yes, are the posted signs or written material available near: <input type="checkbox"/> Entrance/Exit <input type="checkbox"/> ATM(s) <input type="checkbox"/> Advertisements <input type="checkbox"/> Radio <input type="checkbox"/> Gaming Area <input type="checkbox"/> TV <input type="checkbox"/> Billboards <input type="checkbox"/> Cage <input type="checkbox"/> Flyers <input type="checkbox"/> Website (message & link to OPG-12461(b)) <input type="checkbox"/> Other:	
<b>12461(c)</b>	Does the advertising material contain a responsible gambling message <b>AND</b> the 1-800-GAMBLER number or the website? (www.problemgambling.ca.gov)	Yes / No
<b>Reg 12462</b>	<b>Problem Gambling Training</b>	
<b>12462(a)</b>	• Is there a new employee orientation?	Yes / No
<b>12462(b)</b>	• Is there annual training? Is there documentation showing:	Yes / No
<b>12462(b)</b>	• Employee names and signatures?	Yes / No
<b>12462(b)</b>	• Date and length of training?	Yes / No
<b>12462(b)</b>	• Name of trainer and signature?	Yes / No
<b>12462(b)</b>	• Are the documents kept for five years?	Yes / No
<b>12462(d)</b>	• Name and title of personnel responsible for maintaining program:	

**MINIMUM INTERNAL CONTROL STANDARDS (MICS)**

Authority	Description	Circle One
<b>Reg 12380(d)</b>	<b>Definition of Tier Licensee</b>	
<b>12380(d)(1)</b>	Tier I = Owner licensee authorized to operate one to five tables (1-5)	
<b>12380(d)(2)</b>	Tier II = Owner licensee authorized to operate six to ten tables (6-10)	
<b>12380(d)(3)</b>	Tier III = Owner licensee authorized to operate eleven to thirty tables (11-30)	
<b>12380(d)(4)</b>	Tier IV = Owner licensee authorized to operate thirty-one to sixty tables (31-60)	
<b>12380(d)(5)</b>	Tier V = Owner licensee authorized to operate sixty-one or more tables (61 plus)	
<b>Reg 12381</b>	<b>Minimum Internal Control Standards (MICS) - All Tiers</b>	
<b>12381(a)</b>	<ul style="list-style-type: none"> <li>Does the GE have written Policies and Procedures (P&amp;P) for the following MICS:</li> </ul>	
<b>12384(a)</b>	Drop and Drop Collection	Yes / No
<b>12385(a)</b>	Count / Count Room Functions	Yes / No
<b>12386(a)</b>	Cage Functions	Yes / No
<b>12381(b)</b>	<ul style="list-style-type: none"> <li>Are the employees trained on the MICS P&amp;P (New Hires? Review?)</li> </ul>	Yes / No
<b>12381(d)</b>	<ul style="list-style-type: none"> <li>Can the GE produce copies of the MICS P&amp;P?</li> </ul>	Yes / No
<b>12381(e)</b>	<ul style="list-style-type: none"> <li>Are all forms, books, records, logs, lists maintained:</li> </ul>	
<b>12381(e)(1)</b>	Recorded in English	Yes / No
<b>12381(e)(2)</b>	Recorded in a permanent form or media	Yes / No
<b>12381(e)(3)</b>	Maintained for 3 years	Yes / No
<b>12381(f)</b>	<b>Tiers II through V (in addition to above)</b>	
	Are there periodic reviews, monitoring, and testing of the MICS conducted annually? Documentation of results?	Yes / No



**DROP / DROP COLLECTION**

Authority	Description	Circle One
<b>Reg 12384</b>	<b>Drop and Drop Collection - All Tiers</b>	
<b>12384(a)(1)</b>	<ul style="list-style-type: none"> <li>Are drop collections deposited in a secure container attached to table? (called a "drop box")</li> </ul>	Yes / No
<b>12384(a)(2)</b>	<ul style="list-style-type: none"> <li>Are jackpots kept in a separate drop box or otherwise segregated &amp; accounted for separately?</li> </ul>	Yes / No
<b>12384(a)(3)(A)</b>	<ul style="list-style-type: none"> <li>Is there a lock security the contents of the drop box?</li> </ul>	Yes / No
<b>12384(a)(3)(B)</b>	<ul style="list-style-type: none"> <li>Is there a separate lock securing the box to the table?</li> </ul>	Yes / No
<b>12384(a)(3)(B)</b>	<ul style="list-style-type: none"> <li>Is the lock to the drop box keyed differently than the lock to the table?</li> </ul>	Yes / No
<b>12384(a)(3)(C)</b>	<ul style="list-style-type: none"> <li>Does the table and drop box have visible individual identifiers?</li> </ul>	Yes / No
<b>12384(a)(5)</b>	<ul style="list-style-type: none"> <li>Are the drop boxes removed from the table to secure area? Stored?</li> </ul>	Yes / No
<b>12384(a)(7)</b>	<ul style="list-style-type: none"> <li>What is the established time for the drop box collection/count?</li> </ul>	Yes / No
<b>12384(a)(7)</b>	<ul style="list-style-type: none"> <li>Is the entire drop box collection recorded by video surveillance?</li> </ul>	Yes / No
<b>12384(a)(8)</b>	<ul style="list-style-type: none"> <li>Is there at least one licensed/permitted person conducting the drop collection?</li> </ul>	Yes / No

<b>Reg 12384(b)</b>	<b>Drop and Drop Collection - Tiers III through IV (in addition to above)</b>	
<b>12384(b)(1)</b>	Are the drop boxes removed by one licensed and one security personnel?	Yes / No
<b>12374(b)(2)</b>	<ul style="list-style-type: none"> <li>Tier III - Are there two licensed/permitted personnel, who work in different departments, assigned to removing drop box from the tables?</li> </ul>	Yes / No
<b>12384(b)(3)</b>	<ul style="list-style-type: none"> <li>Are employee names legible on the count sheet? Signature?</li> </ul>	Yes / No
<b>12384(b)(4)</b>	<ul style="list-style-type: none"> <li>Are any drop boxes stored on gambling tables under continuous video surveillance?</li> </ul>	Yes / No

<b>Reg 12384(c)</b>	<b>Drop and Drop Collection - Tiers IV and V (in addition to above)</b>	
	<ul style="list-style-type: none"> <li>Is there one licensed or permitted personnel assigned to watch a video monitor during the entire drop box collection process?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is the entire drop box collection process continuously video recorded?</li> </ul>	Yes / No

**COUNT / COUNT ROOM FUNCTIONS**

Authority	Description	Circle One
<b>Reg 12385(a)</b>	<b>Count / Count Room Functions - All Tiers</b>	
<b>12385(a)(2)</b>	● Is there a designated licensed/permitted employee to conduct the daily counts?	Yes / No
<b>12385(a)(3)(A)</b>	● Do the drop box count sheets permanently display the following:	
	● Name of Gambling Establishment	Yes / No
	● Date and time of the count	Yes / No
	● Shift, individual box and table number	Yes / No
	● Amount collected from each individual box	Yes / No
	● Total number of boxes counted	Yes / No
	● Recorded name and/or signature of individual(s) counting contents of boxes?	Yes / No
<b>12385(a)(4)</b>	● Is the entire box count continuously recorded?	Yes / No
<b>12385(a)(5)</b>	● Are the drop box contents commingled prior to the count?	Yes / No
<b>12385(a)(6)</b>	● Is the box emptied in a manner that will identify/record identification & contents?	Yes / No
<b>Reg 12385(b)</b>	<b>Count / Count Room Functions - Tiers II through V (in addition to above)</b>	
<b>12385(b)(1)(A)</b>	● Is the count room designed/constructed to provide appropriate security?	Yes / No
<b>12385(b)(1)(B)</b>	● Is the count room used for storage or have any removable containers?	Yes / No
<b>12385(b)(2)</b>	● Does the count room store chips, cash, drop boxes, or any items associated with the count?	Yes / No
	If yes, are the interior count room views under constant video surveillance?	Yes / No
<b>Reg 12385(c)</b>	<b>Count / Count Room Functions - Tiers III through V (in addition to above)</b>	
<b>12385(c)(1)</b>	● Is the count conducted by one person using an automated counter?	Yes / No
	● If not, is the count conducted by two or more people?	Yes / No
<b>12385(c)(2)</b>	● Do the designated counters wear a smock type garment without pockets?	Yes / No
<b>12385(c)(3)</b>	● Does a cage or vault cashier verify the accuracy of the count and count sheets?	Yes / No
<b>12385(c)(4)</b>	● Are the count sheets locked in a box in a secure area until retrieved by the acct dept?	Yes / No
<b>Reg 12385(d)</b>	<b>Count / Count Room Functions - Tiers IV through V (in addition to above)</b>	
<b>12385(d)(1)</b>	● Does the count room have an alarm system which signals the surveillance room?	Yes / No
<b>12385(d)(2)</b>	● Is the entire count process video monitored by a licensed/permitted employee?	Yes / No
	● Is the entire count process continuously recorded by video surveillance?	Yes / No
<b>12385(d)(3)</b>	● During the count process, is entry/exit of the room prohibited (except emergencies)?	Yes / No
<b>12385(e)</b>	<b>Count / Count Room Functions - Tier V (in addition to above)</b>	
<b>12385(e)</b>	● Is the count conducted by two people using an automated counter?	Yes / No
	● If not, is the count conducted by three or more people?	Yes / No

**CAGE FUNCTIONS**

Authority	Description	Circle One
<b>Reg 12386(a)</b>	<b>Cage Functions - All Tiers</b>	
<b>12386(a)(1)</b>	• Is the cashier's cage separate and secure?	Yes / No
<b>12386(a)(2)</b>	• Is the employee assigned to the cage listed on the organizational chart?	Yes / No
<b>12386(a)(3)</b>	• Who has access to the cage? _____	
<b>12386(a)(4)</b>	• Is there a log that records entry into the cage area by unauthorized persons?	Yes / No
<b>12386(a)(5)</b>	• Is the cage monetary activity reconciled after each shift/per person?	Yes / No
<b>12385(a)(2)(F)</b>	• Does the GE designate at least one employee to report and maintain information pertaining to Title 31, submittal of CTRs over \$10,000?	Yes / No
<b>31/Sec 103.64</b>	• Does the GE have a compliance program for Title 31, Section 103.64(a)?	Yes / No
<b>Reg 12386(b)</b>	<b>Cage Functions - Tiers III through V (in addition to above)</b>	
<b>12386(b)(1)</b>	• Is the cage and cage activity under continuous recorded video surveillance?	Yes / No
<b>12386(b)(2)</b>	• Does the cage reconciliation/accountability from include the following:	
<b>12386(b)(2)(A)</b>	• Date of reconciliation	Yes / No
<b>12386(b)(2)(B)</b>	• Designation of the shift being reconciled	Yes / No
<b>12386(b)(2)(C)</b>	• Do the records for cage inventory (cash, coin, chip, players/dealers banks) include the following:	
	Beginning shift balance	Yes / No
	All credits	Yes / No
	Ending shift balance	Yes / No
	Identification of overage or shortage with explanation	Yes / No
<b>Reg 12386(c)</b>	<b>Cage Functions - Tiers IV through V (in addition to above)</b>	
<b>12386(c)(1)(A)</b>	• Does the cage have a manually triggered silent alarm?	Yes / No
<b>12386(c)(1)(B)</b>	• Are all access doors secured, and under constant recorded video surveillance?	Yes / No
<b>12386(c)(2)</b>	• In addition to above cage inventory, are the following items indicated:	
<b>12386(c)(2)(A)</b>	Cash and coin by denomination	Yes / No
<b>12386(c)(2)(B)</b>	Chips by denomination	Yes / No
<b>12386(c)(2)(C)</b>	A list all other items of monetary value (markers, patron checks, players' banks, etc)	Yes / No
<b>12386(c)(3)</b>	• Is there a list of all persons authorized to have access to the cage?	Yes / No
<b>12386(d)</b>	<b>Cage Functions - Tier V (in addition to above)</b>	
	• Is the cage continuously monitored and have recorded video surveillance?	Yes / No
	• Are the exterior cage access doors monitored and have recorded video surveillance?	Yes / No

**CHIPS / CREDIT / CHECK CASHING / TITLE 31**

Authority	Description	Circle One
<b>Reg 2051</b>	<b>Gambling Chips</b>	
	<ul style="list-style-type: none"> <li>Does the GE have chips with special features?</li> </ul>	Yes / No
	If yes, explain: _____	
	<ul style="list-style-type: none"> <li>Are there special chips used for the collection fee and/or jackpot collection?</li> </ul>	Yes / No
	If yes, explain: _____	
<b>Reg 12388</b>	<b>Extension of Credit and Check Cashing</b>	
<b>12388(a)</b>	<ul style="list-style-type: none"> <li>Does the GE offer credit to a Gambling Business/Third Party/GE Employee</li> </ul>	Yes / No
	If yes, explain: (12388 does not permit extension of credit to GB/TP)	
<b>12388(a)</b>	<ul style="list-style-type: none"> <li>Does the GE offer credit to patrons:</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>If so, are there written policies and procedures?</li> </ul>	Yes / No
<b>12388(a)(3)(A)</b>	<ul style="list-style-type: none"> <li>Does the GE use credit application forms?</li> </ul>	Yes / No
<b>12388(a)(3)(B)</b>	<ul style="list-style-type: none"> <li>Does patron authorize access to their credit history?</li> </ul>	Yes / No
<b>12388(a)(5)</b>	<ul style="list-style-type: none"> <li>Does the GE offer credit to self-exclusion/self-restricted patrons?</li> </ul>	Yes / No
<b>12388(a)(8)</b>	<ul style="list-style-type: none"> <li>Are written or electronic records maintained on attempts to collect delinquent credit account?</li> </ul>	Yes / No
<b>12388(d)</b>	<ul style="list-style-type: none"> <li>Does the GE cash checks from patrons? (payroll, personal, etc.)</li> </ul>	Yes / No
	If yes, what type of check are cashed? <b>(Cashing Government Checks Prohibited)</b>	
<b>12388(g)</b>	<ul style="list-style-type: none"> <li>Are there written check cashing policies and procedures?</li> </ul>	Yes / No
<b>12388(g)(1)(A)</b>	<ul style="list-style-type: none"> <li>Does the GE determine if the patron has a self-excluded/restricted form on file?</li> </ul>	Yes / No
	<b>Player's Bank</b>	
	<ul style="list-style-type: none"> <li>Does the GE offer a Player's Bank to their patrons?</li> </ul>	Yes / No
<b>Reg 12410</b>	<b>Unclaimed or Abandoned Property</b>	
	<ul style="list-style-type: none"> <li>Does the GE have written policies and procedures regarding unclaimed or abandoned property?</li> </ul>	Yes / No
<b>Reg 12404</b>	<b>Title 31 - Reports of Monetary Transactions</b>	
<b>12404(a)</b>	<ul style="list-style-type: none"> <li>Does the GE submit Currency Transaction Reports (CTR) over \$10,000?</li> </ul>	Yes / No
<b>12404(b)</b>	<ul style="list-style-type: none"> <li>Does the GE comply with Title 31 Regulations?</li> </ul>	Yes / No
<b>12404(c)</b>	<ul style="list-style-type: none"> <li>Are Title 31 (CTR, SAR) records available upon request?</li> </ul>	Yes / No
	Do they show the following:	
	Patron's Name	Yes / No
	Patron's Address	Yes / No
	Patron's identification	Yes / No
	Amount of transaction	Yes / No
	Type of transaction	Yes / No
	Date of Transaction	Yes / No

**GAMBLING FLOOR**

Authority	Description	Circle One
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**\*\*No Later Than May 1, 2013\*\***

<b>Reg 12391</b>	<b>Gambling Floor Operation - All Tiers</b>	
<b>12391(a)</b>	• Are there Policies and Procedures (P&P's) in Place?	Yes / No
<b>12391(a)(1)</b>	• Are all areas where games are being played open to the public? (Excluding B&P sections 19844, 19845, 19861, and 19921)	Yes / No
<b>12391(a)(2)</b>	• Do employees' job duties include playing controlled games	Yes / No
<b>12391(a)(2)</b>	• If no, is an employee's job affected if they refuse to play a game?	Yes / No
<b>12391(a)(3)</b>	• Are there more tables in the GE than authorized to operated?	Yes / No
<b>12391(a)(3)</b>	• *If yes, are they covered or labeled as non-operational?	Yes / No
<b>12391(a)(3)</b>	• If yes, are they under continuous recorded video surveillance?	Yes / No
<b>12391(a)(4)</b>	• Do employees who sell or redeem chips receive training required by Chapter X of Title 31?	Yes / No
<b>12391(a)(4)</b>	• If yes, are there policies and procedures in place?	Yes / No

<b>12391(a)(4)(b)</b>	<b>Tiers III through V</b> (in addition to above) • Is one key employee present at all times during business hours?	Yes / No
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**\*\*(a) and (b) No Later Than May 1, 2013\*\***

<b>12392</b>	<b>House Rules - All Tiers</b>	
<b>12392(a)</b>	• Are house rules written in English?	Yes / No
<b>12392(a)</b>	• Do the house rules promote fair and honest play?	Yes / No
<b>12392(a)</b>	Do the house rules:	
<b>12392(a)(1)</b>	• Allow only approved games by local, State, and Federal laws?	Yes / No
<b>12392(a)(2)</b>	• Have provisions to deter collusion?	Yes / No
<b>12392(a)(3)</b>	Do the house rules address the following when applicable:	
<b>12392(a)(3)(A)</b>	• Player Conduct	Yes / No
<b>12392(a)(3)(B)</b>	• Table Policies	Yes / No
<b>12392(a)(3)(C)</b>	• Betting and Raising	Yes / No
<b>12392(a)(3)(D)</b>	• Misdeals	Yes / No
<b>12392(a)(3)(E)</b>	• *Irregularities	Yes / No
<b>12392(a)(3)(F)</b>	• "The Buy-In"	Yes / No
<b>12392(a)(3)(G)</b>	• *"Tied Hands"	Yes / No
<b>12392(a)(3)(H)</b>	• "The Showdown"	Yes / No
<b>12392(a)(3)(I)</b>	• "House Way"	Yes / No
<b>12392(a)(3)(J)</b>	• Player Seating and Seat Holding	Yes / No
<b>12392(a)(3)(K)</b>	• Player Disputes	Yes / No
<b>12392(b)</b>	• Do house rules conflict with game rules approved by the Bureau?	Yes / No
<b>12392(c)</b>	• Are house rules readily available to the Bureau and patrons	Yes / No

**GAMES / GAMING ACTIVITY**

Authority	Description	Circle One
<b>Reg 2070</b>	<b>Gaming Activities (Unsuitable)</b>	
	<ul style="list-style-type: none"> <li>What games are currently offered at the GE? _____</li> </ul>	
<b>2070(b)</b>	<ul style="list-style-type: none"> <li>Is the GE offering any gaming activity not authorized by the Bureau? _____</li> <li>If yes, explain: _____</li> </ul>	Yes / No
<b>2070(c)</b>	<ul style="list-style-type: none"> <li>Is the specific name of the game, or variation, properly displayed at each table? _____</li> </ul>	Yes / No
<b>2070(d)</b>	<ul style="list-style-type: none"> <li>Are the patrons given ample notice of the fee collection rates for each table? _____</li> <li>If no, explain: _____</li> </ul>	Yes / No
<b>2070(e)</b>	<ul style="list-style-type: none"> <li>Does the dealer collect fees from all players prior to start of play? _____</li> <li>If no, explain: _____</li> </ul>	Yes / No
<b>2070(f)</b>	<ul style="list-style-type: none"> <li>Are printed rules of play posted in a conspicuous place or readily available? _____</li> <li>If no, explain: _____</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is the GEGA# displayed on any advertisement of the games? _____</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is the player-dealer position continuously and systematically routed amongst each player during the play of CA/Asian games? _____</li> <li>If no, explain: _____</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Are any jackpots, tournaments and/or promotions being offered? _____</li> <li>If yes, list: _____</li> </ul>	Yes / No
	Obtain copies of all promotion/tournament flyers being offered	
	<ul style="list-style-type: none"> <li>Are they BGC approved? _____</li> <li>Is the GEGA# displayed? _____</li> <li>Is a tournament log available for review? _____</li> </ul>	Yes / No Yes / No Yes / No
<b>BGC Advisory #7</b>	<ul style="list-style-type: none"> <li>Does the GE meet the requirement regarding no purchase necessary table? _____</li> <li>If no, explain: _____</li> </ul>	Yes / No
<b>B&amp;P 19843</b>	<ul style="list-style-type: none"> <li>Can a patron place a wager on a controlled game while that person is absent from the gambling table and is not actively participating in the hand? _____</li> <li>If yes, explain: _____</li> </ul>	Yes / No

**SECURITY**

Authority	Description	Circle One
<b>Reg 12395</b>	<b>Security - All Tiers</b>	
<b>12395(a)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12395(a)(1)</b>	<ul style="list-style-type: none"> <li>Controlled access to restricted areas? (cage, security offices, surveillance rooms?)</li> </ul>	Yes / No
<b>12395(a)(2)</b>	<ul style="list-style-type: none"> <li>Adequate lighting in all public areas and entrances/exits? (for video surveillance)</li> </ul>	Yes / No
<b>12395(a)(3)(A)</b>	<ul style="list-style-type: none"> <li>Does the GE file an incident report with the Bureau within five business days after an owner or key employee contacts a local law enforcement agency? (loan sharking, theft, narcotics, money laundering, counterfeiting, etc.)</li> </ul>	Yes / No
<b>or (B)</b>	<ul style="list-style-type: none"> <li>Does the GE file an incident report with the Bureau within five business days when an owner or key employee obtains knowledge or notices any reasonably suspected violation (such as above)?</li> </ul>	Yes / No
<b>12395(a)(5)</b>	<ul style="list-style-type: none"> <li>Does the GE maintain a list of all keys, or electronic key cards for locking devices used in the GE?</li> </ul> <p>If so, does the list include:</p> <ul style="list-style-type: none"> <li>Name of employee that is issued, possesses, or has access to the keys?</li> <li>The location where un-issued keys are stored?</li> <li>If applicable, access codes and combinations?</li> <li>Names of employees that are issued, possess, or have access to codes/combos?</li> </ul>	Yes / No
<b>Reg 12395</b>	<b>Security -Tiers III through V (in addition to above)</b>	
<b>12395(b)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12395(b)(1)</b>	<ul style="list-style-type: none"> <li>Does the GE maintain a secure key control box?</li> </ul>	Yes / No
<b>12395(b)(2)(D)</b>	<ul style="list-style-type: none"> <li>Is the access to the box limited to the owners(s), key employee(s), or other designated employees?</li> </ul>	Yes / No
<b>12395(b)(3)</b>	<ul style="list-style-type: none"> <li>Does the GE maintain a key control log for each key control box?</li> </ul>	Yes / No
<b>12395(b)(4)</b>	<ul style="list-style-type: none"> <li>Does the GE have at least one uniformed security officer outside the GE at night?</li> </ul>	Yes / No
<b>Reg 12395</b>	<b>Security - Tier IV and V (in addition to above)</b>	
<b>12395(c)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12395(c)(1)</b>	<ul style="list-style-type: none"> <li>Does the GE maintain a secure key control box?</li> </ul>	Yes / No
<b>12395(c)(2)</b>	<ul style="list-style-type: none"> <li>If the GE elects to continue gambling operations, has the GE installed and maintained a backup generator full &amp; continued operation of critical systems (lights, surveillance, recording, etc.)?</li> </ul>	Yes / No
<b>12395(d)</b>	<ul style="list-style-type: none"> <li>Does the GE have at least two uniformed security offices on duty? (one officer periodically patrols the exterior of the GE)</li> </ul>	Yes / No
<b>Reg 12395</b>	<b>Security - Tier V (in addition to above)</b>	
<b>12395(c)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12395(c)(1)</b>	<ul style="list-style-type: none"> <li>Has the GE installed and maintained a backup generator?</li> </ul>	Yes / No
<b>12395(e)</b>	<ul style="list-style-type: none"> <li>Does the GE have at least two uniformed security officers on duty? (one officer continuously patrols the exterior of the GE)</li> </ul>	Yes / No



**SURVEILLANCE**

Authority	Description	Circle One
<b>Reg 12396</b>	<b>Surveillance - All Tiers</b>	
	Does the GE's Written Policies and Procedures meet or exceed the following:	
<b>12396(a)(1)</b>	<ul style="list-style-type: none"> <li>Install and maintain a surveillance system with video recording and monitoring capabilities.</li> </ul> <p>The surveillance system must record date, time, and "reasonable coverage and clarity" for:</p> <p> <input type="checkbox"/> Gambling Operation      <input type="checkbox"/> Drop Count Process      <input type="checkbox"/> Interior Entrances/Exits  <input type="checkbox"/> Player Drop Fees      <input type="checkbox"/> Storage Area      <input type="checkbox"/> Cage &amp; Cashier Activities  <input type="checkbox"/> Collection &amp; Drop Boxes      <input type="checkbox"/> Other </p>	
<b>12396(a)(2)</b>	<ul style="list-style-type: none"> <li>Do all surveillance recordings capture and record with "reasonable completeness the actions of all individuals being observed"?</li> </ul>	Yes / No
<b>12396(a)(3)</b>	<ul style="list-style-type: none"> <li>Is all recording and monitoring equipment located in a secure area with controlled access?</li> </ul>	Yes / No
<b>12396(a)(4)</b>	<ul style="list-style-type: none"> <li>Is surveillance equipment checked daily to ensure it is functioning properly?</li> </ul>	Yes / No
<b>12396(a)(5)</b>	<ul style="list-style-type: none"> <li>If a DVR system is used, does the system meet the following:</li> </ul>	
<b>12396(a)(5)(A)</b>	<ul style="list-style-type: none"> <li>Does it have a failure notification system?</li> </ul>	Yes / No
<b>12396(a)(5)(B)</b>	<ul style="list-style-type: none"> <li>Does it have a media storage system that prevents loss of data?</li> </ul>	Yes / No
<b>12396(a)(5)(C)</b>	<ul style="list-style-type: none"> <li>Does it have the capability to reproduce all or any portion of stored data to a DVD?</li> </ul>	Yes / No
<b>12396(a)(5)(D)</b>	<ul style="list-style-type: none"> <li>Are there eight or less cameras assigned to each single DVR system?</li> </ul> <p>If no, does it have a back up system?</p>	Yes / No
<b>12396(a)(7)</b>	<ul style="list-style-type: none"> <li>Are all recordings (unless otherwise requested by the Bureau) retained for at least seven complete days of operation?</li> </ul>	Yes / No
<b>12396(a)(7)(B)</b>	<p><b>**AFTER JUNE 1, 2013**</b> Are all recordings (unless otherwise requested by the Bureau) kept for at least fourteen days of operation?</p>	Yes / No
<b>12396(a)(8)</b>	<ul style="list-style-type: none"> <li>Does Bureau staff have immediate access to surveillance rooms or any areas where equipment is maintained and recordings are stored?</li> </ul>	Yes / No
<b>12396(a)(9)</b>	<ul style="list-style-type: none"> <li>Does the GE prominently display at all entrances/exits a sign that boldly reads, <b>"All public area, entrances and exits of this establishment are subject to surveillance and video recording?"</b></li> </ul>	Yes / No
<b>Reg 12396</b>	<b>Surveillance - Tiers II through V (in addition to above)</b>	
<b>12396(b)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12396(b)(1)</b>	<ul style="list-style-type: none"> <li>Does the surveillance system record both the interior and the exterior of the GE's entrances and exits?</li> </ul>	Yes / No
<b>12396(b)(2)</b>	<ul style="list-style-type: none"> <li>Does the surveillance system have cameras dedicated to gambling tables to view and record patrons, dealers, wagers, cards, and game outcome at each table?</li> </ul>	Yes / No
<b>12396(b)(3)</b>	<ul style="list-style-type: none"> <li>Does the surveillance system have audio recording for the vault/count room?</li> </ul>	Yes / No
<b>Reg 12396</b>	<b>Surveillance - Tiers III through V (in addition to above)</b>	
<b>12396(c)</b>	<ul style="list-style-type: none"> <li>Does surveillance cover and record all adjoining parking areas, owned, operated or controlled by the GE?</li> </ul>	Yes / No

**SURVEILLANCE, CONT**

Authority	Description	Circle One
<b>Reg 12396</b>	<b>Surveillance - Tiers IV (in addition to above)</b>	
<b>12396(d)</b>	<ul style="list-style-type: none"> <li>Is a key employee or GE owner always on duty during operating hours who has access to live video and previous video recordings?</li> </ul>	Yes / No
<b>Reg 12396</b>	<b>Surveillance - Tier V (in addition to above)</b>	
<b>12396(e)</b>	Does the GE's written Policies and Procedures meet or exceed the following:	
<b>12396(e)(1)</b>	<ul style="list-style-type: none"> <li>Does the GE have a separate surveillance unit that is apart from the security unit?</li> </ul>	Yes / No
<b>12396(e)(2)</b>	Does the separate surveillance room meet or exceed the following:	
<b>12396(e)(2)(A)</b>	<ul style="list-style-type: none"> <li>Does the surveillance room have controlled access through a secure door?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is the surveillance room under constant video surveillance?</li> </ul>	Yes / No
<b>12396(e)(3)</b>	<ul style="list-style-type: none"> <li>Is routine entry to the surveillance room limited to on-duty employees?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is there limited access to all others and are they accompanied at all times by a surveillance employee?</li> </ul>	Yes / No
<b>12396(e)(4)</b>	<ul style="list-style-type: none"> <li>Is at least one surveillance employee present and actively monitoring gambling activities during all hours of operation?</li> </ul>	Yes / No
<b>12396(e)(5)</b>	<ul style="list-style-type: none"> <li>Does count room surveillance include closed circuit television (CCTV)?</li> </ul>	Yes / No
<b>12396(e)(6)</b>	<ul style="list-style-type: none"> <li>Are records of all surveillance activity:</li> </ul>	
	Maintained in a surveillance activity log?	Yes / No
	If yes, are all log entries made by on-duty surveillance personnel?	Yes / No
<b>12396(7)</b>	<ul style="list-style-type: none"> <li>Does each gambling table have a dedicated camera for all hours of operations?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is there a Pan/Tilt/Zoom camera for every ten (or fewer) tables?</li> </ul>	Yes / No

**SECURITY AND SURVEILLANCE PLAN**

Authority	Description	Circle One
<b>Reg 12372</b>	<b>Security and Surveillance Plan - Tiers I and II</b>	
<b>12372(a)</b>	<ul style="list-style-type: none"> <li>Does the GE have a written Security and Surveillance Plan?</li> </ul> Does the Written Plan include the following:	Yes / No
<b>12372(a)(1)</b>	<ul style="list-style-type: none"> <li>Close monitoring and control of all gaming activity?</li> </ul>	Yes / No
<b>12372(a)(2)</b>	<ul style="list-style-type: none"> <li>Close monitoring and control of access to restricted areas? (cage, security offices, surveillance rooms, etc.)</li> </ul>	Yes / No
<b>12372(a)(3)</b>	<ul style="list-style-type: none"> <li>Surveillance procedures, including video recording requirements?</li> </ul>	Yes / No
<b>12372(a)(4)</b>	<ul style="list-style-type: none"> <li>Lighting in and around the gambling establishment?</li> </ul>	Yes / No
<b>12372(a)(5)</b>	<ul style="list-style-type: none"> <li>Procedures for reporting suspected criminal activity or incidents to state and local law enforcement agencies?</li> </ul>	Yes / No
<b>12372(a)(6)</b>	<ul style="list-style-type: none"> <li>Procedures for protecting persons, property, assets, and records?</li> </ul>	Yes / No

<b>12372(b)</b>	<b>Security and Surveillance Plan - Tiers III through V (in addition to above)</b>	
	Does the written Plan include the following:	Yes / No
<b>12372(b)(1)</b>	<ul style="list-style-type: none"> <li>List of names/job titles of employees responsible for making decisions involving the security of patrons employees, property, and cash, assets, and records?</li> </ul>	Yes / No
<b>12372(b)(2)</b>	<ul style="list-style-type: none"> <li>The duties of uniformed security personnel?</li> </ul>	Yes / No
<b>12372(b)(3)</b>	<ul style="list-style-type: none"> <li>Surveillance procedures, including video recording requirements?</li> </ul>	Yes / No
<b>12372(b)(4)</b>	<ul style="list-style-type: none"> <li>Specific conditions, procedures, and instructions for stopping controlled gambling and gaming activities?</li> </ul>	Yes / No
<b>12372(b)(5)</b>	<ul style="list-style-type: none"> <li>Employee training relating to the GE's security and surveillance plan?</li> </ul>	Yes / No

**EMERGENCY PREPAREDNESS AND EVACUATION PLAN**

<b>Reg 12370</b>	<b>Emergency Preparedness and Evacuation Plan - All tiers</b>	
<b>12370(a)</b>	<ul style="list-style-type: none"> <li>Has the GE prepared and maintained a fire safety and evacuation plan?</li> </ul>	Yes / No
<b>12370(f)</b>	<ul style="list-style-type: none"> <li>Does the GE conduct emergency evacuation drills?</li> <li>Does the GE conduct employee training on fire and safety?</li> </ul>	Yes / No

**THIRD PARTY PROVIDERS OF PROPOSITION PLAYER SERVICES**

Authority	Description	Circle One
<b>Reg 12200</b>	<b>Third Party Providers of Proposition Player Services (TPPPPS)</b>	
	<ul style="list-style-type: none"> <li>Does the GE have an approved contact with the TPPPPS?</li> </ul>	Yes / No
	If yes, Name of TPPPPS: _____	
<b>12200.3(a)</b>	<ul style="list-style-type: none"> <li>Are the TPPPPS employees wearing their Commission issued badges?</li> </ul>	Yes / No
<b>12200.7(b)(18)</b>	<ul style="list-style-type: none"> <li>Does the TPPPPS report cheating to the House/GE?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Does the TPPPPS report cheating to the CGCC and Bureau within five days?</li> </ul>	Yes / No
<b>Reg 12386(a)(6)</b>	<ul style="list-style-type: none"> <li>Does the TPPPPS buy, sell, or lend chips to the players?</li> </ul>	Yes / No
	If yes, under what circumstances (Not permitted under 12386) _____	
	_____	
<b>12200.7(b)(10)</b>	<ul style="list-style-type: none"> <li>Is a copy of the Bureau approved contract available for review?</li> </ul>	Yes / No
	<ul style="list-style-type: none"> <li>Is the Licence Certificate available for review?</li> </ul>	Yes / No
<b>12200.13</b>	<ul style="list-style-type: none"> <li>Are the playing books available for review?</li> </ul>	
	(Obtain copies of previous days to TP Unit)	Yes / No
	<ul style="list-style-type: none"> <li>Is the playing book automated via an electronic system?</li> </ul>	Yes / No
	If yes, what kind? _____	
<b>12200.13(b)(2)</b>	Does the playing book include the following:	
	___ Filled out in Ink    ___ Sequential #s    ___ Name of TPPPPS Company	
	___ Name of GE    ___ Table #    ___ Date/time play occurred	
	___ Name of Game    ___ Fills and credits    ___ Begin/End Balance	
	___ GEGA Number    ___ Player name    ___ Player badge number	
<b>12200.13(b)(3)</b>	___ Time stamped, dated and signed "under penalty of perjury:	

<ul style="list-style-type: none"> <li>Does the GE provide a dedicated podium/storage area/player's bank for the TP?</li> </ul>	Yes / No
If yes:	
Where is it located? _____	
Who has access to it? _____	
How is TP money replenished? _____	
Who replenishes it? _____	
How is TP money removed? _____	
Who removes the money? _____	
How much TP chips/cash is at the GE? (on average) _____	

**Additional Notes:**

**GAMBLING BUSINESS**

Authority	Description	Circle One
<b>Reg 12220</b>	<b>Gambling Business</b>	
	Is there a Gambling Business present at the GE?	Yes / No
	If yes, name of Business: _____	
<b>12220.3(a)</b>	<ul style="list-style-type: none"> <li>Are the Gambling Business employees wearing their Commission issued badges?</li> <li>How many Gambling Business employees (owner/supervisor/player) are present?</li> <li>Does the GE have a schedule indicating when the Gambling Business will provide banking services and/or a person to contact if player does not arrive?</li> </ul>	Yes / No
<b>12220.13</b>	<ul style="list-style-type: none"> <li>Are the playing books available for review? (Obtain copies of previous days for TP Unit)</li> <li>Is the playing book automated via an electronic system?</li> </ul>	Yes / No
	If yes, what kind? _____	
	<ul style="list-style-type: none"> <li>Does the playing book include the following:</li> </ul>	
<b>12220.13(b)(2)</b>	___ Filled out in ink    ___ Sequential #s    ___ Name of Gambling Business ___ Name of GE    ___ Table #    ___ Date/time play occurred ___ Name of Game    ___ Fills and credits    ___ Begin/End Balance ___ GB Owner    ___ Player name    ___ Player badge number	
<b>12220.13(b)(3)</b>	___ Time stamped, dated and signed "under penalty of perjury"	

<ul style="list-style-type: none"> <li>Does the GE provide a dedicated podium/storage area for the Gambling Business?</li> </ul>	Yes / No
If yes:	
Where is it located? _____	
Who has access to it? _____	
How is GB money replenished? _____	
Who replenishes it? _____	
How is GB money removed? _____	
Who removes the money? _____	
How much GB chips/cash is at the GE? (On average) _____	

**Additional Notes:**

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Revised: March 2014

# EXHIBIT B

EDMUND G. BROWN JR.  
Attorney General

*Lytle Letter*

State of California  
DEPARTMENT OF JUSTICE



BUREAU OF GAMBLING CONTROL  
P.O. Box 160004  
Sacramento, CA 95816  
Public: (916) 263-3400

Facsimile: (916) 263-0839  
(916) 263-5778

December 20, 2007

Mr. Halg Kelegian, President  
Southern California Cardroom Association  
7301 Eastern Avenue  
Bell Gardens, CA 95816

Mr. Kermit Schayitz, President  
Golden State Gaming Association  
7433-G Greenbank Lane  
Citrus Heights, CA 95841

RE: Penal Code Section 330 and 330.11 in Player-Dealer Style Games

Dear Messrs. Kelegian and Schayitz:

You have inquired, with respect to compliance with Penal Code sections 330 and 330.11 in player-dealer style games, what the inspection practice of the Bureau of Gambling Control is in circumstances where, in the course of a given player-dealer style game, all players but one decline to occupy the player-dealer position. As you are aware, Penal Code section 330 prohibits banking games, and Penal Code section 330.11 provides, in relevant part:

Banking game or banked game does not include a controlled game if the published rules of the game feature a player-dealer position and provide that this position must be continuously and systematically rotated amongst each of the participants during the play of the game, ensure that the player-dealer is able to win or lose only a fixed and limited wager during the play of the game, and preclude the house, another entity, a player, or an observer from maintaining or operating as a bank during the course of the game. For purposes of this section it is not the intent of the Legislature to mandate acceptance of the deal by every player if the division finds that the rules of the game render the maintenance of or operation of a bank impossible by other means.

It is the view of the Bureau of Gambling Control that by enacting section 330.11, the Legislature intended to insure that in player-dealer style games, all seated players must be afforded the temporary opportunity to wager against multiple players at the table. To fulfill this legislative intent the Bureau of Gambling Control has mandated that all game rules include a provision that the player-dealer position must continuously and systematically be offered to all seated players. Generally, acceptable rules require that each seated player have the opportunity to



Messrs. Kelegian and Schayltz  
December 20, 2007  
Page 2

act as player-dealer for two consecutive hands before the opportunity is rotated to the next player.

The Bureau of Gambling Control inspects licensed card room casinos to observe whether the opportunity to act as the player-dealer is continuously and systematically offered to all seated players must be required by the rules of all approved player-dealer style games. If, after a player acts as the player-dealer for two consecutive hands, the casino offers this opportunity to all other seated players in a manner that is verifiable by observers and surveillance cameras the requirement that the opportunity to act as the player-dealer be continuously and systematically offered to all seated players has been satisfied.

It is the view of the Bureau of Gambling Control that as long as the opportunity to act as the player-dealer is continuously and systematically offered to all seated players, in accordance with the approved rules of the game, the fact that, at times, all players but one may decline the player-dealer position, does not render the game an illegal banking game as long as the game procedures, described above, are properly followed.

I hope that this letter addresses your question.

Sincerely,

  
ROBERT E. LYTLE  
Bureau Chief

For EDMUND G. BROWN JR  
Attorney General

cc: Robert Mukai, Sr. Assistant Attorney General, Department of Justice  
Matthew J. Campoy, Assistant Bureau Chief, Bureau of Gambling Control

# EXHIBIT C

CALIFORNIA GAMBLING  
CONTROL COMMISSION

2014 DEC 23 PM 2: 51

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*Attorneys for the Complainant*

8  
9 BEFORE THE

10 CALIFORNIA GAMBLING CONTROL COMMISSION

11 STATE OF CALIFORNIA  
12  
13

14 In the Matter of the Accusation Against:

15 ROBERT E. LYTLE

16 9360 Blue Oak Drive  
17 Orangevale, CA 95662

18 LICENSE NUMBERS:

19 GEKE-001373  
20 GEOW-003415  
21 GEOW-003416

BGC Case No. HQ2014-00005AL

OAH No.

ACCUSATION

22 Complainant alleges as follows:

23 PARTIES

24 1. Wayne J. Quint, Jr. (Complainant) brings this Accusation solely in his official  
25 capacity as the Chief of the California Department of Justice, Bureau of Gambling Control  
26 (Bureau).  
27  
28

2. Robert E. Lytle (Respondent) is a Gambling Establishment Key Employee with License Number GEKE-001373. That license will expire on February 29, 2016, unless sooner revoked or extended. Respondent also holds a temporary state gambling license (GEOW-003415) arising from his ownership interest in The Tavern at Stones Gambling Hall, which formerly was Phoenix Casino and Lounge (GEGE-001337). That license will expire on February 28, 2015, unless extended. Respondent further holds a temporary state gambling license (GEOW-3416) arising from his ownership interest in The Saloon at Stones Gambling Hall, which formerly was Lucky Derby Casino (GEGE-001336). That license will expire on February 28, 2015, unless extended. In November 2014, Respondent applied for licensing under the Gambling Control Act (Act) in connection with Stones South Bay Corp., which seeks to acquire an ownership interest in the Village Club (GEGE-000466). That application is pending.

3. The California Gambling Control Commission (Commission) issued each of Respondent's licenses.

#### **STATEMENT OF THE CASE**

4. This case seeks to discipline Respondent's licenses – by revocation, suspension, and/or fine as appropriate – for his violations of, and lack suitability for continued licensing under, the Act, the regulations adopted pursuant to the Act, and other laws of the State of California. Until December 30, 2007, Respondent was a sworn law enforcement officer and the Director, Division of Gambling Control (Division), which was the Bureau's predecessor. In those capacities, he had overall responsibility for the Division's performance of its duties under the Act. He was familiar with the need for full and true disclosure of information necessary to carry out the State's policies relating to the licensing, registration, and control of gambling. He also was familiar with the importance of confidentiality to the Division's investigations and licensing activities, the attorney-client privilege as it relates to the open communication between the Division and its attorneys, and the privacy rights of licensees, applicants, and others.

5. Respondent's acts and omissions, including without limitation those alleged in this Accusation, show that for personal gain and the gain of those whom he came to represent, he abandoned the basic principles of the state agency, and the general public, that he served. Many of those acts and omissions were in derogation of the State's conflict of interest and revolving door provisions. Respondent's acts and omissions, including without limitation those alleged in this Accusation, were inimical to public health, safety, and welfare and demonstrate that Respondent is not a person of good character, honesty, and integrity. His acts and omissions, including those alleged in this Accusation, pose a threat to the effective regulation and control of controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and financial arrangements incidental to the conduct of controlled gambling. Respondent is not suitable or qualified for continued licensure; therefore, each of his licenses should be disciplined.

**FACTS UNDERLYING CAUSES FOR DISCIPLINE**

6. Complainant is informed and believes and, therefore, alleges that, as a sworn law enforcement officer and Director of the Division, Respondent was familiar with the Act's provisions protecting information from disclosure and the need for licensing and investigatory agencies to maintain the confidentiality of information. Complainant further is informed and believes and, therefore, alleges that, as Director of the Division and a senior official in the California Department of Justice, Respondent knew that communications with attorneys were privileged from disclosure. Complainant also is informed and believes and, therefore, alleges that, as Director of the Division and a senior official in the California Department of Justice, Respondent was familiar with, and received education regarding, the State's revolving door and conflict of interest provisions.

7. In the fall of 2007, as the Division's Director, Respondent oversaw the regulation of gambling establishments and the Act's enforcement. As part of his duties and responsibilities, Respondent undertook to decide regulatory matters relating to, and directly participate in the regulation of, Garden City Casino (Garden City), which was located in San Jose, California. Among other things, he met with the Garden City's owners and others with respect to

1 outstanding notices of violation served on Garden City by the San Jose Police Department and  
2 the Division. He also decided, and directed the Division's employees and others, to cut back  
3 ongoing investigatory activities regarding Garden City.

4 8. During its investigation into Respondent's suitability for a state gambling license, the  
5 Bureau learned that prior to December 4, 2007, Respondent entered into negotiations with  
6 Garden City concerning prospective engagement as its compliance director. Those negotiations  
7 led to Garden City's attorney preparing a draft independent contractor agreement that was  
8 emailed to Respondent on or about December 4, 2007. Thereafter, Garden City's attorney  
9 revised the prospective agreement and emailed another draft to Respondent on or about  
10 December 24, 2007.

11 9. On December 30, 2007, Respondent retired from state service. On or about  
12 December 31, 2007, Respondent and Garden City entered into the agreement that had been in  
13 negotiation since before December 4, 2007.

14 10. Thereafter, Respondent acted as an agent for, or otherwise represented, Garden City.  
15 He made formal and informal appearances before, as well as written and oral communications  
16 to, the Bureau and its employees for the purpose of influencing administrative action. For  
17 example, in January 2008, Respondent complained to the Acting Bureau Chief that Bureau  
18 investigators were recommencing investigatory activities regarding, and conducted an  
19 unannounced visit of, Garden City.

20 11. After his retirement, Respondent acted as an agent for, or otherwise represented, other  
21 persons and entities regulated by the Bureau or under its jurisdiction. In many instances, he  
22 made formal and informal appearances before, as well as written and oral communications to,  
23 the Bureau, the Commission, and their employees for the purpose of influencing administrative  
24 action. Respondent offered his services as a designated agent, or consultant, to persons and  
25 entities in the gambling business. Not surprisingly, Respondent's past employment as the  
26 Division's Director, and in the California Department of Justice, is prominent in promoting his  
27 business.

1 12. During its investigation into Respondent's suitability for a state gambling license, the  
 2 Bureau learned that between 2012 and 2013, Respondent solicited and received confidential  
 3 information from the Bureau's Special Agent-in-Charge (SAC). Between December 27, 2012,  
 4 and December 31, 2013, Respondent and the SAC contacted each other by telephone no less  
 5 than 180 times.<sup>1</sup> They also communicated by text and email. The confidential information  
 6 requested or provided included, among other things:

- 7 a) Respondent requested that the SAC determine whether a certain person had a  
 8 criminal history. The SAC instructed Bureau employees to gather the information.  
 9 The SAC then reported back to Respondent. That was a misdemeanor.
- 10 b) Respondent received copies of privileged, confidential communications between  
 11 the Bureau and its attorneys with respect to entities for whom he served as  
 12 designated agent. Sharing confidential information was a misdemeanor.
- 13 c) Respondent received confidential information gathered and documents prepared  
 14 during the course of the Bureau's investigation with respect to persons and entities  
 15 for which he served as designated agent and for Garden City. Sharing such  
 16 confidential information was a misdemeanor.
- 17 d) Respondent's receipt of such information and documents potentially compromised  
 18 the effectiveness, and undermined the integrity, of the Bureau's investigations.

19 13. In connection with licensing for, and investigations of, himself and others,  
 20 Respondent submitted, or advised others to submit, inaccurate and misleading information to  
 21 the Bureau and/or the Commission. This included, among other things:

- 22 a) In June 2011, Respondent advised the prospective food and beverage director for  
 23 Garden City to submit a key employee application to the Commission. In that  
 24 application, the applicant designated Respondent as his agent. Respondent signed  
 25 the application. The applicant misrepresented to the Commission that his job title

26 <sup>1</sup> As part of its investigation into Respondent's suitability for a state gambling license,  
 27 the Bureau requested that he provide all phone records, emails, or other written communications  
 28 with the SAC from March 2012 to May 31, 2014. Respondent, however, did not provide any  
 phone records for communications before December 27, 2012.



1 was "casino shift manager" and that his duties were: "assist in oversight of casino  
2 operation; monitor activities for compliance; other related duties." Respondent  
3 knew that the applicant intended to perform only food and beverage duties.

4 1) On July 1, 2011, after the Commission issued an interim key employee  
5 license to the applicant, Respondent requested that the San Jose Police  
6 Department "change the acknowledgement for a city key employee license  
7 – Casino Shift Manager, to Director of Food and Bev" at Garden City.  
8 Respondent, however, did not notify the Bureau or the Commission of this  
9 change. Instead, with Respondent as his designated agent, the applicant  
10 continued to represent that he was a casino shift manager.

11 2) On February 23, 2012, in an open meeting attended by the applicant and  
12 Respondent, the applicant represented to the Commission that he was a  
13 casino shift manager for Garden City, and not performing as food and  
14 beverage manager.

15 b) Beginning in approximately July 2012, in connection with state gambling license  
16 applications from LAX, LLC and its owner, as well as Garden City's license  
17 renewal application, and as part of the Bureau's investigation, Respondent  
18 provided the Bureau with inaccurate, incomplete, or misleading information as to,  
19 among other things, the owner's marital status, the ownership of related and  
20 affiliated entities including Garden City, payments and transactions between  
21 related and affiliated entities, the valuation of certain games and licenses,  
22 transactions with lenders, and contracts that Garden City had.

23 c) During the Bureau's investigation into Respondent's suitability for a state  
24 gambling license, Respondent provided inaccurate, incomplete, or misleading  
25 information. He also failed to provide all information and documents that the  
26 Bureau requested. During an interview by Bureau agents, Respondent failed to  
27 disclose any information regarding the receipt of confidential information and  
28 documents from the SAC.

1 14. Between May 1, 2010, and July 6, 2014, Team View Player Services, LLC (Team  
2 View) provided third-party proposition player services to Garden City. During that time,  
3 Respondent was a key employee of Garden City. Respondent received monthly payments from  
4 Team View. The Bureau first learned of these payments in connection with its investigation  
5 into Team View during 2013.

6 15. Since August 3, 2012, PT Gaming LLC (PT Gaming) has had a contract to provide  
7 third-party proposition player services to Lucky Derby, which is now The Saloon at Stones  
8 Gambling Hall. On May 23, 2013, Respondent became licensed as an owner of the Lucky  
9 Derby. Between May 23, 2013, and May 31, 2014, Respondent, through Lytle Consulting  
10 Services, Inc., received payments from PT Gaming.

11 **JURISDICTION**

12 16. Business and Professions Code, section 19811 provides, in part:

13 (b) Jurisdiction, including jurisdiction over operation and  
14 concentration, and supervision over gambling establishments in this state  
15 and over all persons or things having to do with the operations of  
gambling establishments is vested in the commission.

16 17. Business and Professions Code, section 19823 provides:

17 (a) The responsibilities of the commission include, without  
18 limitation, all of the following:

19 (1) Assuring that licenses, approvals, and permits are not  
20 issued to, or held by, unqualified or disqualified persons, or by  
21 persons whose operations are conducted in a manner that is  
inimical to the public health, safety, or welfare.

22 (2) Assuring that there is no material involvement, directly  
23 or indirectly, with a licensed gambling operation, or the  
24 ownership or management thereof, by unqualified or disqualified  
persons, or by persons whose operations are conducted in a  
manner that is inimical to the public health, safety, or welfare.

25 (b) For the purposes of this section, "unqualified person" means a  
26 person who is found to be unqualified pursuant to the criteria set forth in  
27 Section 19857, and "disqualified person" means a person who is found  
28 to be disqualified pursuant to the criteria set forth in Section 19859.

1 18. Business and Professions Code, section 19824 provides, in part:

2 The commission shall have all powers necessary and proper to enable  
3 it fully and effectually to carry out the policies and purposes of this  
4 chapter, including, without limitation, the power to do all of the following:

5 \* \* \*

6 (b) For any cause deemed reasonable . . . limit, condition,  
7 or restrict any license, permit, or approval, or impose any fine  
8 upon any person licensed or approved. . . .

9 \* \* \*

10 (d) Take actions deemed to be reasonable to ensure that no  
11 ineligible, unqualified, disqualified, or unsuitable persons are  
12 associated with controlled gambling activities.

13 19. Business and Professions Code, section 19826 provides, in part:

14 The department<sup>[2]</sup> . . . shall have all of the following responsibilities:

15 \* \* \*

16 (c) To investigate suspected violations of this chapter or  
17 laws of this state relating to gambling . . . .

18 \* \* \*

19 (e) To initiate, where appropriate, disciplinary actions as  
20 provided in this chapter. In connection with any disciplinary  
21 action, the department may seek restriction, limitation,  
22 suspension, or revocation of any license or approval, or the  
23 imposition of any fine upon any person licensed or approved.

24 20. California Code of Regulations, title 4, section 12554 provides, in part:

25 (a) Upon the filing with the Commission of an accusation by the  
26 Bureau recommending revocation, suspension, or other discipline of a  
27 holder of a license, registration, permit, finding of suitability, or approval,

28 <sup>2</sup> "Department" refers to the Department of Justice. (Bus. & Prof. Code, § 19805, subd. (h).) Business and Professions Code section 19810 provides, in part, that "any power or authority of the department described in this chapter may be exercised by the Attorney General or any other person as the Attorney General may delegate." Effective January 1, 2008, amendments to the Act replaced all references to the Division with references to the Department. Following those amendments, the Bureau assumed the Division's powers to perform the Department's responsibilities and duties under the Act.

1 the Commission shall proceed under Chapter 5 (commencing with section  
2 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

3 \* \* \*

4 (d) Upon a finding of a violation of the Act, any regulations adopted  
5 pursuant thereto, any law related to gambling or gambling establishments,  
6 violation of a previously imposed disciplinary or license condition, or laws  
7 whose violation is materially related to suitability for a license,  
8 registration, permit, or approval, the Commission may do any one or more  
9 of the following:

10 (1) Revoke the license, registration, permit, finding of  
11 suitability, or approval;

12 (2) Suspend the license, registration, or permit;

13 \* \* \*

14 (5) Impose any fine or monetary penalty consistent with  
15 Business and Professions Code sections 19930, subdivision (c),  
16 and 19943, subdivision (b)

#### 17 COST RECOVERY

18 21. Business and Professions Code, section 19930 provides, in part:

19 (b) If, after any investigation, the department is satisfied that a  
20 license, permit, finding of suitability, or approval should be suspended or  
21 revoked, it shall file an accusation with the commission in accordance with  
22 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
23 Title 2 of the Government Code.

24 \* \* \*

25 (d) In any case in which the administrative law judge recommends  
26 that the commission revoke, suspend, or deny a license, the administrative  
27 law judge may, upon presentation of suitable proof, order the licensee or  
28 applicant for a license to pay the department the reasonable costs of the  
investigation and prosecution of the case.

(1) The costs assessed pursuant to this subdivision shall be  
fixed by the administrative law judge and may not be increased  
by the commission. When the commission does not adopt a  
proposed decision and remands the case to the administrative  
law judge, the administrative law judge may not increase the  
amount of any costs assessed in the proposed decision.

1 (2) The department may enforce the order for payment in  
2 the superior court in the county in which the administrative  
3 hearing was held. The right of enforcement shall be in addition  
4 to any other rights that the division may have as to any licensee  
5 to pay costs.

6 (3) In any judicial action for the recovery of costs, proof of  
7 the commission's decision shall be conclusive proof of the  
8 validity of the order of payment and the terms for payment.

9 \* \* \*

10 (f) For purposes of this section, "costs" include costs incurred for  
11 any of the following:

12 (1) The investigation of the case by the department.

13 (2) The preparation and prosecution of the case by the  
14 Office of the Attorney General.

15 **GAMBLING LICENSING AND PENALTY PROVISIONS**

16 22. Business and Professions Code section 19850 provides, in part:

17 Every person . . . who receives, directly or indirectly, any  
18 compensation or reward, or any percentage or share of the money or  
19 property played, for keeping, running, or carrying on any controlled  
20 game in this state, shall apply for and obtain from the commission, and  
21 shall thereafter maintain, a valid state gambling license, key employee  
22 license, or work permit . . . . In any criminal prosecution for violation of  
23 this section, the punishment shall be as provided in Section 337j of the  
24 Penal Code.

25 23. Business and Professions Code section 19854, subdivision (b), provides:

26 No person may be issued a key employee license unless the person  
27 would qualify for a state gambling license.

28 24. Business and Professions Code section 19855 provides, in part:

[E]very person who, by statute or regulation, is required to hold a state  
license shall obtain the license prior to engaging in the activity or  
occupying the position with respect to which the license is required.

25 25. Business and Professions Code section 19856 provides, in part:

(a) . . . . The burden of proving his or her qualifications to receive  
any license is on the applicant.

(b) An application to receive a license constitutes a request for a determination of the applicant's general character, integrity, and ability to participate in, engage in, or be associated with, controlled gambling.

26. Business and Professions Code, section 19857 provides:

No gambling license shall be issued unless, based on all the information and documents submitted, the commission is satisfied that the applicant is all of the following:

(a) A person of good character, honesty and integrity.

(b) A person whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state, or to the effective regulation and control of controlled gambling, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of controlled gambling or in the carrying on of the business and financial arrangements incidental thereto.

(c) A person that is in all other respects qualified to be licensed as provided in this chapter.

27. Business and Professions Code, section 19859 provides, in part:

The commission shall deny a license to any applicant who is disqualified for any of the following reasons:

(a) Failure of the applicant to clearly establish eligibility and qualification in accordance with this chapter.

(b) Failure of the applicant to provide information, documentation, and assurances required by the Chief, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria.

28. Business and Professions Code section 19866 provides:

An applicant for licensing or for any approval or consent required by this chapter, shall make full and true disclosure of all information to the department and the commission as necessary to carry out the policies of this state relating to licensing, registration, and control of gambling.

29. Business and Professions Code section 19984, subdivision (a) provides:

Notwithstanding any other provision of law, a licensed gambling enterprise may contract with a third party for the purpose of providing proposition player services at a gambling establishment, subject to the following conditions:

(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won.

30. Business and Professions Code section 19942, subdivision (b) provides:

Any person who willfully violates any of the provisions of this chapter for which a penalty is not expressly provided, is guilty of a misdemeanor.

**INFORMATION PROTECTION PROVISIONS**

31. Business and Professions Code section 19821 provides, in part:

(c) . . . . Except as provided in this chapter, the records of the department and the commission are exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code [the Public Records Act].

(d) Except as necessary for the administration of this chapter, . . . no official, employee, or agent of the commission or the department, having obtained access to confidential records or information in the performance of duties pursuant to this chapter, shall knowingly disclose or furnish the records or information, or any part thereof, to any person who is not authorized by law to receive it. A violation of this subdivision is a misdemeanor.

**REVOLVING DOOR AND CONFLICT OF INTEREST PROVISIONS**

32. Business and Professions Code section 19981, subdivision (a) presently provides, in

part:

[T]he chief, and any employee of the . . . department designated by regulation, shall not, for a period of three years after leaving office or terminating employment, for compensation, act as agent . . . for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the commission or the department, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, or approval.

33. On December 31, 2007, Business and Professions Code section 19981, subdivision

(a) provided, in part:



[T]he director, and any employee of the . . . division designated by regulation, shall not, for a period of three years after leaving office or terminating employment, for compensation, act as agent . . . for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the commission or the department, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, or approval.

34. Government Code section 87100 provides:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a government decision in which he knows or has reason to know he has a financial interest.

35. Government Code section 87406, subdivision (d)(1) provides, in part:

No designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in making, of decisions which may foreseeably have a material effect on any financial interest, . . . for a period of one year after leaving office or employment, shall, for compensation, act as agent . . . for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented in the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract . . .

36. Government Code section 87407 provides:

No public official shall make, participate in making, or use his or her official position to influence, any governmental decision relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

37. Government Code section 91000, subdivision (a) provides:

Any person who knowingly or willfully violates any provision of this title is guilty of a misdemeanor.



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unqualified for Continued Licensure)**

3 38. Respondent's licenses are subject to discipline, pursuant to Business and Professions  
4 Code sections 19823 and 19857, subdivisions (a) and (b). Respondent's continued licensure is  
5 inimical to public health, safety, and welfare. Respondent is not a person of good character,  
6 honesty, and integrity. His prior activities pose a threat to the effective regulation and control of  
7 controlled gambling, and create or enhance the dangers of unsuitable, unfair, or illegal practices,  
8 methods, and activities in carrying on the business and financial arrangements incidental to the  
9 conduct of controlled gambling. Respondent's conduct in his affairs demonstrates that he is  
10 unqualified for licensure. That conduct includes the acts and omissions alleged above.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Providing Untrue or Misleading Information to the Bureau)**

13 39. Respondent's license is subject to discipline, pursuant to Business and Professions  
14 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).  
15 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent  
16 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the  
17 effective regulation and control of controlled gambling, and create or enhance the dangers of  
18 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and  
19 financial arrangements incidental to the conduct of controlled gambling. Respondent supplied  
20 untrue or misleading information as to material facts pertaining to his qualification criteria.  
21 Additionally, he assisted others in supplying untrue or misleading information as to material  
22 facts pertaining to the qualification criteria of others.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure To Provide Information and Documentation Requested by the Chief)**

25 40. Respondent's license is subject to discipline, pursuant to Business and Professions  
26 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).  
27 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent  
28 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the

1 effective regulation and control of controlled gambling, and create or enhance the dangers of  
 2 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and  
 3 financial arrangements incidental to the conduct of controlled gambling. Respondent failed to  
 4 provide information and documents requested by the Bureau acting on the Complainant's  
 5 behalf. Additionally, Respondent assisted others in failing to provide information and  
 6 documents requested by the Bureau acting on the Complainant's behalf.

#### 7 **FOURTH CAUSE FOR DISCIPLINE**

##### 8 **(Prohibited Interests in the Funds Wagered, Lost, or Won by a Third-Party Provider)**

9 41. Respondent's licenses are subject to discipline, pursuant to Business and Professions  
 10 Code sections 19823, 19857, subdivisions (a) and (b), and 19859, subdivisions (a) and (b).  
 11 Respondent's continued licensure is inimical to public health, safety, and welfare. Respondent  
 12 is not a person of good character, honesty, and integrity. His prior activities pose a threat to the  
 13 effective regulation and control of controlled gambling, and create or enhance the dangers of  
 14 unsuitable, unfair, or illegal practices, methods, and activities in carrying on the business and  
 15 financial arrangements incidental to the conduct of controlled gambling. Through wholly  
 16 owned entities, Respondent had an indirect interest in funds wagered, lost, or won by Team  
 17 View. Respondent also had an indirect interest in funds wagered, lost, or won by PT Gaming.  
 18 Business and Professions Code section 19984, subdivision (a) prohibits the receipt of such  
 19 payments.

#### 20 **PRAAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
 22 and that following the hearing, the Commission issue a decision:


23 1. Revoking California State Gambling Establishment Key Employee License Number  
 24 GEKE-001373, temporary state gambling license (GEOW-003415), and temporary state  
 25 gambling license (GEOW-3416) issued to Robert E. Lytle;

26 2. Fining Robert E. Lytle in an amount according to proof;

1           3. Awarding Complainant the costs of investigation and costs of bringing this  
2 Accusation before the Commission, pursuant to Business and Professions Code section 19930,  
3 subdivisions (d) and (f), in a sum according to proof; and

4           4. Taking such other and further action as the Commission may deem appropriate.

5  
6 Dated: December 23, 2014

  
WAYNE J. QUINT, JR., Chief  
Bureau of Gambling Control  
California Department of Justice

# EXHIBIT D



October 25, 2012

Tribal Council

Marshall McKay  
*Chairman*

James Kinter  
*Secretary*

Anthony Roberts  
*Treasurer*

Mia Durham  
*Member*

Matthew Lowell, Jr.  
*Member*

Lawrence Quint, Jr., Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

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

**RE: YOCHA DEHE CONCERNS OVER ILLEGAL GAMING**

Dear Mr. Quint and Commissioner Shimazu:

We write on behalf of the Yocha Dehe Wintun Nation and its Tribal Gaming Agency to memorialize our Tribe's concerns regarding the play of illegal gaming at internet sweepstakes cafés and California cardrooms and our understanding of the status of each issue.

**1. INTERNET SWEEPSTAKES CAFÉS**

All parties appear to agree these establishments are playing what are effectively illegal slot machines, and therefore must be stopped. To that end, we understand that at the recent meetings between your agencies and representatives from various tribes, the Bureau outlined the steps it and other divisions of the Justice Department are taking to eradicate these cafés. These steps include: (1) efforts to step-up enforcement together with local law enforcement agencies, (2) issuing an advisory establishing the Justice Department's view of the illegality of the games played at the cafés, (3) obtaining a stipulated judgment in a civil action brought under California's unfair competition laws against one of these cafés and then using that judgment as a further tool in enforcement, and (4) evaluating the potential for a legislative solution that would conclusively put the cafés out of business.

Yocha Dehe Wintun Nation

PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2143 www.yochadehe.org

**EXHIBIT D**

Lawrence Quint, Jr.  
Stephanie Shimazu  
October 25, 2012  
Page 2

The Yocha Dehe representatives who attended the meetings with your agencies also explained to us that the Justice Department is exploring other measures to remedy the current situation, though it was not free to discuss the particulars of those measures. We heartily encourage the Bureau and the Justice Department generally to aggressively continue their enforcement efforts and to implement with all due haste any additional measures that would eliminate internet sweepstakes cafés. As you might imagine, the existence of these establishments poses a threat to Indian gaming and, to the extent the State tolerates them, violate our rights of exclusivity guaranteed by California's Constitution and for which we and other tribes negotiated in our compacts.

## 2. CALIFORNIA CARDROOMS

A more serious issue is the play of illegal games at California cardrooms. We have reviewed the October 3, 2012 letters the Pala Band of Mission Indians and the United Auburn Indian Community sent to the Bureau regarding this subject. We agree with the content of those letters, but want to emphasize the problem is a pervasive one that spreads well beyond the two specific cardrooms which were the subjects of those letters.

From our perspective, this is a two-pronged problem. The first prong is that the State has allowed the cardrooms to play illegal games. Specifically, we now know many cardrooms are playing Blackjack and Baccarat. We believe the play of both games in cardrooms is Constitutionally impermissible, as they are games of the type played in Nevada and New Jersey casinos. Moreover, the California Penal Code expressly names "twenty-one" – that is, Blackjack – as a prohibited game. We understand that with respect to Blackjack, at least, the Bureau has previously asserted that the rules of the games it has permitted differ from those of the game traditionally played in casinos. There are at least two problems with this assertion. First and most obvious, the cardrooms expressly advertise both on billboards and on their websites that they play "Blackjack." If the cardrooms are not playing Blackjack, the state should not allow them to advertise that they are, and the games should not bear the word "Blackjack" in their title.

Another issue is that the distinction between the rules the Bureau has approved and those of traditional Blackjack is effectively non-existent. For example, the Bureau has approved a game known as Pure 21.5 Blackjack. It appears the primary difference between this game and standard Blackjack is that the face and ten cards have a value of

Lawrence Quint, Jr.  
Stephanie Shimazu  
October 25, 2012  
Page 3

10.5 when dealt with an ace, rather than the standard value of 10. Thus, when paired with an ace, these cards add up to 21.5, rather than 21. As United Auburn's October 3 letter noted, when cardroom guests ask how to play the game, they are told it plays just the same as regular Blackjack. That is exactly our point.

The second prong of the problem here concerns the so-called third-party proposition players, or TPPs. This is a multi-layered issue. One layer is, again, the illegality of the games as they have developed under the TPP system. As representatives from the Yocha Dehe Tribal Gaming Agency have explained to you during the recent meetings between the parties, on more than one occasion they have visited Sacramento area cardrooms and witnessed the games being banked by a single individual – the TPP sitting at each table. Whether the TPP ever offered the bank for rotation is irrelevant (and for the most part, the TPP did not offer to rotate the bank).<sup>1</sup> As our representatives explained at the October 9, 2012 meeting at Thunder Valley, we believe California law requires the continuous and systematic rotation of the bank, not the *offer* to rotate the bank. As a practical matter, offering to rotate the bank is an empty gesture, as, in our experience, virtually no player will want to take on the task. We note the Bureau appears to agree with our position. The rules for the game of EZ Baccarat posted on the Bureau's website explain that "a single player cannot repeatedly act as the player/dealer," and cite the relevant decisional and statutory law for that proposition. The failure to rotate the bank means the games played at the cardrooms are prohibited by the California Constitution, the Penal Code, and violate tribal exclusivity.

Not only are the cardrooms playing illegal banked games, they are effectively *house-banked* games. The Bureau will apparently not grant us access to the contracts between the TPP entities and the cardrooms. However, from the regulations the CGCC implemented, as well as from the recent meetings with Bureau and Commission representatives, we have learned that as part of their contracts, the TPPs are allowed to pay for equipment (such as surveillance cameras and monitors, cards, and shuffling machines), services, facilities and advertising. We trust all would agree those items are among the traditional incidents of running a business. It seems, then, that the TPPs become a form of partner with the cardroom and thus, to some extent, they become the house.

A related issue is the virtual disappearance of the player collection fee. Before the advent of the TPP, this fee was the method by which cardrooms made a profit. From

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<sup>1</sup> Any reluctance by the TPPs to rotate the bank is understandable. After all, it appears the TPP compensation is based on the number of hands banked, thereby creating an inherent financial disincentive to bank rotation.

Lawrence Quint, Jr.  
Stephanie Shimazu  
October 25, 2012  
Page 4

our representatives' recent visits at various cardrooms, the TPP paid a per-hand collection fee, but the other players did not. While the Bureau has explained that collection fees are not mandatory, it surely must recognize that the system the State has created allows the TPPs to compensate the cardrooms in other ways to make up for the loss of the collection fees. The net effect from the players' perspective is to create a no-collection game resembling in every respect the experience at a casino. Moreover, even if nothing prohibits a cardroom from eliminating a collection from all players, having a different collection for TPPs and other players *is* prohibited, and that appears to be the system in place.

Another pernicious outgrowth of the TPP system has been the "cross-banking" the Bureau and Commission have allowed to flourish. In effect, two cardrooms become licensed TPPs and then bank each other's games. This process not only appears improper, we believe it violates California law.

The point here is relatively simple. The cardrooms have, over time, manipulated the system the State put in place and have been allowed to advertise and play illegal games in a way that is indistinguishable from those played at Indian casinos. The effect of this manipulation has been a noticeable and measurable decline in the business at those casinos. While the cardrooms' ambitions are certainly understandable, they can no longer be tolerated.

This leaves us with the most important question: What does the State intend to do about this problem? We recognize this problem developed over a period of time and involves complex issues resistant to a quick solution. That said, we first addressed this issue at the April 12, 2012 Tribal-State Association meeting and now, after several months and meetings have passed, cannot yet point to concrete steps by the State marking progress toward a solution. We understand the Bureau has acknowledged that a problem exists (always the first step toward a solution), and has advised our representatives that it is evaluating a number of the issues raised at the meetings, but could commit to no particular action or timeline. Nevertheless, the Bureau did say at the October 9 meeting that it would begin a review of the rules of the games it has approved, and that such review might result in changes to the collection fee and game-rotation issues addressed above. From the Commission's perspective, we understand it has acknowledged the need to "clean-up" the TPP regulations and, to that end, to schedule workshops to begin the process.

It is important to understand that the cardrooms' actions, which the state has either tacitly or expressly allowed, daily affect both our business and the exclusivity to which

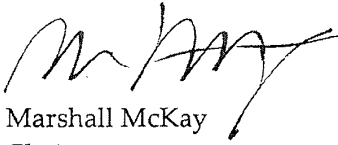


Lawrence Quint, Jr.  
Stephanie Shimazu  
October 25, 2012  
Page 5

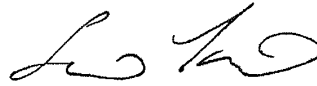
we are entitled by virtue of California's Constitution and the compact we negotiated with the State. We therefore would greatly appreciate it if the State could answer the question posed above, with as much specificity as possible, as well as provide us some idea of the timeframe involved. We simply cannot allow the current situation to continue indefinitely.

Thank you, and we look forward to hearing from you.

Sincerely,



Marshall McKay  
Chairman  
Yocha Dehe Wintun Nation



Leland Kinter  
Chairman  
Yocha Dehe Tribal Gaming Agency

cc: Martin Horan, Assistant Bureau Chief, Bureau of Gambling Control  
Tiffany Conklin, Commissioner, California Gambling Control Commission  
Lauren Hammond, Commissioner, California Gambling Control Commission  
Richard Schuetz, Commissioner, California Gambling Control Commission  
Joe Dhillon, General Counsel, California Gambling Control Commission

# EXHIBIT E



TRIBAL GOVERNMENT

P.O. Box 908  
Alpine, CA 91903  
#1 Viejas Grade Road  
Alpine, CA 91901

Anthony R. Pico, Chairman  
Robert Cita Welch, Vice Chairman  
Anita R. Uqualla, Tribal Secretary  
Samuel Q. Brown, Tribal Treasurer  
Greybuck S. Espinoza, Councilman  
Victor E. Woods, Councilman  
Raymond "Bear" Cuero, Councilman

Phone: 6194453810  
Fax: 6194455337  
viejas.com

December 10, 2012

Lawrence Quint, Jr.  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, CA 95816

Stephanie K. Shimazu, Chairperson  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 100  
Sacramento, CA 95833

**Re: Illegal Gaming in Internet Sweepstakes Cafes and California Card Rooms**

Dear Mr. Quint and Chairperson Shimazu:

On October 9, 2012, representatives from certain California Tribes, the Bureau of Gambling Control (the "Bureau"), and the California Gaming Control Commission (the "CGCC") met to discuss the problem of illegal gaming currently taking place in the State of California at certain "Internet Sweepstakes Cafes" and state-licensed Card Rooms (collectively the "Illegal Gaming"). This letter memorializes the concerns raised by the Viejas Band of Kumeyaay Indians during the October 9 meeting and confirms the commitments made by the Bureau and the CGCC to combat the Illegal Gaming.

**ILLEGAL SLOT MACHINES AT INTERNET SWEEPSTAKES CAFES**

There is no reasonable disagreement related to the legality of Internet Sweepstakes Cafes in the State of California. Internet Sweepstakes Cafes are akin to the telephone card vending machine sweepstakes that proliferated in California over a decade ago. And as the Bureau correctly noted in its May 17, 1999 law enforcement advisory, such sweepstakes machines are illegal slot machines under California Penal Code sections 330a, 330b and 330.1, and are also illegal lotteries under California Penal Code sections 319 and 321. The same reasoning applies to the slot machine style games offered in Internet Sweepstakes Cafes, which are virtually impossible to distinguish from Las Vegas style slot machines. Viejas applauds the Bureau for issuing a law enforcement advisory on December 5, 2012 recognizing the illegality of Internet Sweepstakes Cafes.

While the December 5, 2012 advisory is an important step toward confronting illegal gaming at Internet Sweepstakes Cafes, Viejas believes that swift and decisive enforcement action is of paramount importance. To that end, Viejas supports and encourages efforts by the Bureau to coordinate with local law enforcement agencies to shut down Internet Sweepstakes Cafes, seize assets of Internet Sweepstakes Cafes, and prosecute, to the full extent of the law, any persons that operating or affiliated with such illegal gaming operations.

**EXHIBIT E**

Lawrence Quint, Jr.  
Stephanie K. Shimazu  
December 10, 2012  
Page 2 of 3

During the October 9 meeting, there was also some discussion about a potential legislative solution to put Internet Sweepstakes Cafes out of business for good. Viejas believes that such a solution is also worthy of exploration.

#### **ILLEGAL CARD GAMES AT CERTAIN LICENSED CALIFORNIA CARD ROOMS**

Viejas is informed that certain California-licensed Card Rooms are offering certain "banking or percentage" card games, including Blackjack (i.e., the game "twenty-one") and Baccarat, in violation of California Penal Code section 330. These games are also constitutionally impermissible, as they are games of the type played in Nevada and New Jersey casinos.

On October 3, 2012, the Pala Band of Mission Indians and the United Auburn Indian Community sent detailed letters to the Bureau exposing two examples of card rooms carrying out this form of illegal gaming. Viejas believes that the prevalence of illegal gaming at card rooms extends beyond those two specific card rooms and that the Bureau and CGCC should immediately take the following action.

First, the Bureau should reverse its approval of certain card games, such as Pure 21.5 Blackjack. The primary difference between Pure 21.5 Blackjack and the game of Blackjack is that the face and ten cards carry a value of 10.5 when paired with an ace, rather than the typical value of 10. Consequently, when those cards are paired with an ace, the score adds up to 21.5 (a "blackjack of 21.5"), rather than 21 (a typical blackjack). It is difficult to reconcile how this game is different from the game of 21; it is not. Indeed, as the October 3 letters noted, when guests ask how to play the game, they are told it plays just the same as regular blackjack. Disapproving card games such as this is a critical initial step to confronting the problem.

Second, the Bureau and CGCC should ban, through enforcement or licensing action, the clever scheme employed by card rooms of using third-party proposition players ("TPPs") to disguise the "house-banking" nature of these illegal card games. California law requires the continuous and systematic rotation of the bank. Card rooms that contract with TPPs, however, do not continuously and systematically rotate the bank. They sometimes "offer" to rotate the bank, but actual rotation does not occur, as virtually no player is financially equipped to take on the task. This failure to rotate the bank renders these card games as illegal house banked games.

Furthermore, the purported arms-length contractual relationship between a card room and a TPP is illusory at best. According to Bureau and CGCC representatives, a typical TPP contract with a card room permits the TPP to pay for card room equipment (such as surveillance cameras and monitors, cards, and shuffling machines), services, facilities and advertising. The payment of these core operating expenses of the card room confirms that a TPP is a co-venturer in the banking card game operation, rather than an independent third party provider. And the payment of such expenses is simply a subterfuge to funnel TPP banked card game profits back to card room owners. Card rooms are also engaging in "cross-banking", whereby one card room becomes a licensed TPP to bank games at another card room, and vice versa.

These relationships also explain the removal and/or reduction of the player collection fee for certain games. Before the advent of the TPP, card rooms chiefly relied upon the player collection fee to generate revenue. Now, the player collection fees are often paid solely by the TPP, allowing the other players to spend solely on game wagers, just like in a casino.

Lawrence Quint, Jr.  
Stephanie K. Shimazu  
December 10, 2012  
Page 3 of 3

Internet Sweepstakes Cafes and illegal banked card games at California-licensed card rooms violate the law, threaten California Tribal Gaming, infringe upon the gaming exclusivity afforded by the California Constitution, and jeopardize State revenue under Tribal-State gaming compacts. Viejas urges the Bureau and CGCC to take immediate and multi-faceted action to combat illegal Internet Sweepstakes Cafes and ensure that all California-licensed card rooms comply with applicable law.

Sincerely,



Viejas Tribal Council

# EXHIBIT F



TRIBAL GAMING AGENCY

November 6, 2013

**VIA ELECTRONIC AND U.S. MAIL**

Attorney General Kamala D. Harris  
California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

**RE: YOCHA DEHE CONCERNS OVER ILLEGAL GAMING AT CARD ROOMS**

Dear Attorney General Harris:

We write on behalf of the Yocha Dehe Wintun Nation to formally request a meeting with you to discuss the status of the Department of Justice's investigation into illegal gaming practices at California card rooms. Our request for a meeting with you results from our frustration with the Bureau of Gambling Control's failure to address these issues, which we have raised with Bureau representatives multiple times over the past eighteen months.

The history of this issue is straightforward. On April 12, 2012, at a meeting of the Tribal-State Association, Ray Patterson, the Executive Director of our Tribe's gaming agency, for the first time advised Bureau and Gambling Control Commission representatives that card rooms were engaging in what we believe to be illegal gaming practices. Several meetings between representatives of various tribes and the Bureau and Commission followed. While Bureau representatives acknowledged at those meetings that a problem exists, they steadfastly refused to commit to any action or timeline to remedy the situation.

Thus, on October 25, 2012, we wrote a detailed letter to the Bureau's Chief and to the Commission's then-Chairperson, memorializing our concerns and requesting that the State respond with specificity to the single question of what the State intended to do about the problem of illegal gaming at card rooms. A copy of that letter is enclosed for your convenience. As we explained, the card rooms' activities daily affect our business and violate the exclusivity to which we are entitled under California's Constitution and the compact we negotiated with the State. We also requested some idea of the time frame for instituting a solution.

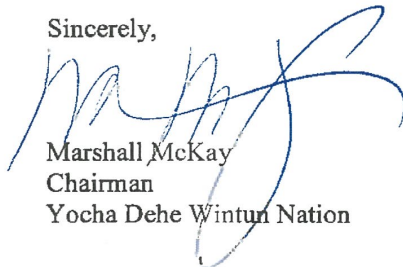
Attorney General Kamala D. Harris  
November 6, 2013  
Page 2

The Commission responded with a commitment – with which they are now following through – to conduct workshops designed to revise Commission regulations addressing third-party proposition play at card rooms.

The Bureau, in contrast, provided us no information of any kind. On December 27, 2012, two months after receiving our letter, the Bureau's Chief wrote stating nothing more than the Bureau's appreciation for us bringing these "serious issues" to the Bureau's attention and that they were "investigating and evaluating these allegations as appropriate." Though we have followed up with the Bureau requesting a substantive response to our concerns, to date we still have nothing in the way of a substantive response.

Thus, we now believe it is necessary to meet with you to address our concerns. We therefore ask that your staff contact Ray Patterson at (530) 796-5208 to schedule the meeting. We understand other tribes involved in this process may also have requested to meet with you. In the interests of efficiency and convenience, we would be pleased to meet as a group.

Sincerely,



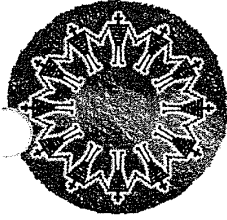
Marshall McKay  
Chairman  
Yocha Dehe Wintun Nation



Leland Kinter  
Chairman  
Yocha Dehe Tribal Gaming Agency



# EXHIBIT G



## **California Nations Indian Gaming Association**

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2150 River Plaza Drive, Suite 1080  
Sacramento, CA 95833  
Tel: 916-448-8706 Fax: 916-448-8758

October 18, 2013

Attorney General Kamala D. Harris  
Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244

Dear Attorney General Harris,

On behalf of the 35 member tribes of the California Nations Indian Gaming Association, I am writing to express our concerns regarding gaming practices at cardrooms that are violating the California Constitution, the Penal Code, and the Gambling Control Act, as well as its implementing regulations, to the detriment of our tribal gaming business. These gaming practices also violate the tribal exclusivity provisions of the Tribe's Compact with the State of California.

We are aware that detailed complaint letters were filed with the Bureau of Gambling Control over one year ago but to date no significant action has been taken. We are urging you at this time to act to stop these clear violations of California gaming laws and regulations.

California law prohibits banking games in cardrooms, and any player-dealer position must continuously and systematically rotate. However, it is prevalent throughout the industry that this position does not rotate and is instead dominated by one entity, the Third Party Proposition Player service (TPP). These banking practices are indisputable violations of the law.

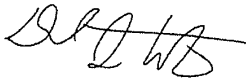
It is the hallmark of California cardroom gaming that the house generates revenue from a collection fee charged to patrons for the opportunity to play the game. However, it has become prevalent throughout the industry for many cardrooms not to charge any collection fee, except for the TPP. Collection fees must be charged to all players for the opportunity to play the game; otherwise, what type of gaming is being conducted? It calls into question how the cardrooms are making their money.

Because of the current banking practices and waiver of collection fees for players, cardrooms are advertising "Vegas style" games like blackjack and baccarat. Such games in California cardclubs are prohibited by the California Constitution. Blackjack is specifically prohibited by

name in Penal Code Section 330, as the courts have explained blackjack is another name for the game of 21.

The California Nations Indian Gaming Association urges you to take action to enforce the state gaming laws and regulations and put an end to these unlawful gaming practices at California cardrooms.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. J. Tucker', written over a horizontal line.

Daniel J. Tucker  
Chairman

# EXHIBIT H



TRIBAL GAMING AGENCY

March 25, 2014

**VIA ELECTRONIC AND U.S. MAIL**

Attorney General Kamala D. Harris  
Office of the Attorney General  
California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

**RE: YOCHA DEHE CONCERNS OVER ILLEGAL GAMING AT CARD ROOMS**

Dear Attorney General Harris:

On November 6, 2013, we wrote to you on behalf of the Yocha Dehe Wintun Nation requesting a meeting to discuss the status of the Department of Justice's investigation into illegal gaming practices at California card rooms. As we explained in that letter, our request resulted from our frustration with the Bureau of Gambling Control's failure to address these issues. Enclosed for your convenience are copies of our November 2013 letter to you, as well as our October 25, 2012 letter to the Bureau of Gambling Control and the California Gambling Control Commission.

To date, we have not had the courtesy of a reply from your office, or even an acknowledgment of our November 2013 letter. Further, we know the leaders of a number of other tribes have written to you requesting you to take action to stop the illegal gaming at card rooms, and some have, like us, requested to meet with you. We understand your office has also neither acknowledged nor responded to these other tribal leaders' requests.

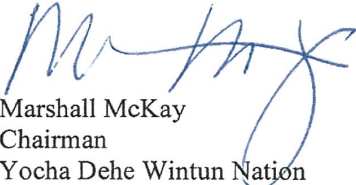
You must understand that this issue will not disappear by ignoring it. Our Tribe, as a sovereign nation, negotiated a compact with the State of California for exclusive gaming rights. The State, however, has eroded those rights by enabling card rooms to violate the State's statutory and Constitutional law. The State's actions have directly affected not only our Tribe's sovereignty (as well as that of other California gaming tribes), but also our financial bottom line. This we cannot permit.

Attorney General Kamala D. Harris  
March 25, 2014  
Page 2


As we explained in our October 2012 letter, we understand the State has created a problem which is complex and therefore not given to an easy or quick solution. We are willing to work with the State toward a resolution that works for all parties. Doing so, however, will necessarily require open dialogue and cooperation of the type the Department of Justice (unlike the Gambling Control Commission) has so far been demonstratively unwilling to engage in.

We urge you to change this situation. The alternative to the State working with us cooperatively to solve what State representatives have acknowledged is a State-created problem is likely to be costly and distasteful for all. Again, we request to meet with you to address our concerns. We therefore ask that your staff contact Ray Patterson, the Executive Director of our Tribal Gaming Agency, at (530) 796-5208 to schedule the meeting. As we mentioned before, we are willing to meet with you as a group with other tribes involved in this process who have also requested a meeting.

Sincerely,



Marshall McKay  
Chairman  
Yocha Dehe Wintun Nation



Leland Kinter  
Chairman  
Yocha Dehe Tribal Gaming Agency

cc: Wayne J. Quint, Jr., Chief, Bureau of Gambling Control

Enclosures

**EXHIBIT H**

# EXHIBIT I



February 20, 2015

Attorney General  
Kamala D. Harris  
California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

Re: *Request for Meeting Concerning Enforcement Against Illegal Cardroom Activity*

Dear Attorney General Harris,

We, the elected leaders of the undersigned federally-recognized Indian tribes, write to express our grave concern about the Department of Justice's failure to enforce existing California law to stop the play of illegal house-banked games in California cardrooms. We request a meeting with you to discuss when, and how, your office plans to address the three aspects of widespread illegal activity identified below.

**Collection Fees**

Tribal representatives recently attended a Bureau of Gambling Control workshop in Sacramento. The workshop invitation indicated the meeting's purpose was to discuss and debate the proposed changes to the Bureau's Gaming Activity Authorization regulation. Those changes would establish standards for the collection of cardroom fees (including setting appropriate fee rates) and clarify, as established by legislative intent, the limited circumstances under which cardrooms may waive the collection fee charged to each patron. To our disappointment there was no discussion of regulations. Rather, the Bureau "workshop" became a platform for cardroom operators and their employees to essentially filibuster and make economic policy arguments for several hours to justify what we believe to clearly be illegal activity.



During the workshop, cardroom representatives pleaded with the Bureau to leave the *status quo* alone and let the illegal games operate because “no one is complaining loudly” about the collection fee waiver. Others expressly acknowledged that before the wholesale waiver of collection fees began, some cardrooms were unsuccessful because players preferred to play at tribal casinos which do not charge such fees. Still others stated that every cardroom in California operates “no collection” games in some form.

Our position is straightforward: It is the Bureau’s duty, as an arm of the Department of Justice, to enforce laws as written, not to consider economic policy arguments seeking to justify the play of illegal games in California cardrooms. And, there can be no doubt that the wholesale waiver of collection fees in cardrooms is unlawful. Penal Code section 337j(f) “is intended to be dispositive of the law relating to the collection of player fees in gambling establishments.” Prior to 2003, section 337j(f) allowed no waiver of cardroom collection fees. That year, the Legislature passed AB 278 (Bermudez), which allowed for the limited waiver of player fees. As the legislative history for that bill unambiguously explains:

The bill also will clarify the law relating to the collection of fees in card clubs by allowing the club to waive specified fees, a “player-friendly” change benefiting those players who do not receive action on their wagers, or where a hand folds and there is no betting. . . . The Attorney General has advised the clubs that this change will clarify this section of law relating to these circumstances.

Thus, as amended, the statute allows for the waiver of collection fees, but only “after the hand or round has begun” (that is, on a hand-by-hand, not on a wholesale, basis) and only where a player received no action on his wager or where the entire hand folds. We appreciate the Bureau undertaking a lengthy regulatory review process to ensure its regulations address these issues. We believe, however, that existing law is sufficiently clear and the Bureau is required to enforce it.

#### **Player-Dealer Rotation**

The law is equally clear on the point of bank rotation. The California Constitution prohibits “casinos of the type currently operating in Nevada and New Jersey.” Consistent with that prohibition, Penal Code section 330 forbids, among other things, the play of “any banking or percentage game.” However, a later code section, 330.11, removes from the definition of “banking game” any game featuring a “player-dealer position” which is “continuously and systematically rotated amongst each of the [players].”

This required continuous rotation of the player bank does not occur in the games cardrooms now offer. The cardrooms readily admit this lack of rotation. They claim they are only required to offer the rotation of the player-dealer position. Setting aside that even the offer of the player-dealer position does not always happen, there is no mystery about the cardrooms’ reluctance to rotate the bank in a game. Traditionally, cardrooms

made their money by charging the collection fees referenced above. To make their games more like those played at Indian casinos, they eliminated the collections and now make their money through their contracts with so-called third party proposition players (TPPs). These TPPs in turn make the money necessary to pay under the contracts by not relinquishing the bank – that is, they keep the “house advantage” to themselves. Thus, the TPPs (and the cardrooms) have a direct financial disincentive to allow the bank to rotate and they know no other player will take the bank if they offer it, because the other players lack the funds to cover bets in the case of losing hands.

The problem with the argument the cardrooms (and TPPs) advance is the plain language of section 330.11, which unequivocally states that the bank position “must” rotate among the players, not that it must be offered for rotation. We note the Bureau appears to agree with our position. The rules for the game of EZ Baccarat posted on the Bureau’s website explain that “a single player cannot repeatedly act as the player/dealer,” and cite the relevant decisional and statutory law for that proposition. The failure to rotate the bank means the games played at the cardrooms are prohibited by the California Constitution and the Penal Code.

### **Play of Illegal Games**

Perhaps the most galling aspect of what the Department of Justice has allowed to proliferate at California cardrooms is the play of patently illegal games. On billboards along freeways and on their websites, cardrooms boldly advertise the play of “Las Vegas-style Blackjack.” As we all know, Blackjack is played in Nevada and New Jersey and therefore Constitutionally banned. Moreover, Penal Code section 330 expressly names “twenty-one” – that is, Blackjack – as a prohibited game. In discussions over the last three years between representatives of the tribes and the Bureau, the Bureau has asserted that the rules of the games it has approved differ from those of the game traditionally played in casinos. There are at least two problems with this assertion. First and most obvious, the cardrooms expressly advertise that they play “Blackjack,” not some other game. If the cardrooms are not playing Blackjack, the state should not allow them to advertise that they are, and the games should not bear the word “Blackjack” in their title.

A second problem is that the distinction between the rules the Bureau has approved and those of traditional Blackjack is effectively non-existent. For example, the Bureau has approved a game known as Pure 21.5 Blackjack. It appears the primary difference between this game and standard Blackjack is that the face and ten cards have a value of 10.5 when dealt with an ace, rather than the standard value of 10. Thus, when paired with an ace, these cards add up to 21.5, rather than 21. Not surprisingly, when cardroom guests ask how to play the game, they are told it plays just the same as regular Blackjack. That is exactly our point.

And then there are the games of Baccarat and Party Craps, both games the Bureau has approved for play in cardrooms. Tribal representatives have previously explained to the Bureau that Baccarat cannot be played as anything but a banked game, because it

does not feature a player-dealer position such that it can come under the exception created by Penal Code section 330.11 – there is simply no such position to rotate. The Bureau representatives seem to disagree, but we are confident they are incorrect.

More recently, we learned that some cardrooms are playing Party Craps, a game which plays just like (and has the same odds as) the game played in Nevada and New Jersey casinos, except that instead of using dice, it uses cards. We think it obvious that the game of craps does not have a player-dealer position that can be rotated. We therefore think it equally obvious that the game is illegal for play in cardrooms, yet the Bureau has approved it.

While tribal representatives have raised all of these issues with the Bureau (except for Party Craps, which we only recently learned about), they have been told the Bureau will first address the collections issue through the regulatory review process described above and only then will move on to our other concerns. We see no reason why the Bureau should shrug off its obligation to enforce the law until it is convenient for the Bureau to do so, particularly where the problem is of the Bureau's own making.

In closing, we would appreciate if you could meet with us at a mutually convenient time to discuss these matters. We therefore ask that your staff contact Alva Johnson at (760) 699-6800 to schedule such a meeting.

Sincerely,



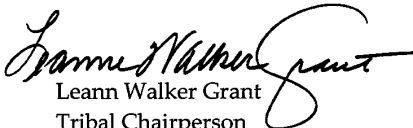
Jeff Grubbe  
Tribal Chairman  
Agua Caliente Band of  
Cahuilla Indians



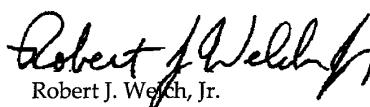
Mark Macarro  
Tribal Chairman  
Pechanga Band of  
Luiseño Indians



Cody J. Martinez  
Tribal Chairman  
Sycuan Band of  
Kumeyaay Indians



Leann Walker Grant  
Tribal Chairperson  
Table Mountain Rancheria



Robert J. Welch, Jr.  
Viejas Band of  
Kumeyaay Indians



Leland Kinter  
Yocha Dehe Band of  
Wintun Indians

# EXHIBIT J



TRIBAL GAMING AGENCY

September 16, 2013

Richard J. Lopes  
Chairman  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 100  
Sacramento, California 95833

**RE: YOCHA DEHE COMMENTS ON THIRD PARTY PROPOSITION PLAYER REGULATIONS**

Dear Commissioner Lopes:

We write on behalf of the Yocha Dehe Wintun Nation Tribal Gaming Agency to provide comments following the August 27, 2013 workshop addressing revisions to the Commission's regulations on Third Party Proposition Player ("TPPP") contracts.

There is no dispute that card rooms are entitled under Business & Professions Code section 19984 to contract for the provision of third party proposition services. The problem here is that the Commission's regulations with respect to those contracts (specifically, 12200.7 and its subsections) have unintentionally expanded and morphed the relationship between the two entities into something which California law neither envisions nor allows. This problem evinces itself in several ways.

**1. HOUSE BANKING**

We believe card rooms are effectively playing house-banked games through the use of TPPPs, in violation of California law. Under regulation 12200.7(b)(21), (c)(1) and (c)(2), the TPPPs are allowed to pay for equipment (such as surveillance cameras and monitors, cards, and shuffling machines), services, facilities and advertising. Those items, however, are among the traditional incidents of running a business. The TPPPs have therefore become a form of partner with the card room and thus, to some extent, they become the house.

A related problem is the growth of "cross-banking," through which two card rooms become licensed TPPPs and then bank each other's games. This pernicious outgrowth of the TPPP system violates (if not in the letter, certainly in spirit) California law and various regulations such as 12200.7(8) (providing that TPPP services must comply with

Richard J. Lopes  
September 16, 2013  
Page 2

laws and regulations), 12200.7(c)(1) and (e), and 12200.9(a)(1)(D) (providing that TPPP contracts must not allow the “existence or perception of any collusive arrangement”).

Thus, we believe the Commission should revise, at a minimum, regulations 12200.7(b)(2), (c)(1), (c)(2), (c)(3) and (e) to eliminate or severely limit the reimbursement scheme and prohibit cross-banking.

A related concern is that no one, other than the Bureau of Gambling Control and the contracting parties, have any idea what the contracts actually look like or what they contain. We urge the Commission to implement regulations that provide greater (if not complete) transparency with respect to these contracts and what goes into them. This is a critically important issue. As matters stand now, the TPPPs and card rooms have been allowed to engage in practices that are, at best, inconsistent with California law and appear decidedly contrary to the intentions of the Commission’s regulations. We believe the Commission, and to the extent possible interested third parties and other regulatory agencies, should have access to the information in those contracts to ensure the current situation does not occur in the future.

## **2. BANK ROTATION**

The simple fact is that TPPPs at card rooms do not rotate the bank. Even if there are some TPPPs who have a practice of *offering* the bank for rotation, Penal Code section 330.11 specifically requires that the bank *actually* rotate “continuously and systematically . . . amongst each of the participants during the play of the game.”<sup>1</sup> Thus, we believe regulation 12200.7(8), which provides that TPPP services must comply with California law, could be enhanced (perhaps with subsections) to specify the rotation of the bank. We also suggest this regulation is an appropriate place to place additional provisions specifying *how* the TPPPs must comply with California law.

## **3. PLAYER COLLECTION FEE**

In many card rooms, the player collection fee – the traditional method by which card rooms made money – has virtually disappeared. Though, again, we have no access to the contracts between TPPPs and card rooms, the reason for the disappearance seems straightforward: The card rooms are making their money from their partners, the TPPPs.

While Bureau representatives have previously explained that collection fees are not mandatory, they surely must recognize that the system the State has created allows the TPPPs to compensate the card rooms in other ways to make up for the loss of the collection fees. Moreover, even if nothing prohibits a card room from eliminating a

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<sup>1</sup> Understandably, the TPPPs prefer not to rotate the bank, considering their compensation appears to be based on the number of hands banked, thereby creating an inherent financial disincentive to bank rotation.

Richard J. Lopes  
September 16, 2013  
Page 3

collection from all players, having a different collection for TPPPs and other players *is* prohibited (see regulation 12200.7(12)), and that appears to be the system in place in many, if not most, card rooms. Thus, we believe the Commission's regulations must be refined and enhanced to ensure this situation does not occur. Stated succinctly, the TPPPs must (1) play as participants in the games, (2) pay the same collection fee for the same wager level as other players, and (3) pay a collection fee for every wager, including bonus bets.

In closing, we very much appreciate the Commission's efforts to address the inadequacies in the regulations and to revise them to ensure compliance with California law. We look forward to participating in future workshops.

Sincerely,

A handwritten signature in black ink, appearing to read 'R Patterson', with a stylized, cursive script.

Ray Patterson  
Executive Director  
Yocha Dehe Tribal Gaming Agency

cc: Tiffany Conklin, Commissioner, California Gambling Control Commission  
Lauren Hammond, Commissioner, California Gambling Control Commission  
Richard Schuetz, Commissioner, California Gambling Control Commission  
Tina Littleton, Executive Director, California Gambling Control Commission  
Wayne J. Quint, Jr., Bureau Chief, Bureau of Gambling Control

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# EXHIBIT K



**KAMALA D. HARRIS**  
Attorney General

**State of California**  
**DEPARTMENT OF JUSTICE**



BUREAU OF GAMBLING CONTROL  
P. O. Box 168024  
Sacramento, CA 95816-8024

September 25, 2015

Tina Littleton, Manager  
California Gambling Control Commission  
Regulatory Actions Unit  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833

RE: Third-Party Provider of Proposition Player Services Contract Regulations –  
August 18, 2015 Hearing Follow Up

Dear Ms. Littleton:

At the Commission's third-party provider of proposition player services (TPPPS) contract regulations hearing on August 18, 2015, Chairman Evans requested that the Bureau of Gambling Control (Bureau) provide information to the Commission concerning the Bureau's review of TPPPS contracts. In addition, in a follow up email on the same date, Commission Analyst Joshua Rosenstein provided a bulleted list of what was requested. The following information is in response to this request.

- *What items are being included in the contracts, broken down by the four categories (facilities, services, advertising, and equipment)?*

**Services**

- Wages/Payroll of Positions that Benefit TP
- Security
- Cage
- Surveillance
- Food and Beverage
- Accounting

**Facilities**

- Parking
- Internet
- Repairs and Maintenance
- Office and Operating Supplies for Casino, Security, etc.
- Alarm Monitoring
- Cleaning/Janitorial/Housekeeping/Maintenance
- Podiums
- TP Office/Workspace

**EXHIBIT K**

Tina Littleton, Manager  
September 25, 2015  
Page 2

- Rent
- Utilities/Telephone

**Advertising**

- Player Vouchers
- Food/Beverage Promotions
- Billboards
- Signage
- Flyers
- Radio and Print Advertisements
- Giveaways
- Internet/Social Media Advertisements

**Equipment**

- Cards
- Shuffle Machines Leases
- Surveillance Equipment (e.g. Cameras, etc.)

- *What, if any, justification is being provided by the TPPPS/Cardroom to currently justify those items? What are the Bureau's processes for verifying the included items to make sure they are not "substantially disproportionate?"*

Currently, virtually no documentation is initially submitted to the Bureau to justify the fees included in these contracts. The Bureau requests information from the TPPPS or Cardroom as necessary to substantiate the fees proposed in the contract. If the requested information does not provide enough detail, the Bureau works with the TPPPS company or the Cardroom to provide invoices and additional expense/financial information. In addition, we may do the following:

**Services and Facilities**

- Request the square footage of any TPPPS specific workspace. If necessary, the Bureau will also request supporting documentation (e.g., leases, floor plans, etc.).
- Review contracts for outside services if applicable (e.g., security, consultants, etc.).
- Use the internet to attempt to find comparable commercial property rents.

**Advertising**

- Depending on what the fees are determined to be, the Bureau may request samples of the advertisements, invoices, and receipts to ensure the advertising is related to the games in which the TPPPS company provides services.

Tina Littleton, Manager  
September 25, 2015  
Page 3

**Equipment**

- Request statements, invoices, and receipts and verify that the equipment is used for California games.
- Compare the costs to other Cardrooms.
- *Identify or comment on any specific items currently allowed that provide the highest level of concern.*

There are currently no specific expenses that are prohibited. As currently written, the regulations allow for nearly all expenses that can be categorized as services, facilities, advertising, or equipment to be paid for by the TPPPS company. The largest issue for the Bureau is the debate with the industry as to what can be placed in these categories. If the Bureau determines that an item is of no value to the TPPPS company, the Bureau believes that any payment for the item is disproportionate. The Bureau may also determine that an item is not requested by or provided to the TPPPS company. However, there are arguments from the industry about whether or not the Bureau has the authority to make these determinations.

Advertising is another issue. The industry has argued that any advertisement of the Cardroom benefits the TPPPS company and they should therefore share that expense (this would include poker advertisements). The Bureau believes, as per the regulations, that the TPPPS company should only share in the cost of advertisements for games in which the TPPPS company participates. However, Cardrooms rarely separate this expense and the Bureau has a difficult time discerning the TPPPS company's reasonable share.

- There are several types of items that the Bureau does not feel have a value to the TPPPS company or create a conflict that the Bureau believes enhances the dangers of unsuitable practices. The Bureau cannot approve a contract if the Bureau is not satisfied that the contract will not create or enhance the dangers of unsuitable, unfair or illegal practices in the conduct of controlled gambling or in the carrying on of the business and related financial relationships and that the contract does not undermine public trust that gambling will be conducted honestly, by reason or existence or perception of collusion. Following are examples of categories that have not been justified by the industry. However, the industry believes that payments for these types of items should be allowed.
  - Game Royalties/Game Licensing Agreements
  - Legal Fees
  - Cardroom Regulatory Compliance Fees
  - Poker Advertising/Promotions
  - Uniforms

Tina Littleton, Manager  
September 25, 2015  
Page 4

- Payroll Processing Fees
- Membership/Dues
- Subscriptions
- Commission/Bureau Licensing Fees (e.g., Annual Fees, Background Fees, etc.)
- Taxes (e.g., Property, City, etc.)
- Insurance Related Expenses
- Hotel Promotions
- Cardroom Charitable Donations
- Cardroom Employee Recruiting and Hiring
- Other Expenses Relating Specifically to Poker

The Bureau appreciates the opportunity to provide additional information for the revision of these regulations. If you have any questions or need additional information, please contact me at (916) 227-2651 or by email at [yolanda.morrow@doj.ca.gov](mailto:yolanda.morrow@doj.ca.gov).

Sincerely,



YOLANDA MORROW, Sr. Manager  
Licensing Section

For KAMALA D. HARRIS  
Attorney General

cc: Stacey Luna Baxter, Assistant Bureau Chief

# EXHIBIT L



TRIBAL GAMING AGENCY

May 15, 2014

VIA ELECTRONIC AND U.S. MAIL

Wayne J. Quint, Jr.  
Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

**RE: CARD ROOM COLLECTIONS – PENAL CODE SECTION 337j(f)**

Dear Mr. Quint:

I write on behalf of the Yocha Dehe Wintun Nation's Tribal Gaming Agency (the "TGA") to thank you for holding the May 6, 2014 roundtable to discuss the potential amendment to the Bureau of Gambling Control's regulations regarding gaming activity authorization. The TGA representatives who attended the roundtable (Ray Patterson, the TGA's Executive Director, and Jeff Butler, the TGA's attorney) found the roundtable discussion very enlightening.

I also want to provide the Bureau with the TGA's written comments in light of the discussion at the roundtable. As the Bureau's April 21, 2014 notice made clear, the roundtable had a sole focus – the parameters under which California card rooms "may waive the collection fee, pursuant to Penal Code section 337j(f)." We write to advise you of our conclusion that allowing card rooms to waive collections the way they currently do is inconsistent with both that statute, and also violates applicable regulations.

The starting point for the analysis are the collection rates for card room games where only the "player-dealer" is required to pay a fee to play, but all other players at the table are not. Contrary to comments from card room representatives at the roundtable, nothing in California law permits this practice. Section 337j(f) expressly provides that it is "intended to be dispositive of the law relating to the collection of player fees in gambling establishments." While that "dispositive" statute does have collection fee waiver

Wayne J. Quint, Jr.  
May 15, 2014  
Page 2

language, it *does not* allow the *wholesale waiver* of collection fees for all but one player at the table. As the statute explains:

the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game . . .

Thus, the statute envisions the waiver of the fee, but only for a particular "*hand or round of play*" in a game, where the game rules so permit. It is important to understand the history of section 337j(f) with respect to the waiver language. As Keith Sharp, an attorney representing card rooms, explained at the roundtable meeting, the collection fee waiver language was added to section 337j(f) in 2003 as a result of Assembly Bill 278. The legislative history of that bill explained the desire for the collection fee waiver in particular hands or rounds of play:

The bill also will clarify the law relating to the collection of fees in in card clubs by allowing the club to waive specified fees, a "player-friendly" change benefiting those players who do not receive action on their wager, or where a hand folds and there is no betting.

Thus, there are only two circumstances where the legislature envisioned allowing a card room to waive the collection fee – where a player received no action on his wager or where the entire hand folds with no betting at all (for your convenience, we enclose a copy of the legislative history of AB 278). Common sense justifies these two exceptions. After all, it is understandable that a player should not have to pay a collection where no other player took him up on his bet (and he thus has no potential for winning anything), or where all players in the hand fold without betting. What is not understandable, and what the law does not allow, is card rooms having game rules providing for zero collections for all players but one, regardless of the circumstances. That is, however, exactly the situation the card rooms currently enjoy.

There is also a specific regulation applying to this circumstance and which is consistent with our reading of section 337j(f) and the Legislature's intention regarding that statute. As you know, the California Gambling Control Commission has regulations addressing so-called third party proposition players ("TPPs") in card rooms. Regulation 12200.7 sets forth requirements for contracts between card rooms and TPPs. With respect to collections, subsection (b)(12) of the regulation requires that all contracts contain a provision ensuring that "collection fees charged by the house for participation in any controlled game shall be the same as those charged to other participants during the play of the game." Thus, the CGCC's regulations do not allow the card rooms to charge the TPPs (who act only as player-dealers in card rooms) a different rate than the rest of the players in the game, though that is just what they are doing.

Wayne J. Quint, Jr.  
May 15, 2014  
Page 3

We heartily encourage the Bureau to do whatever is necessary to ensure that card rooms comply with California law with respect to collections – if they charge one player a collection fee, they must charge all players the same collection fee.

Again, thank you for calling for and hosting the roundtable discussion. We look forward to the next opportunity to meet with Bureau and gaming industry representatives to further this important discussion.

Sincerely,

A handwritten signature in black ink, appearing to read "Leland Kinter", written over a horizontal line.

Leland Kinter  
Chairman  
Yocha Dehe Wintun Nation Tribal Gaming Agency

Encl.

cc: Susanne George, Research Analyst II (via email)



BILL ANALYSIS

Bill No: AB 278

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION  
Senator Edward Vincent, Chair  
2003-2004 Regular Session  
Staff Analysis

AB 278 Author: Bermudez  
As Amended: July 2, 2003  
Hearing Date: July 8, 2003  
Consultant: Steve Hardy

SUBJECT

Gambling Control Act.

DESCRIPTION

1. AB 278 would increase from 10 to 16, the membership of the Gaming Policy Advisory Committee (GPAC), which is appointed by the Gambling Control Commission (CGCC) as specified under present law. Under provisions of this act, eight members must be from the general public, and eight must represent controlled gambling licensees.
2. Would revise the definition of controlled game to clarify that games of "skill" (certain poker games), in addition to games of "chance" may be legally conducted in Card clubs.
3. Allows a gambling establishment (card club), to waive the collection of described fees collected by the club for any hand or round of play, after the hand or round has begun, pursuant to the published rules of the game and notice provided to the public. If the establishment waives this fee, the fee will not constitute one of the specified collection rates.
4. Contains a "cost disclaimer" clause.

PRIOR/RELATED LEGISLATION

SB 8 (Lockyer) Chapter 867, Statutes of 1997. Repealed the

AB 278 (Bermudez) continued  
Page 2

previous Gaming Registration Act, and re-enacted an updated Gambling Control Act.

AB 2446 (Firebaugh) 2002 Session. Contained similar provisions to this measure. (Held on Suspense File, Senate Appropriations Committee)

#### EXISTING LAW

Existing law provides that the CGCC is required to appoint 10 members to the GPAC, composed of equal numbers of controlled gambling licensees and the general public as specified.

Existing law makes it a misdemeanor to operate specified controlled games, and to regulate the collection of player fees in licensed gambling establishments as specified.

#### BACKGROUND

The author indicates that this bill seeks to give a voice on the GPAC to those cities and counties that have gambling establishments in their jurisdictions. There are currently no specific provisions for representation of these local agencies on the GPAC. In addition the bill clarifies that games of skill (certain poker games) may be played in addition to games of chance. Card clubs are currently playing games, which under definition, would be considered games of skill. This change will provide clarity to allow these games to be conducted.

The bill also will clarify the law relating to the collection of fees in card clubs by allowing the club to waive specified fees, a "player-friendly" change benefiting those players who do not receive action on their wager, or where a hand folds and there is no betting. Currently, clubs give a "free-play" token in when these instances occur. The Attorney General has advised the clubs that this change will clarify this section of law relating to these circumstances.

Supporters of this bill indicate that controlled gaming establishments (i.e., card clubs) provide important revenues to their local communities in the form of licensing fees. Small urban cities such as Commerce, Bell Gardens and Hawaiian Gardens are dependent on these revenues. Supporters believe that the change proposed by

AB 278 (Bermudez) continued  
Page 3

this bill will give these cities and clubs fair  
representation on the committee.

The author has previously amended the bill to address  
concerns raised by the California Nations Indian Gaming  
Association that delete their opposition. There is no  
known opposition to the bill.

SUPPORT: Commerce Club of California  
Los Angeles Casino Political Action  
Committee  
City of Commerce  
Hawaiian Gardens Casino

OPPOSE: None registered as of 7/5/03

FISCAL COMMITTEE: Senate Appropriations Committee  
\*\*\*\*\*

SMH:bkh

# EXHIBIT M



April 15, 2016

**VIA ELECTRONIC AND U.S. MAIL**

Wayne J. Quint, Jr.  
Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

**RE: ROTATION OF BANKER POSITION IN CALIFORNIA CARDROOMS**

Dear Mr. Quint:

We write to thank you and your staff for meeting with us on March 21, 2016 to discuss the rotation of the "banker" position in California cardrooms. This meeting resulted from the Bureau's February 19, 2016 notice to the cardrooms that it was suspending the so-called "Lytle letter" which allowed cardrooms to offer the rotation of the banker position, rather than insist on actual rotation as Penal Code section 330.11 requires.

We also want to provide the Bureau with written comments from the tribes we represent on the subject of game rotation and to respond to the inquiry at the meeting about the tribes' view of a "game break" should the banker position fail to rotate.

**1. THE LEGAL FRAMEWORK**

We believe it important to first to set out the applicable legal framework. The most elemental point is that Penal Code section 330 prohibits "banking . . . games played with cards." As the California Supreme Court has explained, this prohibition is elevated

Wayne J. Quint, Jr.  
April 15, 2016  
Page 2

to Constitutional status, because the type of games operating in Nevada and New Jersey include banked table games. *Hotel Empl. & Rest. Empl. Int'l. Union v. Davis*, 21 Cal. 4th 585, 605-06 (1999). The term “banking game,” in turn, “has come to have a fixed and accepted meaning: the ‘house’ or ‘bank’ is a participant in the game, taking on all comers, paying all winners, and collecting from all losers.” *Sullivan v. Fox*, 189 Cal. App. 3d 673, 678 (1987).

Under Penal Code section 330.11, games are “banked” unless the rules of the game feature a “player-dealer” – or banker – position that is “continuously and systematically rotated amongst each of the participants during the play of the game” and “preclude the house, another entity, a player or an observer from maintaining or operating as a bank during the course of the game.” This means that even if someone *other* than the cardroom (such as a Third-Party Proposition Player (“TPP”)) is operating as the “player-dealer” and the position does not rotate, the game is an illegal banked game. *Davis*, 21 Cal. 4th at 608 (an illegal banking game includes a game “banked by someone other than the owner of the gambling facility.”); *Oliver v. County of Los Angeles*, 66 Cal. App. 4th 1397, 1408 (1998).

## **2. AN “INDUSTRY STANDARD” FOR BANKER ROTATION ALREADY EXISTS**

We understand the purpose of the Bureau’s current effort is to devise a definition for the term “continuously and systematically rotated” in section 330.11 so the Bureau and industry will have guidelines to avoid the illegal play of games that is currently occurring. We fully support – indeed, believe it is critical to have – a single firm, inflexible standard for game rotation in cardrooms. That way, the Bureau’s game approval staff will have no problem determining whether or not a set of rules submitted by a cardroom are legal – the rules either comply with the standard or they do not.

As we explained at our meeting, however, the Bureau can save itself the trouble of going through this definitional process, because that single, firm and inflexible standard already exists. To reach this conclusion, we examined *every* blackjack and baccarat rule on the Bureau’s website. This was no minor task. The website contains 208 blackjack game rules for 72 cardrooms, 122 baccarat rules for 50 cardrooms, and 7 of the Bureau’s own “Standard Game Rules” (3 blackjack, 4 baccarat).<sup>1</sup> The results of this review were highly instructive.

With respect to blackjack, *every single rule except for four* (that is, 204 out of 208, or 98 percent) provides that the player-dealer position must be offered or actually rotate every two hands. Here is a typical example of the rotation language (this from the Bicycle Casino’s No Bust 21st Century Blackjack 5.0):

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<sup>1</sup> It appears there are actually 209 sets of blackjack rules. The Bureau’s link to the rules for Casino Real in Manteca indicates that cardroom plays Pure 21.5 Blackjack, but the rules were incomplete.

Wayne J. Quint, Jr.  
April 15, 2016  
Page 3

**LEGAL**

The Player-Dealer position must rotate in a continuous and systematic fashion, and cannot be occupied by one person for more than two consecutive hands. There must be an intervening player-dealer so that no single player can continually occupy the player-dealer position within the meaning of *Oliver v. County of Los Angeles* (1998) 66 Cal. App. 4<sup>th</sup> 1397, 1408-1409. If there is not an intervening person occupying the Player-Dealer's position, the game will be "broke" or stopped, as required by the California Penal Code.

Of the four blackjack rules that do not have the two hand rotation language, one (for Normandie Casino) is obviously an old and superseded version, and the other three (one for Lucky Lady and two for the Oaks) reference the *Oliver* decision, note that the banker position must rotate in a systematic and continuous fashion, and require that the game be "disbanded if at least one other intervening player at the table does not accept the deal when offered."

With respect to baccarat, the results are just as remarkable. Out of the 122 game rules, 104 (or 85 percent) explicitly require two hand rotation and the rest state that rotation of the banker position is "the same as industry standard games and complies with 330.11 of the California Penal Code." To ensure there is no doubt about what that standard is, a number of the 104 game rules requiring rotation every two hands *also* contain the "industry standard" provision. Moreover, it is evident the game rules tie the two hand industry standard to the *Oliver* decision and Penal Code section 330.11. Below is an example of the relevant language (from Artichoke Joe's EZ Baccarat):

**Standards of Play**

The game features a rotating player/dealer position that collects from all losers and pays all winners to the extent that their wager covers the action. The rotation of the Player/Dealer position is the same of industry standard games and complies with 330.11 of the California Penal Code. The object of the game is to form a hand that equals nine (9) or as close to it as possible. The player's hand is compared with the player/dealer's hand. The hand closest to "9" wins.

\* \* \*

**PLAYER-DEALER & DEAL**

The player/dealer position rotates in a systematic and continuous way so that the opportunity to act as the player/dealer does not constantly remain with a single person for many hands. The person in player/dealer position may not act as player/dealer position more than two consecutive hands or rounds of play. The opportunity to act as the player/dealer must be offered to all seated players after two hands or rounds of play so that a single player cannot repeatedly act as the player/dealer within the meaning of *Oliver v. County of Los Angeles*, (1998) 66 Cal.App.4<sup>th</sup> 1397, 1408-09 or section 330.11 of the California Penal Code, relating to gambling establishments and any future regulatory guideline from the California Bureau of Gambling Control or the California Gambling Control Commission with respect to the operation of controlled games featuring a player/dealer position.



Wayne J. Quint, Jr.  
April 15, 2016  
Page 4

The Bureau obviously agrees the “industry standard” for rotation of the banker position is two hands. *Every single one of the Bureau’s Standard Game Rules* explicitly references two hand rotation, and, as is the case with many of the cardroom rules, the Bureau’s EZ Baccarat rules tie that number to the “industry standard,” the *Oliver* decision, and section 330.11.

We trust the point is by now obvious: The cardrooms and Bureau over the years have reached an agreement over the meaning of “continuously and systematically rotated” and that meaning is – unequivocally – two hands. Though, as explained below, the tribes believe the Penal Code should be read to require rotation *every hand*, they are willing to accept the standard the industry has reached. Thus, to return to the initial contention, the Bureau need take no further action with respect to the term the industry (with the Bureau’s input) has already defined. The Bureau simply needs to fully withdraw the offending Lytle letter and let the games play by the rules already in force. Where a rule provides for the offer of the banker position, the parties simply need to read that out of the rule and require actual rotation. We note that Bureau representatives have explained on a number of occasions over the last few years (including during Gambling Control Commission hearings and in testimony before the Legislature) that the Bureau is severely underfunded and overburdened. We therefore think it ill advised and counterproductive for the Bureau to engage in a long, time-consuming and personnel intensive process to define a term that already benefits from a definition to which all stakeholders agree.

During our March 21 meeting, you suggested it would be unfair to force the cardrooms to adhere to a two hand rotation, because for nine years – that is, since the December 2007 Lytle “offer” letter was issued – they have been allowed to avoid that standard. There are two responses to your suggestion. First, the Bureau’s failure to enforce Penal Code section 330.11 for almost nine years does not “grandfather” the cardrooms into a pass for violating that statute. We also need to keep in mind it has been four years now (April 12 is the anniversary date) since the tribes began formally complaining about the illegal conduct at the cardrooms and the Bureau’s failure to stop it.

Second, the Lytle letter was, from the day it was issued, an obvious fraud. As the Bureau detailed in its December 2014 formal accusation against Lytle, “prior to December 4, 2007” – that is, a few days before he sent the “offer” letter to the presidents of two cardroom associations – he entered into “negotiations with [a San Jose cardroom] concerning prospective engagement as its compliance director.” Then, “on December 30, 2007, [Lytle] retired from state service” and the next day “entered into the agreement that had been negotiated since before December 4, 2007.” Thus, reduced to its essence, it appears Lytle negotiated for employment at a cardroom while still the Bureau Chief, then issued the letter providing cardrooms the ability to skirt the law on game rotation, and a few days later left to work at a cardroom. We think little more needs to be said about that situation.



Wayne J. Quint, Jr.  
April 15, 2016  
Page 5

**3. THE BANKER POSITION ROTATION CANNOT EXCEED TWO HANDS**

Even if the industry standard did not exist, and the Bureau believes it must continue in its effort to define the term “continuously and systematically rotated” in section 330.11, the result must still be nothing *more* than two hands. An important point to keep in mind at the outset is that the Bureau has no authority to expand the realm of legal gaming in the state. As the Gambling Control Act explains (Bus. & Prof. Code § 19801(a)):

State law prohibits commercially operated . . . banked . . . games . . . To the extent that state law categorically prohibits certain forms of gambling . . ., nothing herein shall be construed, in any manner, to reflect a legislative intent to relax those prohibitions.

Thus, because there is no express definition of the term “continuously and systematically rotated,” the Bureau’s interpretation must give full effect to the Legislature’s intent to maintain the prohibition on banked games and must in no way relax that prohibition.

In trying to construe a statute, the “fundamental task is to ascertain the intent of the lawmakers so as to effectuate the purpose of the statute . . . We begin by examining the statutory language, giving the words their usual and ordinary meaning. . . If the terms of the statute are unambiguous, we presume the lawmakers meant what they said, and the plain meaning of the language governs.” *Burquet v. Brumbaugh*, 223 Cal. App. 4th 1140, 1145-46 (2014). “When attempting to ascertain the ordinary, usual meaning of a word [in a statute], courts appropriately refer to the dictionary definition of that word.” *Wasatch Prop. Mgmt. v. Degrade*, 35 Cal. 4th 1111, 1121-22 (2005) (relying on Oxford English Dictionary to define “terminate” in housing statute); *Burquet*, 223 Cal. App. 4th at 1146 (relying on Oxford English Dictionary to determine meaning of word “disturb” and “peace” in statute).

The Oxford English Dictionary defines the word “continuously” as: “In a continuous manner; uninterruptedly, without break; continually, constantly.” As we explained at the March 21 meeting, we think this definition leaves room for only one interpretation – the banker position must rotate every hand. There simply is no rational basis for concluding that anything beyond rotation every hand qualifies as “continuous,” “uninterrupted” or “without break.” That said, we conceded at the meeting that the tribes could accept the two hand rotation standard, because we understand its origin. As we discussed, the two hand rotation standard emanates from the *Oliver* decision, though that case did not discuss section 330.11’s “continuously and systematically” language. There, the court held that the game of Newjack was a prohibited banking game, because while its rules provided the option of rotating the banker position every two hands, it did not require that the rotation actually occur. The obvious logical inference is that, had the

Wayne J. Quint, Jr.  
April 15, 2016  
Page 6

game rules required the two hand rotation, the court would have found the game legal. Though we believe a court analyzing section 330.11's language would find that "continuous" rotation must mean every hand, no such decision yet exists. Thus, as a concession, the tribes are willing to accept the two hand standard. As the above demonstrates, rotation of the banker position every hand or every two hands are the *only* legally defensible and non-arbitrary standards. If the Bureau believes otherwise, we request that you provide us the legal basis for your position.

A less contentious issue is the definition of "systematically." The Oxford English Dictionary defines that term, in relevant part, as: "In a systematic manner; according to a system or organized plan; regularly and methodically." We take this to mean that the rotation of the banker position must follow a pre-established system, such as clockwise rotation from player to player. Please let us know if you believe the Bureau would benefit from additional input regarding this term.

#### 4. THE MEANING OF A "GAME BREAK"

We next address the question you and your staff raised at the March 21 meeting: What happens when the banker position fails to rotate? A related consideration, which your staff also raised, is how to apply the language from section 330.11 providing that the Legislature did not intend "to mandate acceptance of the deal by every player if the [Bureau] finds that the rules of the game render the maintenance of or operation of a bank impossible by other means."

We agree that every player at a cardroom gaming table need not take the banker position. If they do not, however, it is the *Bureau's responsibility* to ensure it is impossible for the current situation at cardrooms to exist, namely, where only one player, the TPP, engages in the "maintenance of or operation of a bank." With this in mind, we think the answer to the "game break" question is the following: After the TPP at a California cardroom has held the banker position for two hands, the game must stop, and cannot begin again, unless and until another player who has no business relationship with the cardroom or a TPP takes the banker position. The point here is that at least one regular customer – someone who does not work for a TPP or the cardroom – must take the banker position after the TPP has held it for two hands.

Thus, if there are seven individuals, including a TPP employee, playing at a table, the game would not be illegal if at least one regular customer takes the banker position every two hands. It bears stressing that this customer must have no business relationship with the prior banker or the cardroom. Otherwise, a creative cardroom owner might have two TPPs at each table and allow the bank to go between them. There would be, however, no substantive difference between that situation and what currently occurs at cardrooms. Moreover, whatever guidelines the Bureau devises must prohibit "back-banking" by TPPs. Again, there would be no substantive change from the current illegal

Wayne J. Quint, Jr.  
April 15, 2016  
Page 7

situation if the TPP, rather than the customer, in effect “tak[es] on all comers, paying all winners, and collecting from all losers.” *Sullivan*, 189 Cal. App. 3d at 678.

Again, thank you for hosting the March 21 meeting. We heartily encourage the Bureau to do whatever is necessary to ensure cardrooms comply with California law with respect to game rotation. It is important to keep in mind the tribes’ overarching point here: The tribes have the legal right to play banked games, the cardrooms do not. Thus, there must be a distinct difference between the play of games offered in tribal facilities compared to those offered in card rooms. That distinction, however, has not existed for a number of years. The outcome of Bureau’s current process must be to restore that distinction. The current illegal situation has persisted far too long.

We look forward to the next opportunity to meet with Bureau to further this important discussion. If you need any additional input from the tribes in the meantime, please let us know.

Sincerely,



John T. Plata  
General Counsel  
Agua Caliente Band of  
Cahuilla Indians



Kathryn Clenney  
General Counsel  
Barona Band of Mission  
Indians



Steve M. Bodmer  
General Counsel  
Pechanga Indian  
Reservation



Michelle Carr  
Attorney General  
Sycuan Band of Kumeyaay  
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Dan Casas  
Legal Counsel  
Table Mountain Rancheria



Tuari Bigknife  
Attorney General  
Viejas Band of Kumeyaay  
Indians



Jeffry Butler  
Attorney for the  
Yocha Dehe Wintun Nation

# EXHIBIT N

**SANTA YNEZ BAND OF CHUMASH INDIANS**

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**BUSINESS COMMITTEE**

**KENNETH KAHN, INTERIM CHAIRMAN**

**GARY PACE, SECRETARY-TREASURER**

**MAXINE LITTLEJOHN, COMMITTEE MEMBER**

**MIKE LOPEZ, COMMITTEE MEMBER**



April 20, 2016

**VIA ELECTRONIC AND U.S. MAIL**

Wayne J. Quint, Jr.  
Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

Stacey Luna Baxter  
Executive Director  
California Gambling Control Commission  
2399 Gateway Oaks Dr.  
Suite 220  
Sacramento, California 95833-4231

**RE: BANKED CARD GAMES OPERATING IN CALIFORNIA CARDROOMS**

Dear Mr. Quint and Ms. Baxter:

The Santa Ynez Band of Chumash Indians, by this letter, expresses its position regarding the issue rotation of the "banker" position in California cardrooms. Chumash is aware of the efforts of the seven tribes that have formed a coalition to address this issue, and the greater issue of games being offered in California in violation of the State Constitutional prohibitions of banked card games on non-Indian lands, and Chumash supports those efforts. Specifically, Chumash is aware of the letter dated April 15, 2016 to the Bureau (copy attached) that is jointly submitted by the member tribes of the coalition, Agua Caliente, Barona, Pechanga, Sycuan, Table Mountain, Viejas, and Yocha Dehe and Chumash echoes both the legal analysis and policy analysis set forth therein. Chumash has watched the efforts of the coalition over the past several years and the responses from the Commission and the Bureau. Chumash is concerned that by getting into the weeds of statutory and regulatory language, including this most recent development regarding dealer rotation, the Commission and the Bureau have lost sight of the State Constitutional mandate that precludes any law that allows for banked card games to operate on non-Indian lands:

Article IV, Legislative, Sec. 19(e):

*(e) The Legislature has **no power** to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.*

Article IV, Legislative, Sec. 19(f):

*(f) **Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally***

**EXHIBIT N**

*recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.*

(emphasis added). Prior to the passage of Proposition 1A in 2000, which amended the State Constitution to provide for banked card games to be played exclusively on Indian lands, the People of the State of California overwhelmingly approved Proposition 5 in 1998, a statutory Initiative rather than a Constitutional Initiative, which provided for the Tribes to continue the operation of blackjack games whereby the Tribes maintained a “players’ pool” of funds on behalf of the players:

*Sec. 4.0. SCOPE OF CLASS III GAMING*

*Sec. 4.1. Authorized and Permitted Class III Gaming. To the extent regarded as forms or types of class III gaming, the Tribe is hereby authorized and permitted to operate the following gaming activities under the terms and conditions set forth in this Gaming Compact:*

- (a) The operation of Tribal gaming terminals, provided that such devices shall meet the technical standards adopted pursuant to Section 8.1.15 and shall pay prizes solely in accordance with a players' pool prize system.*
- (b) The operation of any card games that were actually operated in any tribal gaming facility in California on or before January 1, 1998, and are not within class II of IGRA (which class II games are not affected by this Gaming Compact), provided that such non-class II card games shall pay prizes solely in accordance with a players' pool prize system.*

(emphasis added). Shortly after the passage of Proposition 5, a lawsuit was brought challenging that its provisions, including the express authorization of card games with a player’s pool prize system, violate the State Constitution’s then-stated prohibition of “casinos of the type currently operating in Nevada and New Jersey.” The player pool was structured so that the house, the tribal-owned casino, did not have a stake in the outcome of the game. The California Supreme Court flatly rejected the argument:

[A] casino of “the type ... operating in Nevada and New Jersey” may be understood, with reasonable specificity, as one or more buildings, rooms, or facilities, whether separate or connected, that offer gambling activities including those statutorily prohibited in California, **especially banked table games and slot machines. . . . We conclude the card games in question are not lotteries, but banking games. . . . Rather, as in other banking games, the tribe, through the prize pool, simply “pays off all winning wagers and keeps all losing wagers,” which are variable “because the amount of money” it “will have to pay out,” or be able to take in, “depends upon whether each of the individual bets is won or lost”**

*Hotel Employees and Restaurant Employees International Union v. Davis*, 88 Cal. Rptr.2d 56, 72 (1999) (emphasis added). The California Supreme Court was unimpressed by the Tribes’ argument that an entity other than the house collected losses and paid out winnings:



**That the tribe must “pay all winners, and collect from all losers through a fund that is styled a “players' pool” is immaterial: the players' pool is a bank in nature if not in name.** It is a “fund against which everybody has a right to bet, the bank ... taking all that is won, and paying out all that is lost.”

88 Cal. Rptr.2d at 73 (emphasis added).

Chumash, along with many California Tribes, can sympathize with the current efforts of the card rooms, because we tried similar ploys in the 1990s, and lost. The card rooms face the same fate, unless the State believes that “*casinos of the type currently operating in Nevada and New Jersey*” means one thing when dealing with Tribes in 1999 and another when dealing with card rooms in 2016. The logical application of the State Constitution and the State Supreme Court’s interpretation, applied to the card rooms’ efforts leads to the same result: That a person not directly employed by the house must “pay all winners and collect from all losers is immaterial; the player banker is a bank in nature if not in name.” It is a “fund against which everybody has a right to bet, the bank taking all that is won, and paying out all that is lost.”

Chumash agrees with the analysis set forth in the coalition’s April 15, 2016 letter which reaches the conclusion that the dealer rotation as allowed by the Lytle letter was illegal and that going forward, allowing the banker to rotate on any basis other than a continuous and systematic rotation is unlawful under current statutes. The letter reaches that conclusion without needing to determine whether the game violates the prohibition in the State Constitution. It is disturbing, however, that the Commission’s and Bureau’s actions attempt to look to statute and regulation as authorization for it to interpret those statutes without regard to the constitutional framework. Chumash believes that this analysis should be part of and permeate any Commission and/or Bureau actions. If the Commission and Bureau were to do so, Chumash believes that many of the card room proposals and agenda before it would be quickly and properly terminated without further deliberation.

Chumash implores the Commission and Bureau to tread lightly as it proceeds in its deliberations. Whether a form of blackjack where there is true and systematic rotation of the deal (bank) can survive constitutional scrutiny is one question. Whether a form of blackjack where there is a clear bank or finite set of banks allowed by contract or house rules, is quite another question. It would be unfortunate if a possibly viable game to be offered at card rooms is lost because the Commission and/or Bureau and/or the card room industry got too ambitious in trying to blur clear Constitutional parameters. The Commission and Bureau are better advised to embrace a very strict interpretation of how the deal (bank) rotates. Chumash is watching closely and will take action, as and if needed, to protect the tribal exclusivity embodied in the State Constitution.

We would like the opportunity to discuss our concerns with both of you, either separately or together to continue this important discussion. If you need any additional input from Chumash, please let us know.

Sincerely,



Kenneth Kahn, Interim Tribal Chairman

# EXHIBIT O



**KAMALA D. HARRIS**  
*Attorney General*

*State of California*  
**DEPARTMENT OF JUSTICE**



DIVISION OF LAW ENFORCEMENT  
BUREAU OF GAMBLING CONTROL  
4949 BROADWAY  
SACRAMENTO, CA 95820  
Telephone: 916 227-3021  
E-Mail Address: wayne.quint@doj.ca.gov

May 24, 2016

John T. Plata, General Counsel, Agua Caliente Band of Cahuilla Indians  
Kathryn Clenney, General Counsel, Barona Band of Mission Indians  
Steve M. Bodmer, General Counsel, Pechanga Indian Reservation  
Michelle Carr, Attorney General, Sycuan Band of Kumeyaay Indians  
Dan Casas, Legal Counsel, Table Mountain Rancheria  
Tuari Bigknife, Attorney General, Viejas Band of Kumeyaay Indians  
Jeffrey Butler, Attorney, Yocha Dehe Wintun Nation

Re: Letter Regarding Rotation of Banker Position in California Cardrooms

Dear All:

We are in receipt of the letter dated April 15, 2016 regarding the Bureau of Gambling Control's (Bureau) possible changes which feature a rotating player-dealer position as permitted by Penal Code Section 330.11.

The Bureau is taking every step to evaluate and address your various issues and welcomes your input into this matter. Thank you again for taking the time to complete all the research you did and voicing your concerns.

Sincerely,

A handwritten signature in blue ink that reads "Wayne J. Quint, Jr." The signature is stylized and fluid.

WAYNE J. QUINT, JR.  
Bureau Chief

For KAMALA D. HARRIS  
Attorney General

**EXHIBIT O**

# EXHIBIT P



June 21, 2016

**VIA ELECTRONIC AND U.S. MAIL**

Wayne J. Quint, Jr.  
Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

**RE: ROTATION OF BANKER POSITION IN CALIFORNIA CARDROOMS**

Dear Mr. Quint:

We write to express our serious concerns about the Bureau of Gambling Control's efforts to change bank rotation practices at California cardrooms.

As you know, on February 12, 2016, the leaders of the tribes we represent met with the Attorney General to discuss her plan to stop the illegal gaming in cardrooms which the so-called "Lytle letter" created. The leaders understood from the Attorney General that the Bureau would begin a formal, detailed process which would, at a minimum, include multiple meetings with all stakeholders at which they could exchange their views (and provide the Bureau input) on the meaning of Penal Code section 330.11's term "continuously and systematically rotated" and what the effect should be of the failure of such rotation. The leaders understood this would be a robust, open, transparent and participatory process.

**EXHIBIT P**

Wayne J. Quint, Jr.  
June 21, 2016  
Page 2

As far as the tribes can tell, however, the extent of this “process” to date (and we are now less than two weeks from the June 30 deadline) has been the single initial meeting we had with you on March 21, 2016. After we provided you the tribes’ detailed input on April 15, 2016, we have heard *absolutely nothing* about the status of the Bureau’s work. While we assume the Bureau has met with representatives of the cardrooms, we have no proof of that, and have no idea what positions the cardrooms have taken (if any) on these critical points.

Our lack of information does not result from an absence of trying. On more than one occasion, we have asked Deputy Chief Yolanda Morrow if the Bureau needed additional input from us, if further meetings would be scheduled and if there are any comments by the cardrooms to which we could respond. The sole response to date has been a June 1, 2016 email from Deputy Chief Morrow telling us that any comments the Bureau would share, it would do so “in person” at some future meeting. We also received a May 24, 2016 letter from you acknowledging our April 15 submission and stating that the “Bureau is taking every step to evaluate and address your various issues.” The point is, we would like to know *what those steps are*. While it may indeed be that the Bureau’s efforts to address the game rotation concerns have been robust, we have no basis to say that is the case. This tells us the Bureau’s process – whatever it may be – has been something less than open, transparent or participatory.

We want to reiterate a simple and straightforward point here: The cardrooms should be required to comply with the law, and as things stand now, they do not. Thus, the guidelines the Bureau is planning to issue on June 30 are critically important, at least on the issue of banker position rotation. At this late date, however, the tribes have no idea what the Bureau is considering. We therefore request that the Bureau:

1. Please provide us as soon as possible a detailed update on the status of its efforts to define the term “continuously and systematically rotated” and to establish what a “game break” should be when the banker position is not rotated consistent with that definition.
2. If the Bureau disagrees with the position on these points set forth in the tribes’ April 15 letter, please provide us the legal and factual basis for that disagreement.

Wayne J. Quint, Jr.  
June 21, 2016  
Page 3

3. Please provide us any written comments submitted by the cardrooms on the subject of banker position rotation.

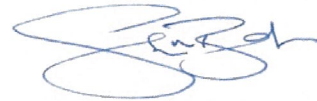
Sincerely,



John T. Plata  
General Counsel  
Agua Caliente Band of  
Cahuilla Indians



Kathryn Clenney  
General Counsel  
Barona Band of Mission  
Indians

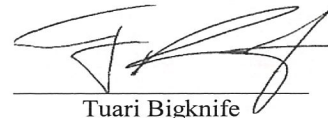


Steve M. Bodmer  
General Counsel  
Pechanga Indian Reservation



Michelle Carr  
Attorney General  
Sycuan Band of Kumeyaay  
Indians

Dan Casas  
Legal Counsel  
Table Mountain Rancheria



Tuari Bigknife  
Attorney General  
Viejas Band of Kumeyaay  
Indians



Jeffry Butler  
Attorney for the  
Yocha Dehe Wintun Nation

# EXHIBIT Q

**KAMALA D. HARRIS**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



BUREAU OF GAMBLING CONTROL  
P.O. Box 168024  
Sacramento, CA 95816  
Phone: (916) 227-3584

June 30, 2016

TO: ALL CALIFORNIA GAMBLING ESTABLISHMENTS

RE: **NOTIFICATION REGARDING RULES OF GAMES FEATURING A PLAYER-DEALER POSITION**

Dear Gambling Establishment Representative:

A letter published February 19, 2016, notified all gambling establishments that a review of the Bureau of Gambling Control's (Bureau) inspection and game review process was being conducted with respect to the play of games featuring a rotating player-dealer position as permitted by Penal Code section 330.11. The February 19, 2016, letter informed all gambling establishments that a prior letter issued December 20, 2007, which had addressed the Bureau's inspection practice with respect to compliance with Penal Code section 330.11, was suspended pending this review, and stated that on or before June 30, 2016, a notification of the revised practice would be issued relating to the rotation of the player-dealer position in games permitted by Penal Code section 330.11.

The Bureau has now completed an extensive review of the play of games currently offered at gambling establishments throughout the State. A number of gambling industry stakeholders have provided input and all suggestions and comments received have been considered.

Penal Code section 330.11 provides in relevant part that acceptance of the deal by every player is not mandated if the Bureau finds that the rules of the game render the maintenance or operation of a bank impossible by other means. Accordingly, in considering rules for games featuring a player-dealer position that do not mandate acceptance of the deal by every player, the Bureau will deny approval to rules that do not do all of the following:

1. Provide for an offer of the player-dealer position to each player seated at the table immediately upon completion of every second consecutive hand, or more frequently if desired. The offer must be clearly visible to surveillance cameras and audible, so that each player at the table is aware of the opportunity made available by the offer.
2. Provide that no one person or entity may hold or otherwise be involved in the player-dealer position continuously for 60 minutes. The player-dealer position must rotate completely away from a person or entity within a 60-minute period, to a different

**EXHIBIT Q**

June 30, 2016  
Page 2

person or entity from the one who occupied the position during the hand immediately preceding the rotation. The 60-minute period commences upon acceptance of the player-dealer position.

3. Provide that upon failure of fulfillment of any of the requirements of play identified in paragraph 2, the game must end, and that a new game cannot begin for at least two minutes.
4. Provide for immediate notification to all players that the game has ended, cards or tiles cannot be dealt, and wagers cannot be made. The dealer tray must be covered during this time to indicate the game has ended.
5. Provide for the shuffling of all cards or tiles upon the opening of a new game.

Enclosed is a list of games featuring a player-dealer position currently approved for play in your gambling establishment. Gambling establishments are encouraged to review current game rules for all listed games for compliance with this notification. If the rules of any listed game are not in compliance with paragraphs 1 through 5 of this notification, proposed modified rules for each game must be received by the Bureau or postmarked **no later than September 30, 2016**. Games for which proposed modified game rules are received by the deadline may continue to be offered by the gambling establishment under the currently approved rules until the Bureau makes a determination on the proposed modified game rules. No application fee or deposit will be required for submission of proposed modified game rules for the games on the enclosed list. The Bureau will exercise its authority to issue temporary approvals (Cal. Code Regs., tit. 11, § 2071, subd. (c)) for 12 months to continue to monitor game play to ensure that rotation is occurring and banking is precluded, as specified in the above items 1 through 5.

If the rules of any listed game are not in full compliance with paragraphs 1 through 5 of this notification, and the Bureau does not receive proposed modified game rules by the deadline, the current approval for that game will be withdrawn and the game may no longer be offered.

Submit proposed modified game rules to the address or email address below:

Bureau of Gambling Control  
Attn: Game Review Unit  
P.O. Box 168024  
Sacramento, CA 95816  
Email: [BGCGames@doj.ca.gov](mailto:BGCGames@doj.ca.gov)



June 30, 2016  
Page 3

The Bureau will not approve any other game modifications, new game approvals, or gaming activities until further notice.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wayne J. Quint, Jr.", written in a cursive style.

WAYNE J. QUINT, JR.  
Bureau Chief

For KAMALA D. HARRIS  
Attorney General

Enclosure

cc: Third-Party Providers of Proposition Player Services

# EXHIBIT R



December 7, 2016

VIA ELECTRONIC AND U.S. MAIL

Wayne J. Quint, Jr.  
Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, California 95816-8024

**RE: ROTATION OF BANKER POSITION IN CALIFORNIA CARDROOMS**

Dear Chief Quint:

We write to express our disappointment with the Bureau of Gambling Control's June 30, 2016 "guidelines" for the rotation of the banker position in California cardrooms.

In April 2012, when tribal representatives first raised illegal gaming concerns with the State, a primary complaint was the cardrooms' violation of Penal Code section 330.11 by failing to rotate the banker position "continuously and systematically" as that statute requires. The cardrooms' failure to rotate the banker position is a direct result of the Bureau's unwillingness or inability to enforce the very two-hand rotation rules it has approved. Anything other than the continuous and systematic rotation of the banker position results in an illegal banked game.

Throughout the last four years, we have emphatically reiterated this point. We hoped progress was occurring when, during our February 12, 2016 face-to-face meeting, the Attorney General informed us the Department of Justice would suspend (rather than withdraw) the Lytle letter and the Bureau would begin a process that would lead to

**EXHIBIT R**

Wayne J. Quint, Jr.  
December 7, 2016  
Page 2

banker rotation guidelines no later than June 30, 2016. During that meeting the Attorney General confirmed this process was intended to: (1) define the meaning of the term “continuously and systematically rotated” in Penal Code section 330.11, and (2) definitively highlight the distinction between games offered in California cardrooms and those offered in tribal casinos. Neither of these intended outcomes has occurred as of this date.

The June 30 rotation guidelines do not even mention the word “continuously.” Rather, the guidelines claim the “relevant part” of Penal Code section 330.11 is the one stating that “acceptance of the deal by every player is not mandated.” That is not the statute’s “relevant part.” The principal issue is not who accepts the banker position, but rather how frequently that position must rotate.

Prior to the completion of the Bureau’s new guideline process our representatives wrote to you on April 15, 2016 to explain in detail the tribes’ position on game rotation (a copy of that letter is enclosed for your convenience). We demonstrated that almost every blackjack and baccarat rule on the Bureau’s website requires rotation (or the offer of rotation following the Lytle letter) every two hands. That irrefutable fact establishes a Bureau-endorsed and long-accepted cardroom industry standard for the meaning of “continuous and systematic” rotation. The Bureau’s new guidelines, however, find that rotation of the banker position is appropriate if it occurs once every hour. Between fifty and sixty hands of blackjack and forty and fifty hands of baccarat can be dealt per hour at a table. Thus, the Bureau has effectively converted a long-standing cardroom industry standard of rotation every two hands into a new standard of rotation every fifty hands. There is no justification for this radical change (other than to put the State’s seal of approval on the cardrooms’ continued violation of California law). We are confident no reasonable person would argue that rotation of the banker position every fifty hands equals “continuous” rotation, especially given the well-established two-hand rotation standard.

Moreover, the “remedy” in the new guidelines for a cardrooms’ failure to rotate the banker position once an hour is illusory. As the guidelines teach, when a cardroom chooses to ignore the once-an-hour rotation, it must only stop the game for two minutes, during which it will shuffle the cards and cover the chips. After the two minutes pass, the very same third party proposition player who held the banker position during the prior hour and violated the once-an-hour rotation requirement can go back to doing exactly that for the next hour, and so on indefinitely. This is no remedy and these are still banked games. It is hardly surprising, then, that Richard Schuetz, the former CGCC Commissioner, commented in an article that he was surprised the Bureau “didn’t insist the players stand up at the game and spin around twice before sitting back down after the two-minute break.”

That said, the cardrooms need not ignore the once-an-hour rotation requirement, because that requirement is no burden on them at all. All the cardrooms have to do is hire a “roving” third party proposition player to sit at each table once an hour and accept a single hand as the banker, and then it is back to business as usual. The most difficult

Wayne J. Quint, Jr.  
December 7, 2016  
Page 3

thing for the cardrooms (and the Bureau) to track under the new regime will be to figure out when the hour expires at each table.

We strongly urge the Bureau – an arm of the Department of Justice – to not participate in a scheme by which the cardrooms evade what the law plainly requires. Here, what the Bureau is doing is even more egregious than that, because the Bureau actually created and is now perpetuating a system through which cardrooms engage in illegal gaming. This began in December 2007 when the appalling Lytle letter provided cover for the cardrooms to illegally stop rotating the banker position in favor of just offering it. With respect to that letter, the Bureau could deny it had knowledge of its less-than-respectable origin. That defense is no longer available to the Bureau. Now, the Bureau has officially enabled and sanctioned the cardrooms' play of plainly illegal banked games.

We again ask the Department of Justice, through the Bureau, to enforce the law and respect the tribes' exclusive right to offer these banked games.



Jeff Grubbe  
Tribal Chairman  
Agua Caliente Band of  
Cahuilla Indians



Clifford M. LaChappa  
Tribal Chairman  
Barona Band of Mission  
Indians



Mark Macarro  
Tribal Chairman  
Pechanga Band of  
Luiseno Indians



Cody J. Martinez  
Tribal Chairman  
Sycuan Band of the  
Kumeyaay Nation



Leann Walker Grant  
Tribal Chairperson  
Table Mountain Rancheria



Robert J. Welch, Jr.  
Viejas Band of  
Kumeyaay Indians



Leland Kinter  
Tribal Chairman  
Yocha Dehe Wintun Nation

Enclosure

EXHIBIT R

# EXHIBIT S



CALIFORNIA NATIONS  
INDIAN GAMING ASSOCIATION

December 6, 2016

VIA ELECTRONIC AND U.S. MAIL

Attorney General Kamala D. Harris  
California Department of Justice  
P.O. Box 944255  
Sacramento, CA 94244-2550

**RE: ROTATION OF BANKER POSITION IN CALIFORNIA CARDROOMS**

Dear Attorney General Harris:

I write on behalf of the California Nations Indian Gaming Association to express our disappointment with the Bureau of Gambling Control's June 30, 2016 "guidelines" for the rotation of the banker position in California cardrooms.

We understood the purpose of those guidelines was to define the meaning of the term "continuously and systematically rotated" in Penal Code section 330.11, and definitively highlight the distinction between games offered in California cardrooms and those offered in tribal casinos. The guidelines, however, do neither. In fact, the guidelines do not even mention the word "continuously."

The Bureau and cardrooms have a long-established industry standard for the meaning of "continuous and systematic" rotation – rotation every two hands. The Bureau's new guidelines, however, find that rotation of the banker position is appropriate if it occurs once every hour. Between fifty and sixty hands of blackjack and forty and fifty hands of baccarat can be dealt per hour at a table. Thus, the Bureau has effectively converted a long-standing cardroom industry standard of rotation every two hands into a new standard of rotation every fifty hands. There is no legal justification for this radical change. Simply stated, rotation of the banker position every fifty hands is decidedly not "continuous" rotation.

Moreover, the "remedy" in the new guidelines for a cardrooms' failure to rotate the banker position once an hour is a sham. Under the guidelines, when a cardroom chooses to ignore the once-an-hour rotation, it must only stop the game for two minutes, during which it will shuffle the cards and cover the chips. After the two minutes pass, the very same third party proposition player who held the banker position during the prior hour and violated the once-an-hour rotation requirement can go back to doing exactly that for the next hour, and so on indefinitely. These are still banked games.

Moreover, the cardrooms need not ignore the once-an-hour rotation requirement, because that requirement is no burden on them at all. All the cardrooms have to do is hire a "roving" third party proposition player to sit at each table once an hour and accept

**Protecting the sovereign right of California tribes to operate gaming on their lands.**

CNIGA.COM | 916.448.8706  
2150 RIVER PLAZA DRIVE, SUITE 120, SACRAMENTO, CA 95833

**EXHIBIT S**



Attorney General Kamala D. Harris  
December 6, 2016  
Page 2

a single hand as the banker, and then it is back to business as usual. The most difficult thing for the cardrooms (and the Bureau) to track under the new regime will be to figure out when the hour expires at each table.

The Bureau – an arm of the Department of Justice, the State’s top law enforcement agency – should not participate in a scheme by which the cardrooms evade what the law plainly requires. Here, however, what the Bureau is doing is even more egregious than that, because the Bureau actually created and is now perpetuating this aspect of illegal gaming. This began in December 2007 when the appalling Lytle letter provided cover for the cardrooms to illegally stop rotating the banker position in favor of just offering it. With respect to that letter, the Bureau could deny it had knowledge of its less-than-respectable origin. That defense is no longer available to the Bureau. Now, the Bureau has officially enabled and sanctioned the cardrooms’ play of plainly illegal banked games.

The California Nations Indian Gaming Association therefore asks the Department of Justice, through the Bureau, to enforce the law and respect the tribes’ exclusive right to offer these banked games.

Sincerely,

A handwritten signature in cursive script that reads "Steven Stallings". The signature is written in dark ink and includes a long, sweeping horizontal stroke at the end.

Steve Stallings, Chairman



# EXHIBIT T



September 12, 2018

Tribal Council

Anthony Roberts  
*Chairman*

James Kinter  
*Secretary*

Matthew Lowell, Jr.  
*Treasurer*

Mia Durham  
*Member*

Burnam R. Lowell, Sr.  
*Member*

**VIA ELECTRONIC AND U.S. MAIL**  
(stephanie.shimazu@doj.ca.gov)

Stephanie Shimazu, Bureau Chief  
Bureau of Gambling Control  
Department of Justice  
P.O. Box 168024  
Sacramento, CA 95816-8024

**RE: CARDROOM ILLEGAL GAMING/AUGUST 30, 2018 MEETING**

Dear Ms. Shimazu:

As the Chairman of the Yocha Dehe Wintun Nation, I write to express our profound disappointment in the Bureau of Gambling Control's latest plan, announced at an August 30, 2018 meeting, to address the long-standing illegal gaming at California cardrooms. Below I address Yocha Dehe's primary concerns with the Bureau's plan.

**1. THE CESSATION OF BLACKJACK**

At the August 30 meeting, you advised the tribal representatives present that the Bureau would rescind the approvals for blackjack games the cardrooms currently play. You specified that among those games are Pure 21.5 Blackjack and 21<sup>st</sup> Century Blackjack.

This appears, finally, to be an admission by the Bureau that it erred in approving and allowing the play in cardrooms of games California law plainly prohibits. We have been making that very point for more than six years now. Over that period, the Bureau specifically, and the Department of Justice generally, have taken various insupportable positions to justify the Bureau's approval of blackjack. These positions have included the notion that the game prohibited by the Penal Code – "twenty one" – and blackjack are not the same (they of course are) and that the rules of blackjack and those of the games played in cardrooms are different (they of course are not).

While we applaud this tardy admission, we note that it is unclear *when* the Bureau will take the promised action. We understand that during the meeting you said rescission of the game approvals would be delayed for several months to allow the cardrooms to rollout approved games to take the place of the illegal ones.

Yocha Dehe Wintun Nation

PO Box 18 Brooks, California 95606 p) 530.796.3400 f) 530.796.2143 www.yochadehe.org

**EXHIBIT T**

Stephanie Shimazu, Bureau Chief  
September 12, 2018  
Page 2 of 4

We fail to see why the agency in charge of enforcement should allow the cardrooms to continue playing games the agency has finally conceded are illegal. This appears to be yet another example of the State ignoring its own laws to accommodate the cardroom industry. History over the last six-plus years has taught us that urging the Bureau to take definitive action is a fruitless endeavor. Nevertheless, in light of the Bureau's admission that the cardrooms have been playing a constitutionally prohibited game with the State's approval, we have to request that the Bureau *immediately* stop this conduct, which daily harms tribes with the exclusive right to operate such games.

**2. ILLEGAL ADVERTISEMENT**

At the August 30 meeting, you advised the tribal representatives that the Bureau had concluded the cardrooms are engaging in misleading advertising. This is another point we have made for several years now. Unfortunately, you also explained that the Bureau will take no action on this issue, and instead allow the cardrooms to come into voluntary compliance first. If the cardrooms do not cease this illegal conduct, then the Bureau will, at some point in the unspecified future, take action. Again, we fail to see why the cardrooms should get a pass on their illegal gaming and therefore urge you to bring the cardrooms into immediate compliance with California's false advertising laws.

We note, by the way, that the Bureau's realization that the cardrooms are engaging in misleading advertising is not actually new. I attended a February 2016 meeting with then-Attorney General Kamala Harris during which our representatives told her the cardrooms were either playing blackjack or falsely advertising they were. Attorney General Harris said the Bureau had analyzed the games and concluded the cardrooms were *not* playing blackjack, but that they *were* falsely advertising. She then told us false advertising was a concern for the Gambling Control Commission, not the Bureau and thereby effectively disposed of the matter. As it turns out, the Bureau's current plan proves the Attorney General was wrong with respect to the play of blackjack and in distancing her agency from the false advertising issue.

**3. PLAYER-DEALER ROTATION**

After more than six years, the State will finally take some action regarding the cardrooms' flagrant play of constitutionally-prohibited banked games. Unfortunately, this will inevitably be a years-long process, as you stated at the August 30 meeting that it would involve three phases: (1) several months of workshops to take input from the industry, followed by (2) an economic impact study because the regulation resulting from the process will almost surely be a "major regulation," followed by (3) formal rule-making.

There are at least three problems with this proposal, setting aside the length of time it will take. First, and most important, our representatives were shocked to learn that during the course of this lengthy regulatory process, the Bureau is going to allow the cardrooms to go back to the "Lytle letter" standard where they needn't – as the law requires – rotate the player-dealer

Stephanie Shimazu, Bureau Chief  
September 12, 2018  
Page 3 of 4

position at all. We are confident we need not remind you of the unsavory genesis of the Lytle letter, which understandably led the Bureau and Department of Justice to expressly disavow it. Because *no one* can argue the Lytle letter standard is proper or legal, it leaves us to wonder how the Bureau can justify returning to it and allowing the cardrooms to continue benefiting from the very conduct the Bureau now appears to admit is illegal.

Second, the process the Bureau is undertaking is unnecessary. On more than one occasion we have explained to your predecessor and the Attorney General that the word “continuously” (referring to how frequently the player-dealer position must rotate) is not subject to much interpretation. That word certainly cannot be interpreted as once per hour, as the Bureau concluded in its now-abandoned June 30, 2016 memorandum. Moreover, we have also explained in great detail how the cardrooms and Bureau (with no input from the tribes) created a long-established industry standard of rotation every two hands. Thus, the very industry the Bureau seeks to regulate has settled the definition of the word “continuously” for purposes of the player-dealer rotation of their games. The cardrooms cannot complain about the industry standards they themselves created. (As an aside, we suggest this standard is the one to which the Bureau must hold the cardrooms should the Bureau insist on proceeding with its rule-making process.)

Third, it is difficult to avoid the feeling that the Bureau is, to use a pun, playing games with the tribes. The cardrooms’ failure to rotate the player-dealer position was always the easiest legal violation to understand and fix. Our representatives thus exhorted the Bureau from the beginning to take action on this issue. Your predecessor, however, told us the Bureau could not address it, because it was going to focus all of its limited resources on the collections concern. To that end, the Bureau held several workshops over a period of many months. Our representatives attended these workshops and provided considerable input. At the August 30 meeting, you told our representatives that the Bureau is now – after more than six years of the cardrooms’ continued illegal gaming – going to scrap the collections initiative and focus on rotation.

#### 4. BACCARAT

At the August 30 meeting you also advised our representatives that the Bureau would take no action with respect to baccarat. Stated otherwise, the cardrooms are free to continue breaking the law by playing that particular game. This fact is particularly frustrating. From the very beginning of this dispute, the tribes have explained to the Bureau that baccarat *has no player-dealer position* and thus can *only* be played as a banked game. This is a point our representatives made again to you and your deputy chiefs, Yolanda Morrow and Nathan DaValle, when you visited our facility on June 1, 2018. At that time, Ray Patterson and his team provided you a tutorial at an actual baccarat table. That cardrooms should not be allowed to play baccarat should be clear and beyond dispute. It appears the Bureau persists in refusing to acknowledge that truth.

Stephanie Shimazu, Bureau Chief  
September 12, 2018  
Page 4 of 4

5. COLLECTIONS ,

As noted above, at the August 30 meeting you advised the tribal representatives that the Bureau is abandoning the collections issue as to which it previously devoted all its time and resources (to the exclusion of other concerns). We do not understand the Bureau's strategy, unless it is to continue allowing the cardrooms to violate the law with impunity for as long as possible. As one of our representatives explained to you at the conclusion of the August 30 meeting, collections is the one issue where the State may be able to make some headway in defusing the current illegal gaming dispute. If the Bureau is truly interested in working toward a resolution of that dispute, we urge you to re-direct the Bureau's efforts toward the issue of collections.

Sincerely,

A handwritten signature in blue ink, appearing to read "Anthony Roberts". The signature is fluid and cursive, with the first name "Anthony" written in a larger, more prominent script than the last name "Roberts".

Anthony Roberts  
Tribal Chairman