

1 PAUL J. CAMBRIA, JR. (State Bar No. 177957)  
ERIN E. MCCAMPBELL  
2 pcambria@lglaw.com  
emcccampbell@lglaw.com  
3 LIPSITZ GREEN SCIME CAMBRIA LLP  
4 1631 West Beverly Blvd., Second Floor  
Los Angeles, CA 90026  
5 Telephone: (323) 883-1807

6 *Attorneys for Plaintiffs*  
7 *Larry C. Flynt, Haig Kelegian, Sr.,*  
8 *and Haig T. Kelegian, Jr.*

9 **UNITED STATES DISTRICT COURT**  
10 **EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO BRANCH**

11 LARRY C. FLYNT, HAIG KELEGIAN, SR.,  
and HAIG T. KELEGIAN, JR.,

12 Plaintiffs,

13 vs.

CIVIL CASE NO.

14 KAMALA D. HARRIS, in her official capacity  
as ATTORNEY GENERAL of the STATE of  
15 CALIFORNIA, WAYNE QUINT, JR., in his  
official capacity as the CHIEF of the  
16 CALIFORNIA DEPARTMENT of JUSTICE,  
BUREAU of GAMBLING CONTROL, an  
17 agency of the STATE of CALIFORNIA, and  
JIM EVANS, TIFFANY E. CONKLIN,  
18 ROGER DUNSTAN, LAUREN HAMMOND,  
and TRANG TO, in their official capacities as  
19 members of the CALIFORNIA GAMBLING  
CONTROL COMMISSION, an agency of the  
20 STATE of CALIFORNIA,

21 Defendants.

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

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25 Plaintiffs Larry C. Flynt, Haig Kelegian, Sr., and Haig T. Kelegian, Jr.  
26 (collectively, "Plaintiffs"), by their undersigned attorneys, bring the instant civil  
27 action for declaratory and injunctive relief, and allege as follows:  
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**INTRODUCTION**

1  
2 1. This is a civil action wherein Plaintiffs pray for a declaratory judgment and a  
3 permanent injunction to restrain and enjoin the named Defendants, as well as their  
4 agents, employees, and representatives, from acting under color of state law to  
5 deprive Plaintiffs of their rights, privileges, and immunities secured to them by the  
6 United States Constitution. Specifically, Plaintiffs seek to have this Court declare as  
7 unconstitutional, both on its face and as applied, California Business and Professions  
8 Code § 19858 (“Section 19858”) as enacted by the State of California (“California”)  
9 and to enjoin its enforcement, as well as a modification to that provision, California  
10 Business and Professions Code § 19858.5 (“Section 19858.5”).

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15 2. Section 19858 prohibits California residents who hold California gaming  
16 licenses for cardrooms (also referred to as card clubs)<sup>1</sup> from investing in out-of-state  
17 gambling entities that engage in casino-style gambling (as well as casinos located  
18 abroad). This occurs because casino-style gambling activities are prohibited in  
19 California (except on tribally-owned land) and Section 19858 seeks to impose  
20 California’s casino prohibition on its residents even when they seek to invest in out-  
21 of-state casino-style gambling entities operating lawfully under the laws of other  
22 states (and other countries).  
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28 <sup>1</sup> This complaint uses the terms “cardrooms” and “card clubs” interchangeably.

1 3. Moreover, Section 19858 prohibits out-of-state residents who own or operate  
2 out-of-state gambling entities that offer casino-style gambling activities from  
3 obtaining a California cardroom gaming license even if the operation of their out-of-  
4 state casino is in full compliance with the laws of the state in which the casino is  
5 located.  
6

7  
8 4. Plaintiffs are ready, willing, and able to compete for the opportunity to invest  
9 in and/or operate out-of-state casinos (and foreign casinos), but are prohibited from  
10 doing so under Section 19858 lest they surrender their California gaming licenses  
11 and cease operation of their California cardrooms or risk an accusation being filed  
12 against them.  
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14  
15 5. Plaintiffs seek to have Section 19858 (and Section 19858.5) declared invalid  
16 and enjoined on two principal bases:  
17

18 a. Section 19858 violates the dormant Commerce Clause of the United States  
19 Constitution because it prohibits interstate investment and discriminates  
20 against out-of-state casino owners, effectively barring them from the ability  
21 to invest in and to operate California cardrooms despite their willingness to  
22 comply with all requirements of California law applicable to the operation  
23 of such cardrooms; and

24 b. Section 19858 deprives Plaintiffs from engaging in a profession of their  
25 choosing in violation of the substantive Due Process Clause of the United  
26 States Constitution.

27 6. In short, Section 19858 (and Section 19858.5) creates an unconstitutional  
28 barrier to interstate investment, discriminates against interstate commerce, and favors  
in-state interests to the exclusion of out-of-state investors. Moreover, Section 19858

1 (and Section 19858.5) prohibits Plaintiffs from pursuing the occupation of their  
2 choosing in violation of Plaintiffs' substantive Due Process rights.

3  
4 7. Accordingly, this Court should declare Section 19858 (and Section 19858.5)  
5 unconstitutional and enjoin Defendants from enforcing, or otherwise exercising  
6 authority under Section 19858 (and Section 19858.5).

7  
8 **THE PARTIES**

9 8. Plaintiff Larry C. Flynt ("Mr. Flynt") is a California resident who possesses  
10 California gaming licenses to operate card clubs. Mr. Flynt owns (via his revocable  
11 trust) and directly controls El Dorado Enterprises, Inc., a California corporation d/b/a  
12 Hustler Casino ("Hustler Casino"), which is a cardroom gambling facility located at  
13 1000 W. Redondo Beach Boulevard, Gardena, California 90247. Additionally, Mr.  
14 Flynt owns (via his revocable trust) and manages Casino, LLC, a California limited  
15 liability company d/b/a Larry Flynt's Luck Lady Casino ("LFLC Casino"), which is  
16 a cardroom gambling facility located at 1045 W. Rosecrans, Gardena, California  
17 90247. Mr. Flynt (and his revocable trust) has applied for, and is awaiting approval  
18 for, a cardroom license to operate a third cardroom, which will be located in Cudahy,  
19 California.

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25 9. Plaintiff Haig Kelegian, Sr. ("Mr. Kelegian, Sr.") is a California resident who  
26 possesses a California gaming license to operate card clubs. Mr. Kelegian, Sr. has  
27 an ownership interest in Crystal Casino ("Crystal Casino"), which is a cardroom  
28

1 gambling facility located at 123 E. Artesia Boulevard, Compton, California 90220.  
2 Mr. Kelegian, Sr. has an ownership interest in the Ocean's Eleven Casino ("Ocean's  
3 Eleven"), which is card-room gaming facility located at 121 Brooks Street,  
4 Oceanside, California 92054. Mr. Kelegian, Sr. has an ownership interest in The  
5 Bicycle Hotel and Casino ("Bicycle Casino"), which is a cardroom gambling facility  
6 located at 888 Bicycle Casino Drive, Bell Gardens, California 90201. Mr. Kelegian,  
7 Sr. has an ownership interest in The Commerce Hotel and Casino, which is a card-  
8 room gaming facility located at 6131 Telegraph Road, Commerce, California 90040.  
9 Finally, Mr. Kelegian, Sr. has an ownership interest in Club One Casino, 1033 Van  
10 Ness Avenue, Fresno, California 93721.  
11  
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15 10. Haig T. Kelegian, Jr. ("Mr. Kelegian, Jr.") is a California resident who  
16 possesses a California gaming license to operate card clubs. Mr. Kelegian, Jr. has  
17 ownership interests in Crystal Casino and Bicycle Casino and an ownership interest  
18 in one of the entities that owns and operates Ocean's Eleven.  
19

20 11. At all material times, Defendant Kamala D. Harris was and is the Attorney  
21 General for California and is the highest law enforcement officer in California.  
22 Attorney General Harris is sued solely in her official capacity and, at all times, was  
23 and is acting in the course and scope of her employment pursuant to policy, custom,  
24 practices, or laws of California. At all times, Attorney General Harris was and is  
25 acting under color of state law. Attorney General Harris maintains her principal  
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1 office at the State Capitol, Office of the Attorney General, 1300 “I” Street,  
2 Sacramento, California 95814.

3  
4 12. Upon information and belief, at all material times, Defendant Wayne Quint,  
5 Jr. was and is the Chief of the Bureau of Gambling Control, which is the division of  
6 the California Department of Justice that is tasked with enforcing California’s  
7 gambling statutes and regulations. Quint is sued solely in his official capacity and,  
8 at all times, was and is acting in the course and scope of his employment pursuant to  
9 policy, custom, practices, or laws of California. At all times, Quint was and is acting  
10 under color of state law. Quint maintains his principal office at the California Bureau  
11 of Gambling Control located at 4949 Broadway, Rm. E231, Sacramento, California  
12 95820.

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16 13. Upon information and belief, at all material times, Defendants Jim Evans,  
17 Tiffany E. Conklin, Roger Dunstan, Lauren Hammond, and Trang To are the current  
18 members of the California Gambling Control Commission, which reports directly to  
19 the Governor of California and is the agency tasked with determining, *inter alia*,  
20 whether to grant a gaming license to a particular applicant, *i.e.*, whether the applicant  
21 is “suitable” to hold the gaming license under California law. Defendants Evans,  
22 Conklin, Dunstan, Hammond, and To are sued solely in their official capacities and,  
23 at all times, were and are acting in the course and scope of their employment pursuant  
24 to policy, custom, practices, or laws of California. At all times, Defendants Evans,  
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1 Conklin, Dunstan, Hammond, and To were and are acting under color of state law.  
2 The principal office of the California Gambling Control Commission is located at  
3 2399 Gateway Oaks Drive, Suite 220, Sacramento, California 95833.  
4

### 5 **JURISDICTION**

6 14. This Court has federal subject matter jurisdiction to entertain Plaintiffs' claims  
7 for deprivation of federal constitutional rights under 28 U.S.C. §§ 1331 and 1343.  
8 This action seeks to secure Plaintiffs' constitutional rights and protections under the  
9 dormant Commerce Clause (U.S. Const. art. I, § 8, cl. 3) and the Due Process Clause  
10 of the Fourteenth Amendment (U.S. Const. amend XIV). This action seeks  
11 declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, and 42  
12 U.S.C. §§ 1983 and 1988.  
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16 15. Personal jurisdiction is proper in this Court because all Defendants reside in  
17 California, the seat of California's government, its agencies, and its subdivisions are  
18 located in this district, and, upon information and belief, all of the named individual  
19 Defendants perform their official duties in this district.  
20  
21

### 22 **VENUE**

23 16. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). All Defendants  
24 reside in California. California, its agencies, and its political subdivisions are located  
25 in this judicial district, and the individual Defendants perform their official duties in  
26 this district.  
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**FACTUAL ALLEGATIONS**

**A. California’s Gambling Entities**

17. California law allows, subject to regulation, several types of gambling businesses to operate in the state. Card clubs (or cardrooms) allow patrons to engage in non-banked or non-percentage card games during which the players play against each other and pay the cardroom a fee to use its facilities. Card club owners must possess a valid cardroom gaming license to allow such gambling, as set forth in greater detail below.

18. Horse-racing facilities offer patrons the opportunity to place bets on live or simulcast horse races.

19. The California State Lottery offers patrons the opportunity to win a cash prize by way of myriad games of chance.

20. Non-profit organizations offer patrons the opportunity to participate in raffles or bingo games.

21. Casino operators, who offer patrons the opportunity to play, *inter alia*, slot machines and banked-card games, are permitted to operate solely on tribally-owned land pursuant to compacts entered into between California and various Native American tribes.

1 **B. California's Gambling Regulations**

2 22. Historically, California's counties and municipalities regulated card clubs  
3 located within their boundaries. However, in 1986, California enacted the Gambling  
4 Registration Act, which increased State oversight and required all owners,  
5 employees, and vendors of card clubs to register with the State by obtaining the  
6 appropriate licenses. Subsequently, California enacted the Gambling Control Act,  
7 Bus. & Prof. Code §§ 19800 *et seq.*, as well as other regulatory legislation which is  
8 not the focus of this action. Currently, several intertwined statutes operate to prohibit  
9 Plaintiffs, card-club owners, from investing in out-of-state casinos in excess of a one-  
10 percent ownership interest.  
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15 23. California prohibits individuals from engaging in or operating facilities that  
16 engage in a variety of specified gambling activities. Under Section 330 of the Penal  
17 Law ("Penal Law Section 330"), a person is guilty of a misdemeanor if he or she:

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19 deals, plays, or carries on, opens, or causes to be opened,  
20 or who conducts, either as owner or employee, whether for  
21 hire or not, any game of faro, monte, roulette, lansquenet,  
22 rouge et noire, rondo, tan, fan-tan, seven-and-a-half,  
23 twenty-one, hokey-pokey, or any banking or percentage  
24 game played with cards, dice, or any device, for money,  
25 checks, credit, or other representative of value, and every  
person who plays or bets at or against any of those  
prohibited games . . . .

26 C.A. Pen. L. § 330. Thus, no individuals or entities may operate a venue that engages  
27 in these casino-like gambling activities in California.  
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1 26. However, California takes its gambling regulations one step further. Under  
2 Section 19858, which is the focus of this action:

3  
4 a person shall be deemed to be unsuitable to hold a state  
5 gambling license to own a gambling establishment if the  
6 person, or any partner, officer, director, or shareholder of  
7 the person, has any financial interest in any business or  
8 organization that is engaged in any form of gambling  
prohibited by Section 330 of the Penal Code, whether  
within or without this state.

9 C.A. Bus. & Prof. Code § 19858(a). Thus, an individual who has an ownership  
10 interest in an out-of-state (or foreign) gaming entity that engages in the gambling  
11 activities prohibited under Penal Law Section 330 (even though lawful in the state or  
12 country where the casino is located) would be barred from operating a card club in  
13 California because such an individual would be “deemed . . . unsuitable to hold a  
14 state gambling license.”  
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17  
18 27. Notably, there are several exceptions to this licensing-based blanket  
19 prohibition of certain gaming activities. First, Section 19858 expressly exempts  
20 gaming entities involved with horse racing that meet certain specified criteria set  
21 forth in that provision, *see* C.A. Bus. & Prof. Code §§ 19858(b), (c), and elsewhere,  
22 *see* C.A. Bus. & Prof. Code § 19852.  
23  
24

25 28. Second, there is an exemption from these regulations for tribally-owned  
26 casinos. Historically, tribally-owned gaming entities were regulated through a  
27 federal statutory scheme, the Indian Gaming Regulatory Act, 25 U.S.C. §§ 2701 *et*  
28

1 *seq.*, which did not preclude individuals or entities with ownership interests in out-  
2 of-state gambling entities from owning or operating gaming entities on tribal lands  
3 located within California's geographic boundaries or from operating casinos that  
4 engaged in gambling activities deemed lawful by California. However, Penal Law  
5 Section 330 and the Gambling Control Act prohibited the operation of casinos.  
6  
7 Shortly thereafter, in 2000, California voters passed Proposition 1A, which amended  
8 the State Constitution to specifically permit casino-style gambling on tribally-owned  
9 lands with no ownership restrictions. Consequently, out-of-state gambling entities  
10 that engaged in gambling activities prohibited under Penal Law Section 330 gained  
11 the ability to own and operate casinos located on tribally-owned lands and have  
12 operated such casinos since Proposition 1A passed.  
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16 29. Finally, in 2007, the legislature enacted Section 19858.5, which states that:  
17

18 Notwithstanding Section 19858, the commission may,  
19 pursuant to this chapter, deem an applicant or licensee  
20 suitable to hold a state gambling license even if the  
21 applicant or licensee has a financial interest in another  
22 business that conducts lawful gambling outside the state  
23 that, if conducted within California, would be unlawful,  
24 provided that an applicant or licensee may not own, either  
25 directly or indirectly, more than a 1 percent interest in, or  
26 have control of, that business.

25 C.A. Bus. & Prof. Code § 19858.5. Once this provision became effective, an  
26 individual owning no more than a one percent interest (and no controlling interest)  
27 in an out-of-state gaming entity that engaged in the gambling activities prohibited  
28

1 under Penal Law Section 330 could, nonetheless, lawfully operate a card club in  
2 California.

3  
4 30. As discussed below, these intertwined gaming statutes violate the dormant  
5 Commerce Clause and the substantive rights afforded individuals under the Due  
6 Process Clause, facially, and as applied to Plaintiffs.

7  
8 **C. California’s Study of Section 19858 Reveals That Section 19858 No**  
9 **Longer Serves its Purpose (If It Ever Did) and Section 19858 Violates the**  
10 **Dormant Commerce Clause**

11 31. In late 2001, the Milton Marks Little Hoover Commission on California State  
12 Government Organization and Economy (“Little Hoover Commission”), an  
13 independent State oversight agency, studied and analyzed Section 19858 and a  
14 separate ownership-related provision and issued a report entitled, *Card Clubs in*  
15 *California, A Review of Ownership Limitations* (April 2002) (“Report”), a true and  
16 correct copy of which is attached hereto as Ex. A. The Little Hoover Commission’s  
17 then-Chairperson, Michael E. Alpert, submitted the Report to the then-Governor,  
18 Gray Davis, with a letter summarizing the Report’s findings (“Report Summary”), a  
19 true and correct copy of which is attached hereto as Ex. B.

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22  
23 **1. Section 19858 Is No Longer And Was Never Necessary**  
24 **To Prevent Crime**

25  
26 32. Both the Report and Report Summary indicated that Section 19858 was  
27 ostensibly enacted to “attempt[] to keep organized crime out of California.” Ex. B at  
28 1; *see also* Ex. A at 6 (noting that the ownership limitations were enacted to “serve

1 as a deterrent to organized crime”), 8 (“By preventing casino operators from owning  
2 card clubs in California, policy-makers hoped to prevent organized crime from  
3 becoming involved in the state.”).

4  
5 33. With respect to crime prevention, the Report conceded that, regardless of the  
6 ownership restriction codified in Section 19858, crime would or would not be present  
7 “regardless of the ownership of the club.” Ex. A at 10. Thus, it is questionable  
8 whether Section 19858 was ever necessary to prevent crime.  
9

10  
11 34. However, as the Little Hoover Commission uncovered, Section 19858 is no  
12 longer necessary to prevent the infiltration of organized crime in the California  
13 gambling industry. Indeed, the chairman of the Gambling Control Commission  
14 testified before the Little Hoover Commission that “the primary reason for the  
15 ownership limitations – to prevent criminals from operating casinos – is no longer  
16 valid because publicly traded casino companies are effectively regulated in other  
17 states.” Ex. A. at 13. Thus, California’s top gambling regulator believed and has  
18 declared that Section 19858 is “no longer necessary to protect public safety.” Ex. A  
19 at 17.  
20  
21  
22

23 35. This conclusion is bolstered by the studies conducted by other states that  
24 permit casino-style gambling. For example, regulators from Nevada have recognized  
25 that the operation of casinos by publicly traded companies, *i.e.*, companies that are  
26 obligated to investors and heavily regulated by various federal agencies, have  
27  
28

1 “supported the regulatory goal of making sure that gambling is conducted honestly  
2 and free from criminal or corruptive influences.” Ex. A at 11. Such companies often  
3 cooperate with state regulators because “they do not want to put their license – along  
4 with their investment – in peril.” Ex. A at 12.

6 36. Similarly, the California Gambling Control Commission, itself, has recognized  
7 that, due to the exception from Section 19858’s ownership restrictions for gambling  
8 entities operating on tribally-owned land, “some publicly traded corporations that  
9 own and operate casinos in other states already manage or finance the operations of  
10 tribal casinos in California . . . [and] if these corporations pose a risk to public safety  
11 – *and there is no evidence that they do* – that risk already exists.” Ex. A at 13  
12 (emphasis added).

16 37. At best, the ownership limitations “were an anachronistic attempt to protect  
17 the public safety.” Ex. A at 15. The Little Hoover Commission noted that it would  
18 be “illogical” to keep Section 19858 in effect. Ex. A at 17.

21 38. In sum, the Little Hoover Commission concluded that “the limitations are no  
22 longer necessary to protect the public safety.” Ex. A at 17. The Commission  
23 recommended “that the Governor and the Legislature eliminate the ownership  
24 limitations that prevent publicly traded companies – even those operating casinos in  
25 other states or under management contracts with California Indians – from operating  
26 card clubs.” Ex. A at 17.  
27  
28

1 39. In spite of these non-partisan calls to eliminate the ownership restrictions,  
2 Section 19858 remains in effect.

3  
4 40. Notably, California has enacted legislation to create exemptions from the  
5 ownership restrictions for certain identified gaming entities. For example, California  
6 passed legislation that gave an exemption from Section 19858 to the owners of the  
7 cardroom located at Hollywood Park Racetrack. *See* S.B. 472 and its legislative  
8 history, a true and correct copy of which is attached hereto as Exhibit C.

9  
10  
11 41. Thus, California has stated that the purpose for enacting Section 19858—crime  
12 prevention—is no longer a concern, and by enacting legislation such as S.B. 472,  
13 which allowed the owners of an out-of-state casino to maintain a license and operate  
14 an in-state cardroom (which resulted in no uptick in crime), California has  
15 demonstrated that ownership restrictions contained in Section 19858 are no longer  
16 necessary to prevent crime.  
17

18  
19 42. However, in 2016, Governor Edmund G. Brown, Jr., vetoed a bill that sought  
20 to extend the exemption for three more years, noting that “[i]f our gambling laws are  
21 based on outdated policies or assumptions, we should thoughtfully examine those  
22 laws and amend them so that all participants in the industry receive the same benefits  
23 and opportunities.” *See* Sept. 30, 2016 Ltr. from Gov. Brown, accompanying veto  
24 of Assembly Bill 2218, a true and correct copy of which is attached hereto as Exhibit  
25  
26  
27  
28 D.

1                   **2. California Recognizes That Section 19858 Violates the**  
2                   **Dormant Commerce Clause**

3           43. Various members of California’s government have recognized that Section  
4           19858 effectively closes the California economy to out-of-state casino owners, and  
5           several state governmental bodies and officials have acknowledged that the law  
6           amounts to rank discrimination. For example, the Report identified the impact of  
7           Section 19858, noting that “[a]nyone involved in a gambling operation in another  
8           state that would be illegal to operate in California, cannot own or operate a card  
9           room.” Ex. A at 1.  
10           

11           

12           44. Moreover, in requesting the Little Hoover Commission to study Section  
13           19858, the then-Governor, Gray Davis, stated that Section 19858 “primarily is  
14           intended to prohibit out-of-state gambling interests from owning cardrooms in  
15           California” and that “it may no longer be good public policy to forbid business  
16           entities that own out-of-state casinos from operating cardrooms in California.” Ex.  
17           A at 1. Similarly, Governor Brown has requested that the Legislature “thoughtfully  
18           reexamine” California’s gambling laws, Section 19858, in particular, because, as he  
19           suggested, Section 19858 might be “based on outdated policies or assumptions.” Ex.  
20           D.  
21           

22           

23           45. Furthermore, at various times, Legislators have recognized that, without an  
24           exception, Section 19858 prohibits interstate investment in the gaming industry. *See,*  
25           *e.g.,* Ca. B. An., S.B. 289 Sen., April 10, 2007, a true and correct copy of which is  
26

1 attached as Exhibit E (“[U]nder existing law an individual who is a gambling  
2 establishment owner in California, may not own shares of stock in MGM Mirage,  
3 Starwood, Stations Casinos, or any other company which is involved in gambling,  
4 without being in violation of Penal Code Section 330 if conducted within the State  
5 of California.”).

6  
7  
8 46. Yet, in spite of the recognition that Section 19858 is discriminatory and has  
9 long outlived its ostensible policy rational, the provision remains in effect and to  
10 impose a criminal law barrier to otherwise lawful interstate investment.  
11

12 **D. Plaintiffs Have Suffered Harm From Section 19858**

13 **1. Mr. Flynt**

14  
15 47. Mr. Flynt has explored the opportunity to invest in out-of-state casinos which  
16 operated lawfully under the laws of the states in which those casinos were located.  
17 Among other locations, Mr. Flynt has explored investment opportunities with casinos  
18 located in Laughlin, Nevada; Reno, Nevada; Cripple Creek, Colorado; Tunica,  
19 Mississippi; and Las Vegas, Nevada.  
20  
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22 48. However, Mr. Flynt was and remains unable to make any sort of investment in  
23 those entities in excess of a one-percent ownership investment lest he surrender his  
24 California cardroom gaming licenses, which he would be forced to do.  
25

26 49. As a result, Mr. Flynt has forfeited the opportunity to invest in numerous out-  
27 of-state casino-style gambling entities to his financial detriment.  
28

1           **2. Mr. Kelegian, Sr.**

2           50. Mr. Kelegian, Sr. explored the opportunity to invest in an out-of-state casino  
3 located in Las Vegas, Nevada, which operated lawfully under Nevada's gaming  
4 regulations.  
5

6           51. However, Mr. Kelegian, Sr. was and remains unable to make any sort of  
7 investment in that entity or any other out-of-state entities in excess of a one-percent  
8 ownership investment lest he surrender his California cardroom gambling licenses,  
9 which he would be forced to do.  
10

11           52. As a result, Mr. Kelegian Sr. has forfeited the opportunity to invest in at least  
12 one out-of-state casino-style gambling entity to his financial detriment.  
13

14           **3. Mr. Kelegian, Jr.**

15           53. Much like Mr. Flynt and Mr. Kelegian, Sr., Mr. Kelegian, Jr. has had an  
16 interest in investing in out-of-state casinos which operate lawfully under the laws of  
17 the states in which they are located.  
18

19           54. In 2010, Mr. Kelegian, Jr. acquired real property in Seattle, Washington,  
20 through a bankruptcy sale, which contained, among other facilities, a vacant  
21 cardroom. In consultation with an attorney and a consultant who was a former  
22 member of the California Bureau of Gambling Control, Mr. Kelegian, Jr. sought to  
23 open a casino-style gambling facility in Seattle, Washington, while at the same time  
24 remaining in compliance with California's gaming laws.  
25  
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1 55. To that end, Mr. Kelegian, Jr. formed Kelco Gaming, LLC (“Kelco”), in which  
2 he had a one-percent-ownership share, and his wife had a ninety-nine-percent-  
3 ownership share. In full transparency, he informed the California Bureau of  
4 Gambling Control of his intent to apply for a one-percent-ownership share in Kelco.  
5

6 56. Nonetheless, the California Bureau of Gambling Control found that he was in  
7 violation of the one-percent ownership prohibition for interests in out-of-state casinos  
8 due to California’s marital property rules which, as a matter of law, rendered his  
9 indirect interest in Kelco to be vastly in excess of one percent.  
10  
11

12 57. As a result of administrative proceedings commenced against him regarding  
13 his involvement with Kelco, Mr. Kelegian, Jr. paid \$210,000 in fines and assessments  
14 and was required to refrain from any and all investment in out-of-state casino-style  
15 gambling facilities. He immediately divested himself of his one-percent-ownership  
16 interest in Kelco. Although his California cardroom licenses were at risk, in  
17 recognition of numerous testimonials attesting to Mr. Kelegian, Jr.’s reputation and  
18 integrity within the gambling industry, the administrative law judge recommended  
19 approving his license renewal applications. (A true and correct copy of the  
20 administrative law judge’s proposed decision, which was adopted in full, is attached  
21 hereto as Exhibit F.)  
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**CLAIMS**

**Count 1: Declaratory relief, injunctive relief, and attorneys' fees and costs because Section 19858 violates the dormant Commerce Clause facially and as applied to Plaintiffs.**

58. Plaintiffs incorporate by reference each and every paragraph above as though fully set forth herein.

59. The rights enforceable by 42 U.S.C. § 1983 include, among the rights guaranteed by the United States Constitution, the right to be free from discriminatory state action that violates the Commerce Clause, Article I, Section 8 of the United States Constitution.

60. In particular, Section 19858 violates the dormant Commerce Clause of the United States Constitution because it directly regulates and discriminates against interstate commerce, and/or favors in-state economic interests over out-of-state interests by:

- a. mandating extraterritorial application of a penal law, Penal Law 330, on out-of-state transactions and entities that are otherwise lawful under the laws of other states, if those transactions or entities have any financial involvement with California cardrooms;
- b. prohibiting and interfering with the flow of investments across state lines by restricting the opportunities of nonresidents to invest their money in California businesses and by restricting the opportunities of

1 residents to invest their money in out-of-state businesses which are  
2 lawfully operating under the laws of the state in which they are located;  
3 and  
4

5 c. protecting California's residents from out-of-state competitors by  
6 creating a barrier to the entry of out-of-state competitors in the  
7 California gaming industry.  
8

9 61. Alternatively, Section 19858 violates the dormant Commerce Clause of the  
10 United States Constitution because California no longer has a legitimate interest in  
11 enforcement of Section 19858 and its burden on interstate commerce clearly exceeds  
12 the necessary benefits. Indeed, California has stated repeatedly that restricting  
13 owners of out-of-state casinos from investing in the California gambling industry is  
14 no longer needed to prevent crime because such entities are legitimate, often publicly  
15 traded, and federally regulated. *See* Exs. A, B, C. Yet, the burden on interstate  
16 commerce is considerable as discussed herein.  
17  
18  
19

20 62. Aside from these facial violations of the dormant Commerce Clause, Plaintiffs  
21 have suffered particularized harm due to enforcement of Section 19858. They have  
22 turned down opportunities to invest in out-of-state casino-style gambling entities to  
23 their financial detriment. Indeed, Mr. Kelegian, Jr. was forced to liquidate his direct  
24 and indirect ownership interests in an out-of-state casino-style gambling facility and  
25  
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1 property ownership at a considerable financial loss for non-compliance with Section  
2 19858.

3  
4 63. Moreover, under the doctrine of changed circumstances, Section 19858 should  
5 be struck because the original purpose of enactment—crime prevention—has been  
6 repeatedly recognized by California officials as unnecessary and outdated, thereby  
7 rendering the continued enforcement of Section 19858 irrational. *See* Exs. A, B, C,  
8 D.

9  
10  
11 64. Defendants’ actions taken under color of state law are actionable under 42  
12 U.S.C. § 1983. Plaintiffs are entitled to attorneys’ fees and costs under 42 U.S.C. §  
13 1988.

14  
15 65. Plaintiffs have presented this Court with a justiciable controversy.

16 **Count 2: Declaratory relief, injunctive relief, and attorneys’ fees**  
17 **and costs because Section 19858 violates the substantive**  
18 **Due Process Clause facially and as applied to Plaintiffs.**

19 66. Plaintiffs incorporate by reference each and every paragraph above as though  
20 fully set forth herein.

21  
22 67. The rights enforceable by 42 U.S.C. § 1983 include, among the rights  
23 guaranteed by the United States Constitution, the right to be free from violations of  
24 the substantive Due Process Clause of the United States Constitution.

25  
26 68. Specifically, Plaintiffs have the right to pursue an occupation of their choosing.  
27  
28

1 69. Plaintiffs possess California cardroom gaming licenses and, collectively, own  
2 and operate several cardrooms.

3  
4 70. Section 19858 bars Plaintiffs (and any individuals who wish to obtain a  
5 California cardroom gaming license) from engaging in the occupation of their  
6 choosing, if they also have an ownership interest in excess of one-percent in any out-  
7 of-state casino-style gambling entity, even though that casino operates in full  
8 compliance with the laws of the state of its location.

9  
10  
11 71. Plaintiffs are unable to pursue the occupation of their choosing (which would  
12 include investment in out-of-state casino-style gambling entities) due to enforcement  
13 of Section 19858.

14  
15 72. Enforcement of Section 19858 is arbitrary and unreasonable because its  
16 enforcement and, indeed, its purpose, no longer has a substantial relationship to the  
17 public health, safety, morals, or general welfare of Californians, as recognized by  
18 California and its officials on numerous occasions. *See* Exs. A, B, C, D.

19  
20  
21 73. Moreover, under the doctrine of changed circumstances, Section 19858 should  
22 be struck because the original purpose of enactment—crime prevention—has been  
23 repeatedly recognized by California officials as unnecessary, thereby rendering the  
24 continued enforcement of Section 19858 irrational. *See* Exs. A, B, C, D.  
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26  
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28

1 74. Defendants' actions taken under color of state law are actionable under 42  
2 U.S.C. § 1983. Plaintiffs are entitled to attorneys' fees and costs under 42 U.S.C. §  
3 1988.  
4

5 75. Plaintiffs have presented this Court with a justiciable controversy.

6 **PRAYER FOR RELIEF**  
7

8 WHEREFOR, Plaintiffs respectfully request this Honorable Court to grant  
9 relief to Plaintiffs and against Defendants as follows:  
10

- 11 A. Finding and declaring that Section 19858 (and Section 19858.5) violates  
12 the dormant Commerce Clause of the United States Constitution both  
13 facially and as applied;  
14
- 15 B. Finding and declaring that Section 19858 (and Section 19858.5) violates  
16 the substantive protections of the Due Process Clause both facially and  
17 as applied;  
18
- 19 C. Enjoining Defendants and their employees, agents, and representatives,  
20 as well as persons acting for or on their behalf, from enforcing Section  
21 19858 (and Section 19858.5) against Plaintiffs or their interests;  
22
- 23 D. Awarding Plaintiffs their attorneys' fees and costs under 42 U.S.C. §  
24 1988; and  
25
- 26 E. Awarding such further and additional relief that the Court deems just  
27 and proper.  
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Dated: November 30, 2016      Respectfully submitted,

By: /s/ Paul J. Cambria, Jr.  
Paul J. Cambria, Jr., Esq.  
Erin E. McCampbell, Esq.,  
Attorneys for Plaintiffs  
LARRY C. FLYNT,  
HAIG KELEGIAN, SR., and  
HAIG T. KELEGIAN, JR.

# EXHIBIT A

# **Card Clubs in California**

## *A Review of Ownership Limitations*

**April 2002**

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## **The Commission's Review**

In October of 2001 the Governor vetoed SB 51 (Vincent), which would have created an exemption in the law that limits the ownership of card rooms. In the veto message, the Governor said that while he opposed the specific measure, it may be time for the State to reconsider the "policy underlying the prohibition." The Governor requested that the Little Hoover Commission review the issue.

Subsequently, the Commission was asked by the Senate President Pro Tempore, the Assembly Speaker-designee and the author of SB 51 to expeditiously look at this issue.

The issue involves two basic prohibitions that limit the ownership of card rooms in California. The first prohibition is explicit, and has been in place in California for nearly 20 years: Anyone involved in a gambling operation in another state that would be illegal to operate in California, cannot own or operate a card room. The second limitation is a requirement that every owner of a card club be individually licensed, effectively prohibiting publicly traded companies from owning and operating card rooms.

The Commission focused on two primary questions:

1. Should companies that are involved in casino-style gambling in other states be allowed to own gambling operations in California?
2. Should the law be changed to make it easier for publicly traded companies to operate card clubs?

In February 2002, the Commission conducted a public hearing in the Capitol. The witnesses are listed in Appendix A. Interviews were conducted with representatives of law enforcement, community organizations, local officials, card clubs, and Indian tribes. Interviews also were conducted with regulators in Nevada and New Jersey. Written testimony also was received from numerous interests, which are listed in Appendix B.

### **SB 51 Veto Message**

I am returning Senate Bill 51 without my signature.

This bill would have created an exception to the general statutory prohibition on ownership of California gambling establishments by business entities that have a financial interest in forms of gambling prohibited in California. The prohibition primarily is intended to prohibit out-of-state gambling interests from owning cardrooms in California.

The State Gambling Control Commission has suggested it may no longer be good public policy to forbid business entities that own out-of-state casinos from operating cardrooms in California.

Gambling in California must be subject to strict regulation. The objectives of the regulations should be clear and well reasoned. The impetus of this bill brings to light the need to examine the policy underlying the prohibition.

Since it is suggested by the Gambling Control Commission that this important public policy issue may be ready for reconsideration, I am asking the Milton Marks Commission on California State Government Organization (Little Hoover Commission) to review, analyze and report back to me its recommendation on this subject.

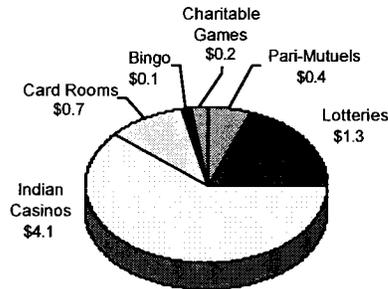
Sincerely,

Gray Davis

## **Gambling in California**

In a few years, California has gone from having limited gambling to being second only to Nevada in gambling revenues. While nearly all of this growth is associated with Indian gambling, this trend has affected how the State regulates gambling and the future of all gambling.

### **Gross Gambling Revenue by Industry Segment, California 2000 (In Billions)**



Sources: *United States Gross Annual Wager*. 2000 Gross Revenues (Consumer Spending) by State. Indian Casino revenue estimate provided by the Gambling Control Commission.

The California Gambling Control Commission reports that total gross revenues generated by gambling in California are more than \$6 billion annually. The gross revenue from gambling in New Jersey is some \$4 billion, while Nevada generates \$9.5 billion annually.<sup>1</sup> The chairman of the Gambling Control Commission testified that "in the next seven years, California is projected to generate gross revenues of approximately \$9.5 to \$10 billion, putting it on par or possibly even surpassing Nevada." Nearly all of that growth is expected to come from Indian casinos, which is one of five venues for gambling in the state.

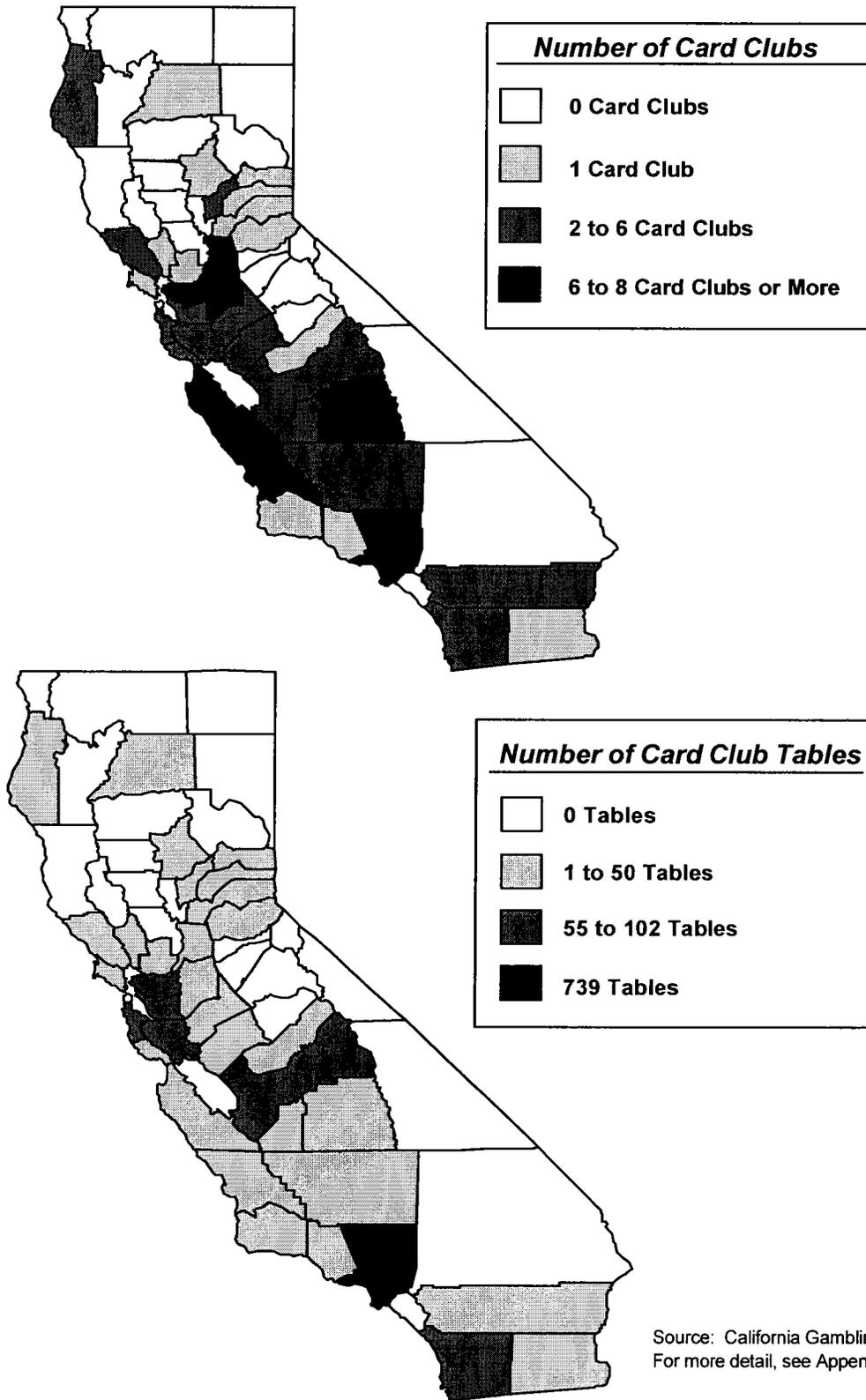
### **Card Clubs**

Card clubs, which also are referred to as card rooms, have been operating in the state of California since the Gold Rush. For most of that time these businesses have been the subject of minimal and mostly local regulation. In 1984 the Gambling Registration Act defined a larger role for the State in registering gambling operators.

Card rooms can conduct certain "nonbanked" or "nonpercentage" card games. The card room operator has no stake in the outcome of these games. The players play against each other and pay the card room a fee for use of the facilities. Typical card games include draw poker, 7-card stud and Asian games such as pai gow. State law specifically prohibits certain games such as twenty-one (blackjack), monte and faro.<sup>2</sup>

There are 113 card rooms in California operating 1,473 tables.<sup>3</sup> While a few of the card rooms are quite large, most are small "mom and pop" businesses. The number of card rooms has declined. As recently as 1998, 176 card clubs were operating 1,883 tables. Of the 58 counties, 24 counties do not have any card rooms and 13 counties only have one card room. Seven counties have six or more card rooms. Of equal importance, Los Angeles County, with 739 licensed tables, accounts for just over half of the card tables in the state.

### **Card Clubs Operating in California**



Source: California Gambling Control Commission.  
For more detail, see Appendix C.

## **Horse Racing**

Statewide, six privately owned racetracks, nine racing fairs and 20 simulcast-only facilities are in operation. Simulcast-only facilities do not have live racing, but allow betting on televised races that are occurring elsewhere in the world. All racetracks and fairs have simulcast facilities.

According to the California Horse Racing Board, the handle – or total amount wagered – for horse racing in California came to more than \$4 billion in 2000. Of that, \$3.2 billion (80.4 percent) was paid out to ticket holders; \$170 million (4.2 percent) was retained by the track operators and \$166 million (4.1 percent) was retained by horsemen. The balance was divided among a number of funds and public agencies, including regulators and local agencies.

## **State Lottery**

The California State Lottery was created by Proposition 37 in 1984. Lottery sales have been cyclical. After reaching a peak in the late 1980s, sales dropped off in the early 1990s. Sales have slowly climbed back up. In fiscal year 1999-2000, lottery sales amounted to \$2.5 billion.

The law requires 34 percent of revenues to go to education. Approximately 53 percent of the revenue is distributed in prizes. The remaining revenue, not to exceed 16 percent, is used for administrative costs, including advertising. Grades K-12 receive the majority of the funds that are distributed to education – 80.62 percent.<sup>4</sup>

These funds can only be used for instructional purposes and cannot be used to acquire property, construct facilities or fund research. Schools spend the majority of their funds, 80 to 90 percent, to recruit teachers.<sup>5</sup>

## **Charitable Gambling**

Charitable gambling is sponsored by non-profit organizations. This type of gambling includes church raffles and bingo. Bingo used to be the only charitable game permitted in California, but effective July 1, 2001 raffles that give 90 percent of their gross receipts directly to beneficial or charitable purposes were allowed.

Unless specifically exempted, non-profit organizations must register with the Attorney General's Registry of Charitable Trusts prior to conducting the raffle and file financial disclosure reports on each raffle event.

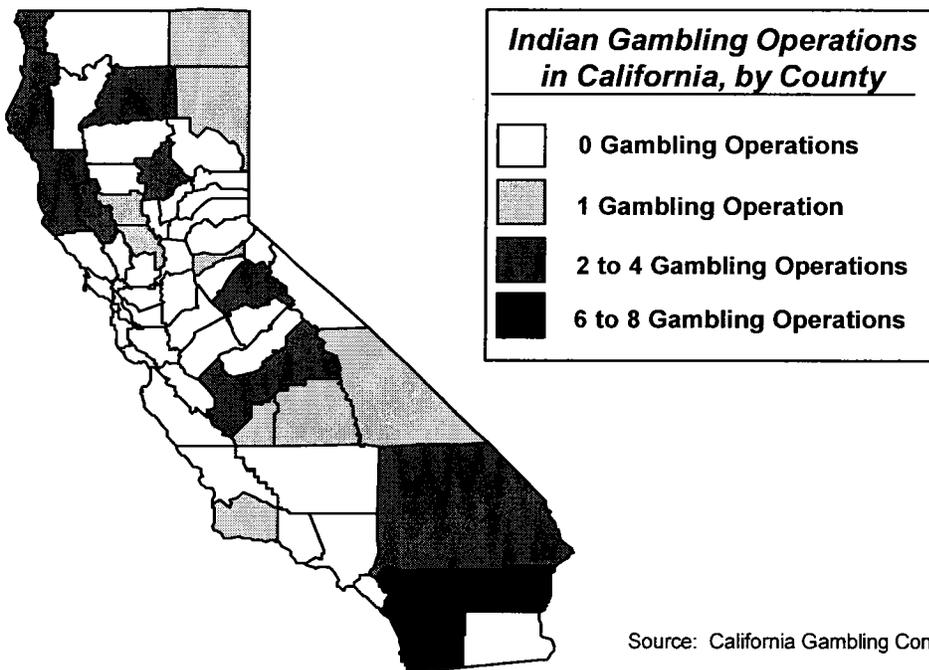
## Indian Gambling

Indian gambling is regulated by state and federal law. The federal Indian Gaming Regulatory Act (IGRA) defined three classes of gaming:

- **Class I** – consists of social games for minimal value prizes associated with traditional tribal ceremonies or celebrations.
- **Class II** – includes limited card games, lotto, and bingo, but not the electronic form of the games. Class II games are within the jurisdiction of the tribes primarily, but are subject to oversight by the National Indian Gaming Commission.
- **Class III** – encompasses games such as slot machines and banked card games that are commonly operated by Nevada or Atlantic City casinos, lotteries, or pari-mutuel facilities.

Class III gambling by tribes has been the subject of considerable litigation and negotiation in California. Proposition 1A, passed by voters in March 2000, allows the State to compact with Indian tribes to conduct class III gambling, such as slot machines. Currently 46 tribes operate 47 casinos in California.

A number of the card clubs have sued the State, essentially arguing that Proposition 1A denies them equal protection under the law. The card clubs argue that it is against the U.S. Constitution for the state constitution to grant an exclusive right to the Indians that is not extended to citizens at large. The case has not been decided.



Source: California Gambling Control Commission.

## ***The Purpose of Regulation***

The resurgence of gambling in America over the last 50 years has given rise to a new era of regulation. The regulation has been based on two different philosophies. The first, best represented by Nevada, is that gambling is a business like any other that can be operated in the public interest provided there is adequate regulation. The second perspective, represented by New Jersey, is that gambling will occur, either legally or in the underground economy. If carefully and vigorously regulated, gambling can occur above ground and directed in ways to benefit the public by providing jobs, encouraging economic development and increasing tax revenue.

Both philosophical views, according to the National Gambling Impact Study Commission, support common goals for regulation:<sup>6</sup>

- ***Ensure the integrity of games.*** Government oversight can make sure that operators do not manipulate games and that games of chance are operated fairly.
- ***Prevent links with criminal activity.*** Historically, even legal gambling was linked to organized crime. Regulations also are intended to thwart embezzlement by employees, to reduce crimes by patrons and to prevent winning patrons from becoming victims of crimes.
- ***Limit the size and scope of gambling.*** Regulations for most gambling activities limit the size, place, operation and betting.

The chairman of California's Gambling Control Commission affirmed similar goals for state law: "Gambling is a significant industry in California and it needs to be regulated to protect the integrity of the industry as a whole, whether it is card club gaming, tribal gaming, etc., and to serve as a deterrent to organized crime. It is in the best interest of both the general public and the industry to ensure that the public is safe, will be treated fairly, and won't be cheated when visiting gambling establishments."

## ***Regulation in California***

California's regulatory structure has grown along with legalized gambling in the state. For most of the state's history, gambling was limited to card rooms, racetracks and charitable bingo. Regulation of card rooms primarily rested with cities and counties, which relied on their police powers to license and restrict operators.

In 1986, the state enacted the Gambling Registration Act, which increased oversight of card rooms in particular and established a role for the state in registering owners, employees and vendors. Applicants could be denied if they were under 18, made a false statement on the application, were a felon, were convicted of an offense involving dishonesty, engaged in bookmaking, had a financial interest in out-of-state gambling or committed a revocable act while conditionally registered.

The Gambling Control Act of 1997 strengthened considerably the state's oversight of both private and tribal gambling. The law created the Gambling Control Commission and the Division of Gambling Control within the Department of Justice.

The Attorney General oversees the Division of Gambling Control, which investigates the background of everyone who applies for a gambling-related license and complaints against gambling operators. The law requires virtually anyone associated with a gambling business to become licensed – including owners, directors, employees and vendors.

The Attorney General's office forwards its findings to the Gambling Control Commission, which issues licenses. The Commission also establishes regulations to implement the Gambling Control Act. While the Commission was formally created in 1998, the first appointments were not made until September 2000 and the Commission did not receive a budget allocation until August 2001. At the time of this study the Commission had filled 24 of its 34 authorized positions (not including commissioners). It had not established a statutorily required advisory committee, and the Commission was in the process of establishing the regulations to implement the oversight envisioned in the act.

The Gambling Control Commission also has responsibilities associated with Indian gambling, including the licensing of individuals involved in the gambling operations.

The Horse Racing Industry is regulated separately by the California Horse Racing Board, which was established in 1933. The board is comprised of seven members appointed by the Governor. Similar to the Attorney General's office and the Gambling Control Commission, the board investigates the backgrounds of applicants, approves licenses, monitors activities, investigates complaints and brings enforcement actions when necessary.

In addition to these regulating agencies, the California Lottery Commission manages the State's gambling operation. The Commission is comprised of five members appointed by the Governor.

## ***Regulation of Card Clubs***

Under this expanded structure, the State investigates the background of individuals and businesses that want to be involved in the gambling industry; it also enforces the laws intended to make sure games are honestly run. Cities and Counties have maintained their authority to allow and set the parameters for card clubs. Before this more rigorous structure was in place, the State pursued its policy goals by imposing broad prohibitions against certain classes of ownership.

### ***Ownership limitations***

**Penal Code 330:** State law has long prevented anyone who is engaged in casino-style gambling in another state from operating a card club in California.<sup>7</sup> More formally, the law denies a license to anyone who is involved in gambling activities that are outlawed by Section 330 of the Penal Code, even if that activity is legal in another state. So, for instance, the Penal Code makes it illegal for anyone in California to operate a slot machine. The Business and Professions Code states that anyone involved in an activity outlawed by Penal Code 330 – i.e. slot machines – cannot operate a gambling business in California.

This law was crafted at a time when casino-style gambling was closely associated with organized crime. By preventing casino operators from owning card clubs in California, policy-makers hoped to prevent organized crime from becoming involved in the state.

**Publicly Traded Companies:** State law requires every owner, every director and every key employee of a gambling operation to be licensed. In the case of a corporation, the law requires every shareholder to also be licensed.<sup>8</sup> This requirement has effectively prevented publicly traded companies from operating card clubs because of the large number of owners involved.

Policy-makers historically had three concerns with publicly traded companies: 1) Because the ownership is fluid, ownership could be infiltrated by organized crime. 2) The State did not have the capacity to regulate that many shareholders. 3) Card rooms, if owned by publicly traded companies, would push for the expansion in the size and scope of gambling.

### ***Exceptions to the Rule***

Despite these concerns, two exceptions to these prohibitions were created in 1995. SB 100 (Maddy) made it easier for publicly traded horse racing associations to become licensed by limiting the licensing

requirements to those shareholders owning more than 5 percent of the company.<sup>9</sup> The law also excluded institutional investors from licensure. Two publicly traded companies operate horse racing associations in California: Magna Entertainment Corp. operates Santa Anita, Golden Gate and Bay Meadows racetracks. Churchill Downs, the operator of the Kentucky Derby, owns the Hollywood Park racetrack.

That measure also created an exception to the PC 330 rule: Publicly traded horse racing associations could operate a card club, even if it also was engaged in casino-style gambling in another state. The law required that the company had to have been operating in California for at least five years and it limited the license to a single card club at the association's racetrack. Those conditions applied to Hollywood Park in Los Angeles County.

But in 1999, the racetrack and card club were sold to Churchill Downs. The card club was leased back to the previous owner of Hollywood Park, Pinnacle Entertainment. Pinnacle is a publicly traded company based in Glendale that operates casinos in Nevada, Mississippi, Louisiana and Argentina. In addition to its lease on the Hollywood Park Casino, Pinnacle owns the Crystal Park Hotel and Casino in Compton. Because of the ownership prohibitions, both card clubs are leased to a third party operator.

### ***Publicly Traded Racing Associations***

California has two publicly traded racing associations operating four racetracks.

The associations are permitted under an exception to the licensing rule created by SB 100 (Maddy), which provided for only those owners of 5 percent or more to be licensed.

The races are actually operated by wholly owned subsidiaries of the publicly traded companies and the Horse Racing Board only licenses the subsidiary – not the investors in the parent company.

The board believes the licensing is adequate because the officials with the wholly owned subsidiary are licensed, and they are also key officials in the parent companies.

### ***Recent Legislation***

In addition to the exceptions in the law, the Legislature has attempted to respond to the changing needs of card rooms – usually by changing the exceptions rather than the rule. Among the bills:

**SB 1838 (Burton).** This bill would have allowed a publicly traded corporation that was previously licensed to operate a racetrack to operate a card club, even if it owned out-of-state casinos. The bill was approved by the Senate 27 to 3 and by the Assembly 60 to 11. The Governor vetoed the bill on September 27, 2000.

**SB 51 (Vincent).** The bill was nearly identical to SB 1838. Approved by the Senate 34 to 0 and by the Assembly 58 to 3. Vetoed by the Governor on October 14, 2001.

**AB 572 (Firebaugh).** The bill would allow for a publicly traded card room to own up to two card clubs in California, provided that each owner of more than 5 percent of the company is licensed. Also would allow a publicly traded corporation engaged in gambling activity that is illegal in California to operate a card room with 75 or more tables. Approved by the Assembly by a 50 to 3 vote; the bill is pending.

**SB 1314 (Vincent).** This bill is nearly identical to SB 51. It is pending with the Senate Committee on Governmental Organization.

The exceptions expose the ironic and anachronistic aspects of the law. In 1998 it was legal for Pinnacle to operate a card club and a racetrack – and it did so without any apparent additional threat to public safety. But having sold the racetrack, Pinnacle can no longer operate the card club. (It can still be involved, but must lease out its operations.)

So a publicly traded company can own a racetrack in California – and by forming a wholly owned subsidiary, none of the shareholders in the parent company are licensed. That same company, under certain circumstances, can also own a casino in another state, and a card club in California. However, a publicly traded company with no ties to horse racing or out-of-state casinos essentially cannot operate a card club.

State policy would only be further confounded by recent proposals that would allow a publicly traded casino company to operate a card club leased from a racetrack. While the exception might be designed to meet the needs of an existing business in good standing, the loophole further undermines whatever logic remains under the ownership limitations.

### ***Crime at Card Clubs***

One of the primary purposes of regulation – and the ownership limitations in particular – has been to prevent criminal activity associated with gambling establishments. Historically, officials were concerned that organized crime syndicates used gambling to launder the proceeds of illegal activities and manipulated games to increase the proceeds of the gambling establishment.

Additionally, there are concerns that gambling establishments provide opportunities for employees to embezzle money and for criminals to prey on winning players. And finally, there is the concern that chronic losers will turn to criminal activity to make up for their losses.

The last three concerns are present regardless of the ownership of the club, although the quality of management can affect the ability of the establishment to proactively discourage these activities.

On occasion, law enforcement officials have documented criminal activity associated with card clubs, and cite those concerns in opposing the establishment or expansion of card clubs. A number of studies have assessed the crime associated with gambling establishments.<sup>10</sup> One study by a Hoover Institution researcher at Stanford University looked at card clubs in California. That analysis concluded that crime around the card clubs he examined “is no greater and probably less than would be expected of any business that attracted a large clientele.”<sup>11</sup>

## ***The Issues before the Commission***

The Commission considered the two issues before it both separately and in combination. Some of the issues concern publicly traded gambling companies and others focus on the influence of casino companies operating in California. But the reality of the industry – and the concern of opponents – is that publicly traded casino companies from other states would do business in California if permitted.

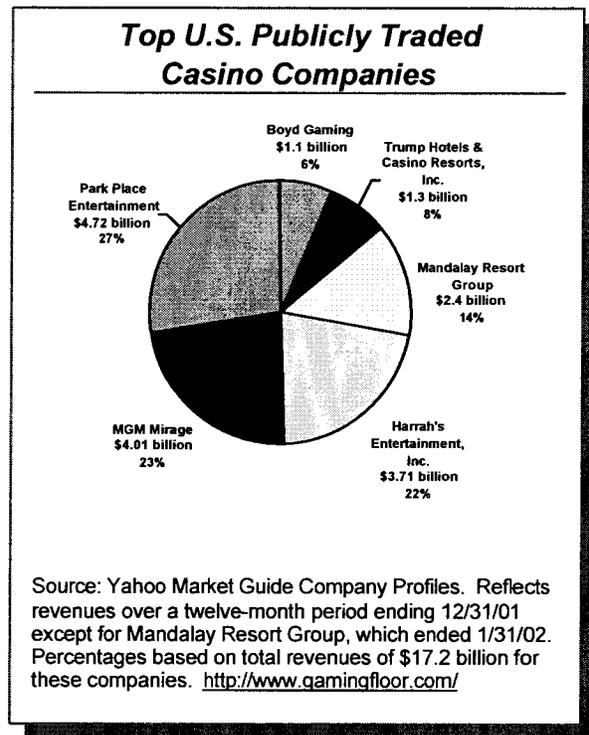
### ***Should publicly traded companies be allowed to own card clubs?***

The card clubs that have asked for the change in the law have asserted that being publicly traded would allow them to access capital markets to stay financially viable.

One card club asserted that it needs to refinance an over-budget hotel, which it could do if it were a publicly traded company.<sup>12</sup>

The owners of another card club asserted that the current limits prevent them from acquiring affordable loans from traditional financing sources, from transferring their interest to relatives or other investors, or from liquidating their assets quickly.<sup>13</sup>

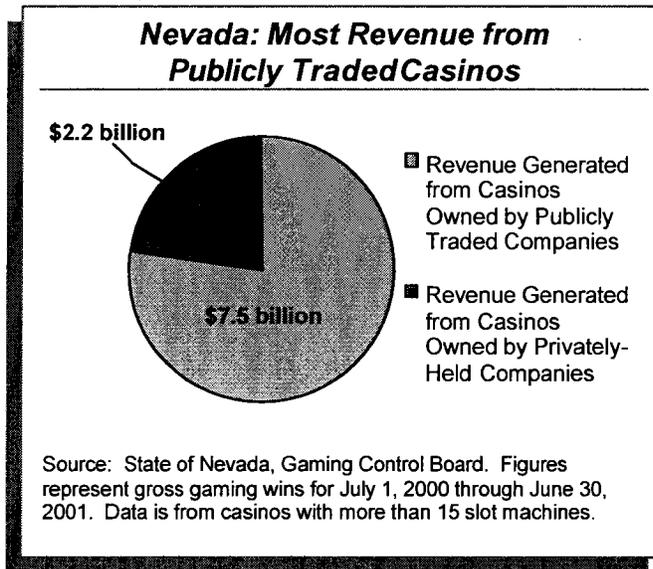
Generally speaking, publicly traded companies provide benefits to the businesses, investors and the public. For the businesses, incorporation offers limited liability, transferability of ownership and continuity of existence.<sup>14</sup> For investors, publicly traded companies provide comparable opportunities for investing capital. And for the public at large, corporations allow for transparency and public oversight.<sup>15</sup>



The chairman of the Nevada Gambling Control Board said the policy of his state to allow publicly traded companies to operate casinos has supported the regulatory goal of making sure that gambling is conducted honestly and free from criminal or corruptive influences.<sup>16</sup>

Nevada regulators rely on the disclosure and other requirements that federal laws impose on publicly traded companies. Specifically, the state relies on annual statements (Form 10K), quarterly statements

(Form 10Q), and recent event reports (Form 8K). The state also relies on transaction requirements to track changes in ownership. And the regulators share information that they gather in their investigations with gambling regulators in other states – an opportunity resulting from the rise of publicly traded casino companies operating in multiple states.



Large publicly traded companies, the chairman of the Nevada Gambling Control Board said, also are often willing to cooperate with regulators because they do not want to put their license – along with their investment – in peril. In addition, gambling companies operating in different states must endure the scrutiny and comply with the rules in those other states, which serves as a valuable redundancy in the regulatory scheme.

Other sources corroborated the experience in Nevada. The state of New Jersey reported that all 12 of the casinos operating in Atlantic City are

subsidiaries of publicly traded companies. (The state requires the licensees to be incorporated in New Jersey.) New Jersey regulators, who have a reputation for being even more cautious than those in Nevada, said the state prefers to work with publicly traded corporations because of the federal security regulations and because of the scrutiny those companies receive by gambling regulators in other states. While the state does not formally license the individual shareholders of the parent company, it does “register” those shareholders who own more than 5 percent of the company – a process essentially as rigorous as licensing.<sup>17</sup>

In short, there is no evidence to suggest that allowing publicly traded companies will result in higher criminal activity of California’s card clubs. In addition regulators believe California has equal opportunities to screen, monitor and enforce the law as it relates to publicly traded companies as it has for privately held companies.

### ***Should casino interests be allowed to operate card clubs?***

The historic link between casinos and organized crime is more than one of legend. In the 1940s and ‘50s, Congress conducted investigations that resulted in the 1951 Gaming Devices Act, which prohibits the transportation of illegal gambling devices across state lines. The Racketeering Influenced and Corrupt Organizations (RICO) statutes of

the early 1970s were intended to help weed organized crime out of gambling. The Bank Secrecy Act of 1985 and the Money Laundering Control Act of 1986 targeted casinos and other cash-intensive businesses that criminals used to exchange illegal profits for clean currency. “Taken together, these acts helped to speed the transition of the casino industry from its unsavory early years to its currently respectable status in the publicly traded corporate sector.”<sup>18</sup>

Similarly, the National Gambling Impact Study Commission concluded: “All of the evidence presented to the Commission indicates that effective state regulation, coupled with the takeover of much of the industry by public corporations, has eliminated organized crime from the direct ownership and operation of casinos.”<sup>19</sup>

Moreover, as the California Gambling Control Commission points out, some publicly traded corporations that own and operate casinos in other states already manage or finance the operations of tribal casinos in California.<sup>20</sup> By itself, this fact does not mean casino companies should be allowed to operate card clubs. But it does suggest that if these corporations pose a risk to public safety – and there is no evidence that they do – that risk already exists.

The chairman of the Gambling Control Commission testified that the primary reason for the ownership limitations – to prevent criminals from operating casinos – is no longer valid because publicly traded casino companies are effectively regulated in other states. Moreover, the chairman argued that eliminating the prohibitions would provide two benefits: State policy would be more consistent with federal law, which allows publicly traded casino companies to operate in California under management contracts with Indian tribes. And as legitimate businesses, card clubs would have the same financing tools as other businesses in California.

### ***Nevada’s Experience with Publicly Traded Companies***

Nevada enacted the Corporate Gaming Act of 1969 to encourage investment in the state’s casino industry. Most analysts credit the law for the expansion of gambling in the state. The trend toward corporate ownership also is widely credited with reducing the involvement of organized crime in the industry.

Nevada law requires anyone owning more than 10 percent of a publicly traded company to be licensed. Anyone owning between 5 percent and 10 percent of a casino company must report that ownership to state authorities, just as they must report that ownership to the Securities and Exchange Commission.

The state can require any shareholder, no matter how small their interest, to become licensed.

For purposes of licensing, Nevada defines publicly traded companies as having one or more classes of securities registered pursuant to Section 12 of the Securities and Exchange Act of 1934.

### ***Is there a level playing field?***

In written and oral testimony to the Commission, some of the Indian tribes asserted that if card clubs could be owned by publicly traded casino companies, they would have an unfair advantage.

And, at least one card club argues that out-of-state casino companies would be able to use money earned from slot machines in other states to unfairly compete against card clubs in California that do not have casino profits to draw from.

Conversely, the card clubs advocating for the change in the law assert that unless they become publicly traded companies they cannot access the capital to sustain existing operations, particularly in light of Indian gambling.

Virtually every side in this dispute argues that they are at the disadvantage now. The tribes assert they are geographically restricted and have difficulty raising capital. The card clubs, meanwhile, cannot offer slot machines, the greatest revenue maker.

In one sense, the competing interests are right: it is not a level playing field. But the policy does not envision a level playing field. The ownership limitations reviewed by the Commission were not put in place in an attempt to define a level playing field, and removing those limitations would not create a level playing field.

Similarly, the card clubs argue that the law should be changed so they can at least survive in the face of increasing competition from the tribes. They were not alone in asserting that the State should save the clubs. The chairman of the Gambling Control Commission was among those who offered that reason for supporting the change.

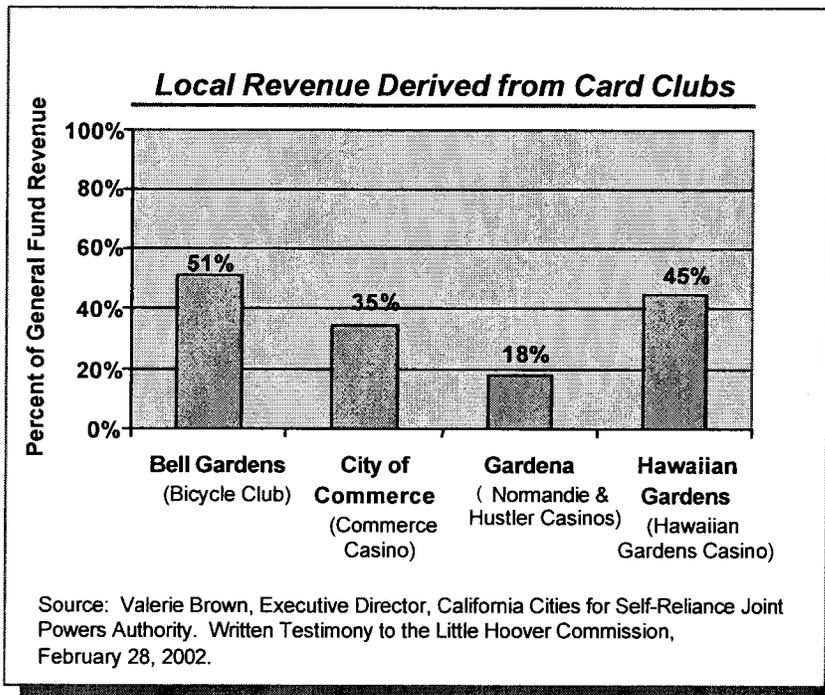
The California Cities for Self Reliance – a joint powers authority comprised of the cities of Commerce, Bell Gardens, Hawaiian Gardens and Gardena – testified that their financial health is linked to the health of card clubs in their communities. In addition to the significant revenue derived from fees, the clubs donate to local charities. And the clubs are significant employers in portions of Southern California that have lost their manufacturing base.

Even Stand Up For California, an organization that is opposed to the expansion of gambling, testified that the change in the law would give existing businesses a chance to remain profitable as Indian gambling expanded.

Alternatively, one card club – Artichoke Joe’s – argued that permitting publicly traded companies to operate card clubs would be bad for business, or at least for their business. The card club’s attorney argued that profits from out-of-state casinos would be used to make competing card clubs more attractive, giving those competitors an advantage over the card clubs without casinos in other states. He likened it to big box retail chains that put locally owned retailers out of business.

While the jobs and revenue are compelling reasons from some local officials to support card clubs, the Commission also understands that in many communities card clubs are controversial with residents and their elected officials. The problems with how California finances local governments are well documented, and gambling as a solution to that problem raises more questions than the Commission could address in this inquiry.

Ultimately, the Commission was convinced that the existing limitations were an anachronistic attempt to protect the public safety. It was not persuaded that the rules should be changed to help card rooms survive.



## ***Expansion: the Central Controversy***

Much of the opposition to these proposals is fundamentally based on the issue of expansion. Anti-gambling interests do not want card clubs to be more financially solvent or to develop a larger customer base than they have today. The Indian tribes, while raising a variety of arguments, have consistently voiced the greatest concern that with more resources the card clubs will eventually become full-blown casinos, as reflected in the statement by Daniel Tucker, then chairman of the California Indian Nations Gaming Association, that was issued in July 2001:

*These bills represent a huge expansion of commercial gambling – a move that voters have consistently said they do not want. Should these bills become law, these big corporations will ultimately harm California tribes' ability to support themselves by introducing widespread gaming into our cities and major communities. For the first time, Wall Street giants would control commercial gaming in this state.<sup>21</sup>*

Existing statutes limit the expansion of gambling in three ways:

- The number of tables at an existing card club cannot be increased by more than 25 percent without local voter approval.<sup>22</sup>
- No local elections authorizing expansion can take place until January 1, 2007.<sup>23</sup>
- The Gambling Control Commission cannot license a new gambling establishment until January 1, 2007.<sup>24</sup>

These limits were first put in place by SB 100, which put a moratorium on the expansion of card clubs until January 1, 1999. AB 1416, signed into law in 2000, extended that moratorium until 2007.

The other important law is Proposition 1A, which amended the California Constitution to give the Indian tribes an exclusive license to operate casinos.

Lifting the ownership limitations would not change either law. Still, the tribes assert that given the chance casino companies will make card clubs look more like casinos. And once present, they would persuade the Legislature to let the moratorium expire (allowing card clubs to grow) or even ask voters to eliminate the tribal monopoly on slot machines.

## ***Conclusions and Considerations***

Californians – directly at the ballot box and through their elected representatives – have dramatically increased gambling in the state. In turn, the various gambling interests have accelerated their efforts to be successful, in both the marketplace and in policy-making venues.

To help resolve a persistent controversy the Commission was asked to review two interwoven ownership issues. On two occasions, the Legislature has overwhelmingly voted to ease the limitations in some circumstances. And the State's top gambling regulator believes the prohibitions are no longer necessary to protect public safety.

Given that public safety was the purpose of those prohibitions, it is illogical to keep them in place. Today, the State has both an expanding gambling industry and a fortified regulatory infrastructure. Preventing publicly traded corporations – and the companies most experienced in the industry – from doing business in California is inconsistent with these deliberate and highly publicized policy decisions.

But if this controversy were only about public safety it indeed would not be a controversy. The concerns from opponents are centered on expansion – some because they oppose gambling and some because they oppose the competition that capitalized card clubs could present in both the marketplace and in policy venues.

Recent Governors and Legislatures have been consistent on one aspect of this evolution – the expansion of gambling is a sensitive and important public issue that should not be sanctioned furtively or indirectly.

The Commission was asked to review the bases for the current ownership limitations. And after careful review the Commission has concluded that the limitations are no longer necessary to protect the public safety. The Commission was not asked whether the State should expand the size and scope of gambling – but acknowledges that issue, whatever the motivation, is present.

For these reasons the Commission recommends that the Governor and the Legislature eliminate the ownership limitations that prevent publicly traded companies – even those operating casinos in other states or under management contracts with California Indians – from operating card clubs.

But the Commission also recommends that policy-makers be clear about their intent concerning the expansion of gambling and as their

predecessors did, consult directly with voters before allowing any expansion in the size and scope of gambling.

The Commission also offers the following recommendations for implementing this change should policy-makers see fit:

- **Ensure adequate resources.** California's new gambling regulators must have the resources and demonstrated the capacity to adequately screen license applicants, investigate concerns and enforce the law in a timely manner.
- **Ensure regulations are in place.** While the organizational infrastructure is finally being developed, the regulations to implement the Gambling Control Act are not fully in place.
- **Craft consistent policy.** Licensing requirements for publicly traded card clubs should be consistent with horse racing associations.
- **Clearly define who must be licensed.** The law should be clear whether licensing requirements only apply to subsidiary companies or to parent companies. The law should be modeled after the Nevada and New Jersey laws – which set a threshold of 5 or 10 percent of shareholders who must be licensed, while giving the regulator the ability to require licensure by any shareholder no matter how small their interest.

## **Appendices & Notes**

- ✓ **Public Hearing Witnesses**
- ✓ **Additional Written Testimony**
  - ✓ **California Card Club Detail**
    - ✓ **Notes**



## Appendix A

### Little Hoover Commission Public Hearing Witnesses

***Witnesses Appearing at Little Hoover Commission  
Gambling Regulation Hearing on February 28, 2002***

Hugo A. Argumedo, Mayor  
City of Commerce

James W. Barich  
Senior Vice President of Public Affairs  
Pinnacle Entertainment, Inc.

Rodney J. Blonien  
Legislative Representative  
Commerce Club

Valerie Brown, Executive Director  
California Cities for Self-Reliance Joint  
Powers Authority

Harlan Goodson, Director  
Department of Justice  
Division of Gambling Control

John Hensley, Chairman  
California Gambling Control Commission

Fred Jones, Advocate  
National Coalition Against Legalized  
Gambling

Haig Kelegian, General Managing Partner  
Bicycle Casino

Walter J. Lack, General Managing Partner  
Bicycle Casino

Roy Minami, Assistant Executive Director  
California Horse Racing Board

Anthony Miranda, Secretary  
California Nations Indian Gaming  
Association

Cheryl Schmit, Director  
Stand Up For California



## Appendix B

### Additional Written Testimony

***Organizations that Submitted Written Testimony to the Little Hoover Commission  
for the Gambling Regulation Public Hearing on February 28, 2002***

Alturas Indian Rancheria	Mooretown Rancheria
Artichoke Joe's	Morongio Band of Mission Indians
Bay 101	Pala Band of Mission Indians
Bear River Band of Rohnerville Rancheria	Pauma Band of Mission Indians
Bishop Paiute Tribe	Picayune Rancheria of the Chukchansi Indians
Cabazon Band of Mission Indians	Potter Valley Tribe
Cachil Dehe Band of Wintun Indians of the Colusa Indian Community	Robinson Rancheria of Pomo Indians
California Nations Indian Gaming Association	San Manuel Band of Mission Indians
Coyote Valley Band of Pomo Indians	Santa Rosa Rancheria Tachi Tribe
Elem Indian Colony	Susanville Indian Rancheria
Elk Valley Rancheria	Sycuan Band of the Kumeyaay Nation
Jackson Rancheria Band of Miwuk Indians	Tuolumne Band of Me-Wuk Indians
Mesa Grande Band of Mission Indians	



## Appendix C

### *Location and Size of California Card Clubs by County*

<u>County</u>	<u>Club Name</u>	<u>Number of Tables</u>
<b>Alameda</b>		
Emeryville	Oaks Card Club	40
Hayward	Palace Card Club	8
Livermore	Livermore Saloon	5
Livermore	Lucky Buck Card Club	5
<b>Butte</b>		
Chico	Angie's Poker Club	3
<b>Contra Costa</b>		
Antioch	Johnny B's	1
Antioch	Kelly's	6
Antioch	Nineteenth Hole	5
Pacheco	California Grand	13
San Pablo	Casino San Pablo	45
San Ramon	Napa Valley Casino	6
San Ramon	Outpost Casino Sports Bar	10
<b>El Dorado</b>		
Cameron Park	Black Sheep Casino Company	2
<b>Fresno</b>		
Clovis	Clovis 500 Club	5
Fresno	Club One Inc.	35
Fresno	Diamond Sports Bar & Casino	15
<b>Humboldt</b>		
Eureka	Klondike Casino	2
Eureka	S & K Cardroom	6
<b>Imperial</b>		
El Centro	New Esquire	2
<b>Kern</b>		
Bakersfield	Golden West Casino	14
Delano	Aldo's Cardroom	2
Ridgecrest	Oasis Card Room	3
Rosamond	Diamond Jims	8
Rosamond	Poker Junction	3
<b>Kings</b>		
Hanford	Cottage	3
Lemoore	Royal Flush Cardroom	2

**Location and Size of California Card Clubs by County (Cont.)**

<u>County</u>	<u>Club Name</u>	<u>Number of Tables</u>
<b>Los Angeles</b>		
Bell Gardens	Bicycle Club	135
Commerce	California Commerce Club	230
Compton	Crystal Park Casino	14
Cudahy	Club Caribe	10
Gardena	Hustler Casino	60
Gardena	Normandie Club	70
Inglewood	Hollywood Park Casino	120
Los Angeles	Hawaiian Gardens Casino	100
<b>Madera</b>		
Madera	La Primavera Pool Hall and Café	2
<b>Marin</b>		
San Rafael	Club San Rafael	2
<b>Merced</b>		
Merced	Gold Sombrero Cardroom	1
Merced	Poker Flats Casino	2
Planada	Broadway Club	2
<b>Monterey</b>		
Marina	Marina Club	3
Marina	Mortimer's Card Room	5
Salinas	Cap's Saloon	2
Salinas	Frank's Bavarian Inn	3
Soledad	El Ranchito Cardroom	2
Soledad	Ven A Mexico	2
<b>Napa</b>		
Napa	Hemphill's Card Room	3
<b>Nevada</b>		
Grass Valley	Gold Rush Casino	2
<b>Placer</b>		
Auburn	Dealer's Choice Cardroom	1
<b>Riverside</b>		
Blythe	Bruce's Casino	2
Blythe	Cibola Club	1
Lake Elsinore	Sahara Dunes Casino	20
<b>Sacramento</b>		
Citrus Heights	Lucky Derby Casino	5
Citrus Heights	Phoenix Lounge-Casino	5
Folsom	Lake Bowl Cardroom	5
Isleton	Hotel Del Rio & Casino	4
Isleton	Rogelio's Inc.	2
Rancho Cordova	Don Juan Casino	1
Rancho Cordova	Rancho's Club	3

**Location and Size of California Card Clubs by County (Cont.)**

<b><u>County</u></b>	<b><u>Club Name</u></b>	<b><u>Number of Tables</u></b>
Sacramento	Big Tomato Card Club	5
Sacramento	Capitol Casino	7
Sacramento	Duffy's	1
Sacramento	Old Tavern Bar and Grill	3
Sacramento	River City Casino	4
Sacramento	Silver Fox	5
<b>San Diego</b>		
Chula Vista	Village Club	12
Oceanside	Oceans Eleven Casino	30
San Diego	Lucky Lady	7
San Diego	Palomar Card Club	7
<b>San Joaquin</b>		
Lodi	Roy's Club Cardroom	3
Manteca	Casino Real	5
Stockton	Cameo Club	5
Stockton	Delta Cardroom	6
Stockton	Saigon Casino Club	4
Tracy	Comstock Card Room	4
<b>San Luis Obispo</b>		
Atascadero	Outlaws Bar & Grill	2
Cayucos	Old Cayucos Tavern	2
Grover Beach	Central Coast Casino	2
Grover Beach	Gold Rush Casino & Resort	2
Nipomo	Busted Flush	1
Oceano	Brooks Oceana Cardroom	2
Paso Robles	Central Coast Casino	2
<b>San Mateo</b>		
Colma	Lucky Chances	43
San Bruno	Artichoke Joe's	51
San Carlos	Sundowner Card Casino	5
San Mateo	Pacific News Card Club	3
<b>Santa Barbara</b>		
Guadalupe	Jalisco Pool Room	4
<b>Santa Clara</b>		
Gilroy	Garlic City Club	5
San Jose	Bay 101	40
San Jose	Garden City Card Club	40
<b>Santa Cruz</b>		
Santa Cruz	Ocean View Cardroom	4
Watsonville	Caesar's Club	2
Watsonville	Los Gatitos Café	1
Watsonville	Phillipine Gardens	5

**Location and Size of California Card Clubs by County (Cont.)**

<u>County</u>	<u>Club Name</u>	<u>Number of Tables</u>
<b>Shasta</b>		
Redding	Casino Club	5
<b>Sierra</b>		
Downieville	St. Charles Place	1
<b>Solano</b>		
Benicia	Pastime Club	2
<b>Sonoma</b>		
Petaluma	River Cardroom	5
Petaluma	Sonoma Joe's	8
<b>Stanislaus</b>		
Modesto	Empire Sportsmen's Assoc.	4
Modesto	McHenry Men & Women's Club	4
Oakdale	Harold's Card Casino	4
Turlock	Al's 99 Cardroom	2
<b>Tulare</b>		
Cutler	Barney's Cardroom	1
Dinuba	A's De Espadas	1
Goshen	Gloria's Lounge & Casino	4
Porterville	Mint	3
Porterville	Rumors	3
Visalia	Sundowner Cardroom	1
Woodlake	El Resbalon	1
Woodlake	La Fuerza	2
<b>Ventura</b>		
Ventura	Player's Club	4
<b>Yuba</b>		
Marysville	Ginny's Club	1
Marysville	Rooney's Cardroom	5

Source: California Gambling Control Commission.

## Notes

1. John Hensley, chairman, Gambling Control Commission. Testimony to the Little Hoover Commission. February 28, 2002.
2. Megan M. Atkinson. Legislative Analyst's Office. *Gambling in California: An Overview*. January 1998. [http://www.lao.ca.gov/12998\\_gambling.html](http://www.lao.ca.gov/12998_gambling.html)
3. Gambling Control Commission submittal to the Little Hoover Commission.
4. California State Lottery, "About the Lottery," <http://www.calottery.com/about.asp>
5. Ibid.
6. These three goals were identified in numerous research documents and formal public policies reviewed by the Commission, including California's Business and Professions Code Section 19801(f).
7. Business and Professions Code Section 19848.5.
8. Business and Professions Code Section 19841A.
9. Chapter 387, Statutes of 1995.
10. Jay S. Albanese. *Casino Gambling and White Collar Crime: An Examination of the Empirical Evidence*. Reprinted in *Gaming Enforcement IV*, a Publication of the American Bar Association, Center for Continuing Legal Education and the Criminal Justice Section, 2000.
11. Thomas Gale Moore. *Card Clubs and Crime in California*. Hoover Institution, Stanford University, 1997. <http://www.stanford.edu/~moore/CardClubs.html>.
12. Rodney J. Blonien, legislative representative, Commerce Casino. Testimony to the Little Hoover Commission. February 28, 2002.
13. Walter J. Lack and Haig Kelegian, general managing partners, Bicycle Casino. Testimony to the Little Hoover Commission. February 28, 2002.
14. Lionel Sawyer & Collins. *Nevada Gaming Law*. Page 109.
15. John Hensley, chairman, Gambling Control Commission. Testimony to the Little Hoover Commission. February 28, 2002.
16. Written and oral communication with Dennis Neilander, chairman, Gaming Control Board, State of Nevada.
17. Written and oral communication with Daniel Heneghan, director of communications, Casino Control Commission, State of New Jersey.
18. John Lyman Mason and Michael Nelson. *Governing Gambling*. New York: Century Foundation Press, 2001. Page 40.
19. The National Gambling Impact Study Commission, June 1999, page 31.
20. Written testimony of John Hensley, chairman, Gambling Control Commission, page 6.
21. Press statement from CNIGA Chairman Daniel Tucker on Publicly Traded Corporation Legislation, Sacramento, July 16, 2001, [www.cniga.com/media](http://www.cniga.com/media).
22. Business and Professions Code Section 19950.1.
23. Business and Professions Code Section 19950.2.
24. Business and Professions Code Section 19950.3.



# EXHIBIT B



## LITTLE HOOVER COMMISSION

April 29, 2002

The Honorable Gray Davis  
Governor of California

The Honorable John Burton  
President pro Tempore of the Senate  
and members of the Senate

The Honorable James L. Brulte  
Senate Minority Leader

The Honorable Herb Wesson  
Speaker of the Assembly  
and members of the Assembly

The Honorable Dave Cox  
Assembly Minority Leader

Dear Governor and Members of the Legislature:

Within the last five years, gambling in California has grown into a \$6 billion business. California is now the second largest gambling state in the nation measured by total gross revenue, and at the current pace could surpass Nevada in seven years.

In that context, and at the request of the Governor and legislative leaders, the Little Hoover Commission has reviewed two provisions in state law that limit ownership of card rooms. The first provision effectively excludes casino operators in other states from having an interest in a California card room; the second prohibition effectively prevents publicly traded companies from operating a card room by requiring that every shareholder be licensed.

These prohibitions were attempts to keep organized crime out of California. While the law may have had other effects – such as limiting the financial resources available to card clubs – the explicit purpose of these provisions is to protect the public against illegal activity.

These prohibitions may at one time have been a necessary and even an effective means of controlling the behavior of card club operators. But that was before publicly traded gambling companies emerged as the dominant owners of casinos in other states and before sophisticated gambling regulations were established in states such as Nevada, New Jersey, Michigan and even California.

Regulators in casino states assert that publicly traded companies have had a cleansing effect on the ownership of gambling establishments. Publicly traded gambling companies must maintain the confidence of both investors and the regulators. Investments are jeopardized by operators who run afoul of state regulators, which gives these companies an incentive to comply with all of the regulations everywhere they do business. This is not to say that publicly traded operators are inherently more or less honest than privately owned operators. This is to say that experienced regulators assert that publicly traded companies have an acceptable record and can be carefully monitored without licensing every shareholder.

A tangential but important issue is that by lifting these ownership limitations card rooms would have the resources to significantly expand, which is a concern of some anti-gambling organizations, at least one privately owned card room, and many of California's casino-operating Indian tribes. It also is argued that publicly traded companies – if allowed to operate card rooms in California – would use their financial muscle to persuade policy-makers or the public to allow the use of slot machines.

Policy-makers have put in statute an explicit prohibition against the expansion of card rooms in California to the year 2007. That prohibition covers the scale as well as the scope of gambling. The Indian tribes also accurately assert that California voters have explicitly given the tribes an exclusive right to class III or casino-style gambling.

Nothing in the law would prevent out-of-state casinos from lobbying lawmakers – or asking the voters directly – to allow slot machines in California on non-Indian land. It is difficult to assess whether the political leverage of those companies will be significantly increased if they were allowed to operate card rooms.

But perhaps more importantly, policy-makers could modernize the ownership rules for card rooms without expanding gambling, and – should they choose – make it clear that their intent is to stand by or extend the current statutory limit on the scale and scope of gambling.

The Commission considered – and dismissed – the notion that the issue is a level playing field between the card clubs and the Indian tribes. While there may be some competition, it is not fair and even competition and state law does not intend fair and even competition.

The tribes do have exclusive rights to slot machines. Some card room owners have challenged the decision of voters to grant tribes a franchise on those games. But expanding slots beyond the tribes would be a significant expansion of gambling.

Many other factors distinguish the burdens and opportunities of the two gambling operations: The tribes are sovereign governments, while the card clubs are regulated by state and local governments. The federal government has largely defined the parameters of Indian gambling, while the state defines the rules for card rooms. The large card clubs are in urban areas, while most tribal casinos are limited to rural Indian lands. Because one is a business and the other a government, the two have inherently different financing opportunities.

There is no level playing field. Federal and state policies do not envision a level playing field. The proposal that the Commission was asked to review would not create a level playing field.

The Commission fully appreciates the concerns expressed about the negative consequences of gambling for some individuals and communities. It was not asked to review the decisions made by voters and by their elected representatives that have resulted in the dramatic expansion of gambling in California.

While most of this expansion has stemmed from significant and discrete policy decisions – such as the Lottery Initiative and Proposition 1A – gambling policies also are shaped by incremental, lower-profile measures. Some of these actions are necessary to efficiently and effectively pursue established policy goals. At the same time, public policies have the most integrity when their intentions are clear and unintended consequences are thwarted.

The issue before the Commission was whether the ownership prohibitions are still necessary to protect the public against criminal activity. The answer is clearly no. The issue of expansion, which was not directly before the Commission, already is addressed in law. Therefore, the Commission has concluded that allowing card rooms to be owned by publicly traded companies – even those owned by out-of-state casino interests – would not be inconsistent with existing policy goals. If policy-makers do not intend for this change to result in an increase in the scope of gambling, they could fortify the existing commitment against expansion, as well.

Sincerely,



Michael E. Alpert  
Chairman

# EXHIBIT C

**Senate Bill No. 472**

**CHAPTER 760**

An act to amend Sections 19852.2, 19855, and 19858 of the Business and Professions Code, relating to gaming.

[Approved by Governor October 11, 2013. Filed with  
Secretary of State October 11, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 472, Hill. Gaming: licenses.

The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. The act makes any person who willfully violates any of the provisions of the act for which a penalty is not expressly provided guilty of a misdemeanor.

The act requires every person who is required to hold a state license to obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required, except as specified. Existing law requires every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability to file an application within 30 calendar days after receipt of the order.

This bill would instead require the application described above to be filed within 45 calendar days after receipt of an order of the commission.

The act also provides that, if the owner of a gambling enterprise is not a person, the owner is not eligible for a gambling license unless specified persons involved in the enterprise obtain a gambling license. Existing law authorizes the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on the grounds of a racetrack that is owned by a limited partnership that also owns the racetrack.

This bill would instead authorize the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on any portion of, or contiguous to, the grounds upon which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is owned by a limited partnership that also owns or owned the racetrack.

Existing law provides that a person is deemed unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial

interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.

This bill would exempt from these provisions a person who is licensed or had an application to be licensed on file with the commission on or before February 1, 2013, has a financial interest in a business or organization engaged in gambling prohibited by state law that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission, and has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is directly or indirectly owned by a racetrack limited partnership owner, as defined. The bill would require an exempted person described above, within 3 years of the date the closed business or organization reopens and becomes engaged in any form of prohibited gambling, as specified, to either divest that person's interest in the business or organization, or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or had applied to be licensed by the commission. The bill would also require an exempted person to inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of prohibited gambling, as specified. The bill would also make it unlawful, during the 3-year divestment period, for any cross-promotion or marketing, as defined, to occur between the business or organization that is engaged in any form of prohibited gambling, as specified, and a gambling enterprise or gambling establishment, as described. By creating a new crime, the bill would impose a state-mandated local program. The bill would prohibit, during that 3-year divestment period, any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment from being provided from the gaming revenues of either the business or organization engaged in prohibited forms of gaming. The bill would also provide that if, at the end of the 3-year divestment period, a person has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization that is engaged in the form of prohibited gaming, the exemption would not apply to that person and that person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of prohibited gaming, whether within or without this state, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 19852.2 of the Business and Professions Code is amended to read:

19852.2. (a) Notwithstanding Section 19852 or any other provision of law, and solely for the purpose of the licensure of a card club located on any portion of, or contiguous to, the grounds upon which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is owned by a limited partnership that also owns or owned the racetrack, the commission may, at its discretion, exempt all of the following from the licensing requirements of this chapter:

(1) The limited partners in a limited partnership that holds interest in a holding company if all of the following criteria are met:

(A) The limited partners of the limited partnership in the aggregate directly hold at least 95 percent of the interest in the holding company.

(B) The limited partner is one of the following:

(i) An “institutional investor” as defined in subdivision (w) of Section 19805.

(ii) An “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code.

(iii) An investment company that manages a state university endowment.

(2) Other limited partners in a limited partnership described in paragraph (1), if the partners do not number more than five and each partner indirectly owns 1 percent or less of the shares of the interest in the holding company.

(3) A limited partner in a limited partnership that holds in the aggregate less than 5 percent of the interest in a holding company.

(b) Nothing in this section shall be construed to limit the licensure requirements for a general partner of a limited partnership or a limited partner that is not specifically described in this section.

SEC. 2. Section 19855 of the Business and Professions Code is amended to read:

19855. Except as otherwise provided by statute or regulation, every 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. Every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability shall file the application within 45 calendar days after receipt of the order.

SEC. 3. Section 19858 of the Business and Professions Code is amended to read:

19858. (a) Except as provided in subdivisions (b) and (c), a person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code, whether within or without this state.

(b) Subdivision (a) shall not apply to a publicly traded racing association, a qualified racing association, or any person who is licensed pursuant to subdivision (b) or (c) of Section 19852.

(c) Subdivision (a) shall not apply to a person who meets all of the following criteria:

(1) The person is licensed or had an application to be licensed on file with the commission on or before February 1, 2013.

(2) The person has a financial interest in a business or organization engaged in gambling prohibited by Section 330 of the Penal Code that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission.

(3) The person has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012.

(4) The grounds upon which the gambling establishment described in paragraph (3) is located are directly or indirectly owned by a racetrack limited partnership owner. For purposes of this paragraph, a "racetrack limited partnership owner" is defined as a limited partnership, or a number of related limited partnerships, that is or are at least 80 percent capitalized by limited partners that are an "institutional investor" as defined in subdivision (w) of Section 19805, an "employee benefit plan" as defined in Section 1002(3) of Title 29 of the United States Code, or an investment company that manages a state university endowment.

(d) Within three years of the date the closed business or organization reopens or becomes engaged in any form of gambling prohibited by Section 330 of the Penal Code, a person described in subdivision (c) shall either divest that person's interest in the business or organization, or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or has applied to be licensed by the commission.

(e) A person described in subdivision (c) shall inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of gambling prohibited by Section 330 of the Penal Code.

(f) During the three-year divestment period described in subdivision (d), it is unlawful for any cross-promotion or marketing to occur between the business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code and the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c). For purposes of this subdivision, "cross-promotion or marketing" means the offering to any customers of the gambling enterprise or gambling establishment anything of value related to visiting or gambling at the business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

(g) During the three-year divestment period described in subdivision (d), any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c) shall not be provided from the gaming revenues of either the business or organization engaged in gaming prohibited under Section 330 of the Penal Code.

(h) If, at the end of the three-year divestment period described in subdivision (d), any person described in subdivision (c) has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization engaged in any form of gaming prohibited under Section 330 of the Penal Code, the prohibitions of Section 19858 as it read on January 1, 2013, apply.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

2013 Cal. Legis. Serv. Ch. 760 (S.B. 472) (WEST)

CALIFORNIA 2013 LEGISLATIVE SERVICE

2013 Portion of 2013-2014 Regular Session

Additions are indicated by **Text**; deletions by

**\* \* \***

Vetoes are indicated by ~~Text~~;  
stricken material by **Text**.

CHAPTER 760

S.B. No. 472

GAMBLING—LICENSES AND PERMITS—LIMITED PARTNERSHIPS

AN ACT to amend Sections 19852.2, 19855, and 19858 of the Business and Professions Code, relating to gaming.

[Filed with Secretary of State October 11, 2013.]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 472, Hill. Gaming: licenses.

The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. The act makes any person who willfully violates any of the provisions of the act for which a penalty is not expressly provided guilty of a misdemeanor.

The act requires every person who is required to hold a state license to obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required, except as specified. Existing law requires every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability to file an application within 30 calendar days after receipt of the order.

This bill would instead require the application described above to be filed within 45 calendar days after receipt of an order of the commission.

The act also provides that, if the owner of a gambling enterprise is not a person, the owner is not eligible for a gambling license unless specified persons involved in the enterprise obtain a gambling license. Existing law authorizes the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on the grounds of a racetrack that is owned by a limited partnership that also owns the racetrack.

This bill would instead authorize the commission to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on any portion of, or contiguous to, the grounds upon which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is owned by a limited partnership that also owns or owned the racetrack.

Existing law provides that a person is deemed unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest

GAMBLING—LICENSES AND PERMITS—LIMITED..., 2013 Cal. Legis. Serv....

in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.

This bill would exempt from these provisions a person who is licensed or had an application to be licensed on file with the commission on or before February 1, 2013, has a financial interest in a business or organization engaged in gambling prohibited by state law that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission, and has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horse race meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012, that is directly or indirectly owned by a racetrack limited partnership owner, as defined. The bill would require an exempted person described above, within 3 years of the date the closed business or organization reopens and becomes engaged in any form of prohibited gambling, as specified, to either divest that person's interest in the business or organization, or divest that person's interest in the gambling enterprise or gambling establishment for which the person is licensed or had applied to be licensed by the commission. The bill would also require an exempted person to inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of prohibited gambling, as specified. The bill would also make it unlawful, during the 3-year divestment period, for any cross-promotion or marketing, as defined, to occur between the business or organization that is engaged in any form of prohibited gambling, as specified, and a gambling enterprise or gambling establishment, as described. By creating a new crime, the bill would impose a state-mandated local program. The bill would prohibit, during that 3-year divestment period, any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment from being provided from the gaming revenues of either the business or organization engaged in prohibited forms of gaming. The bill would also provide that if, at the end of the 3-year divestment period, a person has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization that is engaged in the form of prohibited gaming, the exemption would not apply to that person and that person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of prohibited gaming, whether within or without this state, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 19852.2 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 19852.2 >>

19852.2. (a) Notwithstanding Section 19852 or any other provision of law~~\*\*\*~~, and solely for the purpose of the licensure of a card club located on **any portion of, or contiguous to, the grounds \*\*\*upon which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012**, that is owned by a limited partnership that also owns or owned the racetrack, the commission ~~\*\*\*may, at its discretion, \*\*\*~~exempt **all of the following** from the licensing requirements of this chapter~~\*\*\*~~:

(1) The limited partners in a limited partnership that holds interest in a holding company if all of the following criteria are met:

(A) The limited partners of the limited partnership in the aggregate directly hold at least 95 percent of the interest in the holding company.

(B) The limited partner is one of the following:

- (i) An “institutional investor” as defined in subdivision (w) of Section 19805.
  - (ii) An “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code.
  - (iii) An investment company that manages a state university endowment.
- (2) Other limited partners in a limited partnership described in paragraph (1), if the partners do not number more than five and each partner indirectly owns 1 percent or less of the shares of the interest in the holding company.
- (3) A limited partner in a limited partnership that holds in the aggregate less than 5 percent of the interest in a holding company.
- (b) Nothing in this section shall be construed to limit the licensure requirements for a general partner of a limited partnership or a limited partner that is not specifically described in this section.

SEC. 2. Section 19855 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 19855 >>

19855. Except as otherwise provided by statute or regulation, every 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. Every person who, by order of the commission, is required to apply for a gambling license or a finding of suitability shall file the application within **45** calendar days after receipt of the order.

SEC. 3. Section 19858 of the Business and Professions Code is amended to read:

<< CA BUS & PROF § 19858 >>

19858. (a) Except as provided in **subdivisions (b) and (c)**, a person shall be deemed to be unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code, whether within or without this state.

(b) Subdivision (a) **shall** not apply to a publicly traded racing association, a qualified racing association, or any person who is licensed pursuant to subdivision (b) or (c) of Section 19852.

(c) **Subdivision (a) shall not apply to a person who meets all of the following criteria:**

**(1) The person is licensed or had an application to be licensed on file with the commission on or before February 1, 2013.**

**(2) The person has a financial interest in a business or organization engaged in gambling prohibited by Section 330 of the Penal Code that was closed and was not engaged in prohibited gambling at the time the person was either licensed or had filed an application to be licensed with the commission.**

**(3) The person has a financial interest in a gambling establishment that is located on any portion of, or contiguous to, the grounds on which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by the California Horse Racing Board on or before January 1, 2012.**

**(4) The grounds upon which the gambling establishment described in paragraph (3) is located are directly**

or indirectly owned by a racetrack limited partnership owner. For purposes of this paragraph, a “racetrack limited partnership owner” is defined as a limited partnership, or a number of related limited partnerships, that is or are at least 80 percent capitalized by limited partners that are an “institutional investor” as defined in subdivision (w) of Section 19805, an “employee benefit plan” as defined in Section 1002(3) of Title 29 of the United States Code, or an investment company that manages a state university endowment.

(d) Within three years of the date the closed business or organization reopens or becomes engaged in any form of gambling prohibited by Section 330 of the Penal Code, a person described in subdivision (c) shall either divest that person’s interest in the business or organization, or divest that person’s interest in the gambling enterprise or gambling establishment for which the person is licensed or has applied to be licensed by the commission.

(e) A person described in subdivision (c) shall inform the commission within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of gambling prohibited by Section 330 of the Penal Code.

(f) During the three-year divestment period described in subdivision (d), it is unlawful for any cross-promotion or marketing to occur between the business or organization that is engaged in any form of gambling prohibited by Section 330 of the Penal Code and the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c). For purposes of this subdivision, “cross-promotion or marketing” means the offering to any customers of the gambling enterprise or gambling establishment anything of value related to visiting or gambling at the business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

(g) During the three-year divestment period described in subdivision (d), any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment described in paragraph (3) of subdivision (c) shall not be provided from the gaming revenues of either the business or organization engaged in gaming prohibited under Section 330 of the Penal Code.

(h) If, at the end of the three-year divestment period described in subdivision (d), any person described in subdivision (c) has not divested his or her interest in either the gambling enterprise or gambling establishment or the business or organization engaged in any form of gaming prohibited under Section 330 of the Penal Code, the prohibitions of Section 19858 as it read on January 1, 2013, apply.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

BILL ANALYSIS  
SB 472

Page 1

Date of Hearing: August 21, 2013

ASSEMBLY COMMITTEE ON APPROPRIATIONS  
Mike Gatto, Chair  
SB 472 (Hill) - As Amended: August 5, 2013

Policy Committee: Governmental  
Organization Vote: 15 - 0

Urgency: No State Mandated Local Program:  
Yes Reimbursable: No

SUMMARY

This bill creates a three-year licensing exemption for the owners of the card room located at Hollywood Park Racetrack by authorizing the California Gambling Control Commission (GCC) to exempt specified limited partners in limited partnerships from specified licensing requirements.

FISCAL EFFECT

Costs associated with this legislation should be minor and absorbable within existing GCC resources.

COMMENTS

Background and Purpose . The Hollywood Park Racetrack and Card Club is owned by a group of public pension plan investors. Some of those same public pension plans also own a share of the currently closed Sahara Hotel in Las Vegas, which is undergoing capital improvements and remodeling.

Current law exempts the actual pension plans from being licensed as card club owners, provided that the card clubs are located at an "operating" racetrack. However, current law also prevents an entity owning a card club in California from also owning an interest in a gambling facility that operates gaming that is prohibited in California.

The original purchase of the Sahara Hotel by the pension plans was made under the assumption at that time, that leasing out the gaming casino at both the card club at Hollywood Park and the Sahara Hotel would avoid the prohibition referenced above. This assumption was found to be incorrect as it is not allowed under current law.

This bill provides a three-year licensing exemption for the owners of the card club which is intended to allow them time to divest from their Sahara Hotel investments or the card club investments.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916) 319-2081

BILL ANALYSIS

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SENATE RULES COMMITTEE	SB 472
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	
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UNFINISHED BUSINESS

Bill No: SB 472  
Author: Hill (D)  
Amended: 8/26/13  
Vote: 21

SENATE GOVERNMENTAL ORGANIZATION COMMITTEE : 10-0, 4/9/13  
AYES: Wright, Berryhill, Calderon, Cannella, Correa, De León,  
Galgiani, Hernandez, Lieu, Padilla  
NO VOTE RECORDED: Nielsen

SENATE FLOOR : 37-0, 4/11/13  
AYES: Anderson, Beall, Berryhill, Block, Calderon, Cannella,  
Corbett, Correa, De León, DeSaulnier, Emmerson, Fuller,  
Gaines, Galgiani, Hancock, Hernandez, Hill, Hueso, Huff,  
Jackson, Knight, Lara, Leno, Lieu, Liu, Monning, Nielsen,  
Padilla, Pavley, Price, Roth, Steinberg, Walters, Wolk,  
Wright, Wyland, Yee  
NO VOTE RECORDED: Evans, Vacancy, Vacancy

SENATE GOV. ORG. COMM. : 6-0, 9/10/13 (pursuant to Senate Rule  
29.10)  
AYES: Wright, Berryhill, Cannella, De León, Galgiani, Lieu  
NO VOTE RECORDED: Calderon, Correa, Hernandez, Padilla, Vacancy

ASSEMBLY FLOOR : 70-1, 9/4/13 - See last page for vote

SUBJECT : Gaming: licenses

SOURCE : Author

DIGEST : This bill, among other things, creates a three-year  
licensing exemption for the owners of the card room located at  
Hollywood Park Racetrack by authorizing the California Gambling  
Control Commission (CGCC) to exempt specified limited partners  
in limited partnerships from specified licensing requirements.

Assembly Amendments authorize the CGCC to exempt specified  
limited partners in limited partnerships from specified  
licensing requirements related to card clubs located on  
racetrack grounds; provide for additional state gambling license  
exemptions with divestment requirements; and add definitions.

ANALYSIS :

Existing law:

1. Provides, under the Gambling Control Act (Act), for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by CGCC.
2. Provides that a person is deemed unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the persons, has any financial interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.
3. Requires, under the Act, for every person who is required to hold a state license to obtain the license prior to engaging in the activity or occupying the position with respect to which the license is required, except as specified.
4. Requires every person who, by order of CGCC, is required to apply for a gambling license or a finding of suitability to file an application within 30 calendar days after receipt of that order.
5. Provides, under the Act, that if the owner of a gambling enterprise is not a specified person, the owner is not eligible for a gambling license unless specified persons involved in the enterprise obtain a gambling license.
6. Authorizes CGCC to exempt specified limited partners in limited partnerships from the licensing requirements described above solely for the purpose of the licensure of a card club located on the grounds of a racetrack that is owned by a limited partnership that also owns the racetrack.
7. Provides that a person is deemed unsuitable to hold a state gambling license to own a gambling establishment if the person, or any partner, officer, director, or shareholder of the person, has any financial interest in any business or organization that is engaged in a prohibited form of gambling, whether within or without this state, except as specified.
8. Allows a person or entity to hold a state gambling license if they have a financial interest in another business that conducts lawful gambling outside the state that, if conducted within California, would be unlawful, provided that an applicant or licensee may not own more than 1% interest in that business.

This bill ensures the continued operations of the card club located at the Hollywood Park Racetrack. Specifically, this bill:

1. Authorizes the CGCC to exempt specified limited partners in limited partnerships from specified licensing requirements

solely for the purposes of the licensure of a car club located on any portion of the grounds upon which a racetrack is or had been previously located and horse racing meetings were authorized to be conducted by the California Horse Racing Board (CHRB) on or before January 1, 2012, that is owned by a limited partnership that also owns or owned a racetrack.

2. Exempts from specified licensing requirements a person who (a) is licensed or had an application to be licensed on file with CGCC on or before February 1, 2013, (b) has a financial interest in a business or organization engaged in gambling prohibited by state law that was closed and was not engaged in prohibited gambling at a time the person was either licensed or had filed an application to be licensed or had filed an application to be licensed with the CGCC, and (c) has a financial interest in a gambling establishment that is located on any portion the grounds on which a racetrack is or had been previously located and horserace meetings were authorized to be conducted by CHRB on or before January 1, 2012, that is directly or indirectly owned by a racetrack limited partnership owner, as defined.
3. Requires an exempted person, within three years of the date the closed business or organization reopens or becomes engaged in any form of prohibited gambling, as specified, to either divest that person's interest in the business or organization, or divest that person's interest in the gambling enterprise or gambling establishments for which the person is licensed or has applied to be licensed by CGCC.
4. Specifies that during the three-year divestment period it is unlawful for any cross-promotion or marketing to occur between the business or organization that is engaged in any form of gambling, as specified. Defines "cross-promotion or marketing" as offering to any customers of the gambling enterprise or gambling establishment anything of value related to visiting or gambling at the business or organization engaged in any form of gambling, as specified.
5. Prohibits, during the three-year divestment period, any funds used in connection with the capital improvement of the gambling enterprise or gambling establishment from being provided from the gaming revenues of either the business or organization engaged in prohibited forms of gaming.
6. Specifies that, if at the end of the three-year divestment period, any person has not divested his/her interest in either the gambling enterprise or gambling establishment or the business or organization engaged in any form of prohibited gaming, the current prohibition as it read on January 1, 2013, will apply.
7. Requires an exempted person to inform CGCC within 30 days of the date on which a business or organization in which the person has a financial interest begins to engage in any form of prohibited gambling, as specified.

8. Extends from 30 to 45 days the time after receipt of an order by CGCC within which a person must apply for a gambling license or a finding of suitability.

Background

According to information provided by the author's office, the Hollywood Park Racetrack and card club is owned by a group of public pension plan investors. Some of those same public pension plans also own a share of the currently closed Sahara Hotel in Las Vegas, which is undergoing capital improvements and remodeling.

Existing law exempts the actual pension plans from being licensed as card club owners, provided that the card club is located at an "operating" racetrack. However, existing law also prevents an entity owning a card club in California from also owning an interest in a gambling facility that operates gaming which is prohibited in California.

The original purchase of the Sahara Hotel by the pension plans was made under the assumption at that time, that leasing out the gaming casino at both the card club at Hollywood Park and the Sahara Hotel would avoid the prohibition referenced above. This assumption was found to be incorrect as it is not allowed under existing law.

Last year, AB 1290 (Hill) was introduced to address which individuals would need to be licensed at the card club and an exemption for ownership of the Sahara Hotel by the same pension plans. The legislation was not enacted. As a result, the managers of the pension plan funds agreed to be licensed by the CGCC.

Comments

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According to the author's office, this bill only applies to a card club located at a racetrack. Once the Sahara Hotel in Las Vegas, Nevada reopens for business, the owners of the Hollywood Park Casino will have three years to divest ownership of either the card club or the Sahara Hotel. The permanent legislative exemption proposed last year is no longer being sought, but simply a reasonable divestment period of three years to divest of the card club or the hotel.

The author further contends that this bill will address a technical issue to clarify that the pension plans themselves do not have to be licensed at a card club at a racetrack, as long as the managers of their funds are licensed, which is now occurring. However, existing law requires the card club to be located at an operating racetrack. Since this is the Racetrack's last year of operating live horse racing, the owners of the Hollywood Park Casino have been advised that there is a need to make a technical change to this section to allow for the same section to apply after horseracing ceases.

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FISCAL EFFECT : Appropriation: No Fiscal Com.: No Local:  
Yes

According to the Assembly Appropriations Committee, costs are minor and absorbable within existing CGCC resources.

SUPPORT : (Verified 9/11/13)

City of Inglewood Mayor, James T. Butts, Jr.  
Communities for California Cardrooms  
Hollywood Park Racetrack  
UNITE HERE!

OPPOSITION : (Verified 9/10/13)

Artichoke Joe's Casino  
Bicycle Casino  
Cities of Commerce and Hawaiian Gardens  
Commerce Casino  
Hawaiian Gardens Casino  
Hustler Casino  
San Manuel Band of Mission Indians  
Santa Ynez Band of Chumash Indians  
Tribal Alliance of Sovereign Indian Nations

ARGUMENTS IN SUPPORT : According to the Hollywood Park Racetrack, many of the same public pension plans which own the Hollywood Park card club also purchased, in 2007, the Sahara Hotel in Las Vegas. At the time of the purchase, the card club at Hollywood Park and the casino in Las Vegas were operated by lessees, on a flat rent basis, with the pension plans having no stake in the actual outcome of the gaming. Hollywood Park Racetrack further states that it was believed at the time, that such a structure would comply with existing law. Unfortunately, that is not the policy of the state, and as a result, it will be necessary for the pension plans to divest ownership of either the card club or the casino once the Sahara Hotel is reopened for business. This bill simply allows for a reasonable three-year divestment process, once the Sahara Hotel reopens. It also prohibits any "cross-promotion" marketing between the card club and the Sahara Hotel during the three-year divestment period.

ARGUMENTS IN OPPOSITION : Artichoke Joe's Casino argues that it is inappropriate to create exemptions in law for one particular cardroom or a small minority of cardrooms. For similar reasons, Artichoke Joe's opposed SB 356 (Yee, 2013-14) which allows cardroom owners to also have an ownership interest in foreign based casinos. They state, "It would be more appropriate for the Legislature to debate cardroom ownership laws in their entirety, rather than considering piece-mill legislation that creates exemptions in law for a limited number of entities."

Opponents contend that this bill will provide a special exemption from licensing requirements only to Stockbridge and Hollywood Park Casino Company (HPCC) and that these licensing restrictions will continue to apply to the approximately 90 other card rooms that are operating in California. They write,

"If this bill is passed then every other card room in California will be disadvantaged by not having access to the capital available to Stockbridge and HPCC."

ASSEMBLY FLOOR : 70-1, 9/4/13

AYES: Achadjian, Alejo, Allen, Ammiano, Atkins, Bigelow, Bloom, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chávez, Chesbro, Conway, Cooley, Dahle, Daly, Dickinson, Eggman, Fong, Fox, Frazier, Beth Gaines, Gomez, Gonzalez, Gordon, Gorell, Gray, Grove, Hagman, Hall, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Mitchell, Morrell, Mullin, Muratsuchi, Nazarian, Nestande, Olsen, Pan, Patterson, Perea, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Salas, Stone, Ting, Wagner, Waldron, Weber, Wieckowski, Wilk, Williams, John A. Pérez

NOES: Gatto

NO VOTE RECORDED: Donnelly, Garcia, Harkey, Mansoor, Melendez, Skinner, Yamada, Vacancy, Vacancy

MW:ej 9/11/13 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

# EXHIBIT D



OFFICE OF THE GOVERNOR

SEP 30 2016

To the Members of the California State Assembly:

I am returning Assembly Bill 2218 without my signature.

This bill provides the owners of the Hollywood Park Casino three additional years to divest of its interest in the card club or the SLS Casino in Nevada.

The City of Champions Revitalization Project will continue to bring enormous economic benefits to Inglewood regardless of whether the cardroom is sold next year or in 2020. If our gambling laws are based on outdated policies or assumptions, we should thoughtfully examine those laws and amend them so that all participants in the industry receive the same benefits and opportunities.

Sincerely,

  
Edmund G. Brown Jr.



# EXHIBIT E

California Bill Analysis, S.B. 289 Sen., 4/10/2007, California Bill Analysis, S.B. 289...

CA B. An., S.B. 289 Sen., 4/10/2007

California Bill Analysis, Senate Committee, 2007-2008 Regular Session, Senate Bill  
289

April 10, 2007  
California Senate  
2007-2008 Regular Session

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

Senator Dean Florez, Chair

2007-2008 Regular Session

Staff Analysis

SB 289 Author: Vincent

As Introduced: February 15, 2007

Hearing Date: April 10, 2007

Consultant: Steve Hardy

SUBJECT

Gambling Control Act

DESCRIPTION

1. SB 289 would state the intent of the California Legislature to provide for the California Gambling Control Commission to permit on a case by case basis, an applicant or holder of a state gambling license, to have a financial interest not exceeding 1% in another lawful

California Bill Analysis, S.B. 289 Sen., 4/10/2007, California Bill Analysis, S.B. 289...

gambling business either inside or outside of California as specified.  
2. This bill contains an “Urgency” clause to take effect immediately.

#### PRIOR/RELATED LEGISLATION

SB 175 (Vincent) 2005-06 Session. Similar to this measure. (Held in Assembly Appropriations Committee)

SB 1524 (Vincent) 2003-04 Session. Similar to this measure. (Held in Assembly Appropriations Committee)

SB 51 (Vincent) 2001-02 Session. Similar to this measure. (Vetoed by Governor)

SB 1838 (Burton) 1999-2000 Session. Similar to this measure. (Vetoed by Governor)

AB 572 (Firebaugh) 2001-02 Session. Would have provided for the ownership of gambling establishments by publicly traded companies and by companies that have financial interests in out-of-state gambling establishments that offer gaming that is illegal in California. (Held in Senate Appropriations Committee)

#### EXISTING LAW

Existing law under the Gambling Control Act provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the enforcement of those activities by the Division of Gambling Control within the Department of Justice. (SB 8 Lockyer, Chapter 867, Statutes of 1997)

Existing law also provides that a person is deemed unsuitable to hold a state gambling license, a requirement for owning a gambling establishment, if that person or any partner, officer, director, or shareholder of that person, has a financial interest in a business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

Section 330 of the Penal Code prohibits the play of any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, for money, checks, credit, or other representative of value.

Existing law under Article IV, Section 19, subdivision (e) of the California Constitution, prohibits casinos of the type currently operating in Nevada and New Jersey with the exception of those gambling establishments located on Indian tribal trust lands as specified.

#### BACKGROUND

California Bill Analysis, S.B. 289 Sen., 4/10/2007, California Bill Analysis, S.B. 289...

The author is carrying this bill on behalf of a group of card clubs in southern California. The sponsor reports that existing law would disqualify an individual from owning a license as a gambling establishment that conducted gambling which would be in violation of Penal Code Section 330 regardless of whether the gambling was conducted within California boundaries or outside California boundaries, even if legal.

Thus, under existing law an individual who is a gambling establishment owner in California, may not own shares of stock in MGM Mirage, Starwood, Stations Casinos, or any other company which is involved in gambling, without being in violation of Penal Code Section 330 if conducted within the State of California.

The sponsor points to developments that have occurred in California during recent years relating to Indian casinos that make this provision of law outdated. The sponsor believes that it is ironic that companies that are involved in gambling in Las Vegas may invest money and have a business relationship with California tribal casinos, while California state law precludes those that are licensed gambling establishment owners in this state, from having any type of financial relationship with those who are owners and/or operators of tribal casinos in this state.

SB 289 would not permit specified publicly traded corporations in this state to hold a gambling license in California. The measure simply will allow an individual holding a California gambling license, to also have a financial relationship with a company or individual doing business either inside or outside California as specified.

As a result of the 2001 veto of SB 51, the Little Hoover Commission published a report titled Card Clubs in California: A review of Ownership Limitations. The Commission was asked to review ownership limitations and the reasons for these restrictions. The Commission concluded that limitations originally in place to protect the public, are no longer needed.

Those in support of this measure believe that there should be no prohibition against using your familiarity with an industry in making investments in that industry due to an arbitrary provision of state law. The regulation of the gambling industry under the Gambling Control Act will prevent any abuse of this activity, and will also prevent it from becoming a vehicle for avoiding the law.

The California Coalition Against Gambling Expansion (CAGE) states that California has seen an historic explosion in all forms of gambling during the past decade, and also the partnership of Nevada gambling corporations with Tribal casinos, bringing into our state financial interests once prohibited by state law, thereby encouraging the continued slide toward unfettered gambling in California.

SUPPORT: Commerce Club  
Hollywood Park Casino  
Crystal Park Casino

California Bill Analysis, S.B. 289 Sen., 4/10/2007, California Bill Analysis, S.B. 289...

Normandie Casino  
Bicycle Club  
Hawaiian Gardens Casino  
Oceans Eleven Casino  
Hustler Club

OPPOSE: California Coalition Against Gambling Expansion

FISCAL COMMITTEE: Senate Appropriations

SMH:bkh

CA B. An., S.B. 289 Sen., 4/10/2007

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California Bill Analysis, S.B. 289 Assem., 6/20/2007, California Bill Analysis, S.B. 289...

CA B. An., S.B. 289 Assem., 6/20/2007

California Bill Analysis, Assembly Committee, 2007-2008 Regular Session, Senate  
Bill 289

June 20, 2007  
California Assembly  
2007-2008 Regular Session

Date of Hearing: June 20, 2007

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Alberto Torrico, Chair

SB 289 (Vincent) - As Introduced: February 15, 2007

SENATE VOTE : 28-0

SUBJECT : Gambling Control Act: licenses.

SUMMARY : Authorizes the California Gambling Control Commission (Commission) to deem a person suitable to hold a state gambling license even if the person has a specified financial interest in a business that conducts gambling activities outside the state that would violate California law if conducted within the state. Takes effect immediately as an urgency statute. Specifically, this bill :

- 1) States the intent of the Legislature to provide for the Commission to permit, on a case-by-case basis, an applicant or holder of a state gambling license to have a financial interest not exceeding one percent in another lawful gambling business either inside or outside of California, as specified.
- 2) Authorizes the Commission to deem a person suitable to hold a state gambling license even if the person has a financial interest in a business that conducts gambling activities outside the state, which, if conducted within California would be illegal, as long as: (1) the business' gambling activities are legal outside of California, (2) the person's direct or indirect financial interest in the out-of-state gambling business does not exceed one percent of the business, and (3) the person's interest in the out-of-state gambling business does not give the person control

California Bill Analysis, S.B. 289 Assem., 6/20/2007, California Bill Analysis, S.B. 289...

of that business.

3)Takes effect immediately as an urgency statute.

EXISTING LAW :

1)Provides, under the Gambling Control Act, for the licensure and regulation of various legalized gambling activities and establishments by the Commission and the enforcement of those activities by the Division of Gambling Control (Division) within the Department of Justice.

2)Provides that a person is deemed unsuitable to hold a state gambling license, a requirement for owning a gambling establishment, if that person or any partner, officer, director, or shareholder of that person, has a financial interest in a business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

3)Prohibits, under Section 330 of the Penal Code, the play of any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, for money, checks, credit, or other representative of value.

4)Prohibits, under Article IV, Section 19, subdivision (e) of the California Constitution, casinos of the type currently operating in Nevada and New Jersey with the exception of those gambling establishments located on Indian lands, as specified.

FISCAL EFFECT : Unknown. Senate Appropriations Committee passed this measure pursuant to Senate Rule 28.8.

COMMENTS : Purpose of the bill : According to the author's office, this bill is being carried on behalf of a group of card clubs in southern California. The author's office reports that existing law would disqualify an individual from owning a state gambling license if that individual has any interest in a gambling establishment that conducts gambling which would be in violation of Penal Code Section 330, regardless of whether the gambling was conducted within California boundaries or outside California boundaries, even if legal. Thus, under existing law, an individual who owns a gambling establishment in California may not own shares of stock in MGM Mirage, Starwood, Stations Casinos, or any other company which is involved in gambling without being in violation of Penal Code Section 330 if conducted within the State of California.

The author's office points to developments that have occurred in California during recent years relating to Indian casinos that make this provision of law outdated. The author believes that it is ironic that companies that are involved in gambling in Las Vegas may invest money and have a business relationship with California tribal casinos, while California state law precludes those that are licensed gambling establishment owners in this state, from having any type of financial relationship with those who are owners and/or operators of tribal casinos in this state.

This bill would not permit specified publicly traded corporations in this state to hold a gambling

California Bill Analysis, S.B. 289 Assem., 6/20/2007, California Bill Analysis, S.B. 289...

license in California. The bill will allow an individual holding a California gambling license, to also have a financial relationship with a company or individual doing business either inside or outside California, as specified.

As a result of the 2001 veto of a similar bill, SB 51, the Little Hoover Commission (LHC) published a report titled Card Clubs in California: A review of Ownership Limitations . LHC was asked to review ownership limitations and the reasons for these restrictions. LHC concluded that limitations originally in place to protect the public, are no longer needed.

Policy Considerations : Supporters believe that there should be no prohibition against using your familiarity with an industry in making investments in that industry due to an arbitrary provision of state law. The regulation of the gambling industry under the Gambling Control Act will prevent any abuse of this activity, and will also prevent it from becoming a vehicle for avoiding the law.

In opposition, the California Coalition Against Gambling Expansion (CAGE) states that California has seen an historic explosion in all forms of gambling during the past decade, and also the partnership of Nevada gambling corporations with Tribal casinos, bringing into our state financial interests once prohibited by state law, thereby encouraging the continued slide toward unfettered gambling in California.

Related Legislation : SB 175 (Vincent), 2005-2006 Legislative Session. Similar to this measure. (Held in Assembly Appropriations Committee.)

SB 1524 (Vincent), 2003-2004 Legislative Session. Similar to this measure. (Held in Assembly Appropriations Committee.)

SB 51 (Vincent), 2001-2002 Session. Similar to this measure. (Vetoed by Governor.)

SB 1838 (Burton), 1999-2000 Session. Similar to this measure. (Vetoed by Governor.)

AB 572 (Firebaugh), 2001-02 Session. Would have provided for the ownership of gambling establishments by publicly traded companies and by companies that have financial interests in out-of-state gambling establishments that offer gaming that is illegal in California. (Held in Senate Appropriations Committee.)

#### REGISTERED SUPPORT / OPPOSITION :

##### Support

Commerce Club

Hollywood Park Casino

California Bill Analysis, S.B. 289 Assem., 6/20/2007, California Bill Analysis, S.B. 289...

Crystal Park Casino

Normandie Casino

Bicycle Club

Hawaiian Gardens Casino

Oceans Eleven Casino

Hustler Club

Opposition

California Coalition Against Gambling Expansion

Analysis Prepared by : Chris Lindstrom / G. O. / (916) 319-2531

CA B. An., S.B. 289 Assem., 6/20/2007

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California Bill Analysis, S.B. 289 Assem., 7/11/2007, California Bill Analysis, S.B. 289...

CA B. An., S.B. 289 Assem., 7/11/2007

California Bill Analysis, Assembly Committee, 2007-2008 Regular Session, Senate  
Bill 289

July 11, 2007  
California Assembly  
2007-2008 Regular Session

Date of Hearing: July 11, 2007

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Mark Leno, Chair

SB 289 (Vincent) - As Introduced: February 15, 2007

Policy Committee: Governmental

Organization Vote: 14 - 0

Urgency: Yes State Mandated Local Program:

No Reimbursable:

**SUMMARY**

**This bill removes the prohibition that prevents a card club owner from having a financial interest**

California Bill Analysis, S.B. 289 Assem., 7/11/2007, California Bill Analysis, S.B. 289...

in Las Vegas style gaming within or outside of California, as long as that interest does not exceed one percent.

### FISCAL EFFECT

Costs of up to \$75,000 annually for the Gambling Control Commission for the increased administrative licensing workload associated with this legislation. The costs to the Commission may be offset by license fee revenue.

### COMMENTS

1)Rationale . According to the author's office, this measure is intended to allow an individual holding a California gambling license to have a financial interest in other forms of gambling that are prohibited in California (such as Las Vegas style games). Therefore, owners of licensed card clubs in this state will no longer be precluded from having a financial relationship with gambling establishments.

The author's office further cites that as a result of the 2001 veto of SB 51 [see comment 4(d)], the Little Hoover Commission (LHC) published a report titled, Card Clubs in California: A Review of Ownership Limitations. The LHC was asked to review ownership limitations and the reasons for these restrictions. The LHC concluded that limitations originally in place to protect the public are no longer needed.

2)Background . SB 8, (Lockyer), Chapter 867, also known as the Gambling Control Act of 1997, established the California Gambling Control Commission and grants it jurisdiction over the operation and ownership of card clubs. SB 8 also created the Division of Gambling Control within the Department of Justice to investigate and enforce controlled gaming activities in the state.

3)Ownership Restrictions . The statutes governing card room ownership were created when casino-style gambling was associated with organized crime. Under current law, anyone who is involved in gambling as defined in Penal Code section 330, or Las Vegas style gambling, is denied card club licensure. State law also effectively prevents publicly-traded companies from being licensed by requiring every owner, director, and key employee of a gambling operation to be licensed.

#### 4)Related Legislation

a) SB 175 (Vincent) in 2006, was substantially similar to this bill and was held by this committee.

b) SB 1524 (Vincent) in 2004, was similar to this bill and was held in this committee.

c) SB 1838 (Burton) in 2000 would also have allowed an exception to the prohibition against holding a state gambling license if a person has any financial interest in a business that is engaged in any form of Las Vegas style gambling. SB 1838 was vetoed due to a lack of public review. Governor Davis stated that AB 1838 was amended too late in the session to allow "appropriate public review and comment."

d) SB 51 (Vincent) in 2001 was similar to SB 1838 and was vetoed. Governor Davis directed the Little Hoover Commission to analyze these issues and report back.

California Bill Analysis, S.B. 289 Assem., 7/11/2007, California Bill Analysis, S.B. 289...

As a result of the 2001 veto of SB 51, the Little Hoover Commission published a report titled, Card Clubs in California: A review of Ownership Limitations. The Commission was asked to review ownership limitations and the reasons for these restrictions. The Commission concluded that limitations originally in place to protect the public, are no longer needed.

Analysis Prepared by : Julie Salley-Gray / APPR. / (916) 319-2081

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California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

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California Bill Analysis, Senate Floor, 2007-2008 Regular Session, Senate Bill 289

2007  
California Senate  
2007-2008 Regular Session

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

THIRD READING

Bill No: SB 289

Author: Vincent (D)

Amended: As introduced

Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE : 7-0, 4/10/07

AYES: Florez, Denham, Maldonado, Vincent, Wiggins, Wyland, Yee

NO VOTE RECORDED: Battin, Negrete McLeod

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SUBJECT : Gambling Control Act: licenses

SOURCE : Author

DIGEST : This bill authorizes the California Gambling Control Commission to deem a person suitable to hold a state gambling license even if the person has a specified financial interest in a business that conducts gambling activities outside the state that would violate California law if conducted within the state.

California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

ANALYSIS : Existing law under the Gambling Control Act provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the enforcement of those activities by the Division of Gambling Control within the Department of Justice. (SB 8, Lockyer, Chapter 867, Statutes of 1997)

Existing law also provides that a person is deemed unsuitable to hold a state gambling license, a requirement for owning a gambling establishment, if that person or any partner, officer, director, or shareholder of that person, has a financial interest in a business or organization engaged in any form of gambling prohibited by Section 330 of the Penal Code.

Section 330 of the Penal Code prohibits the play of any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan tan, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, for money, checks, credit, or other representative of value.

Existing law under Article IV, Section 19, subdivision (e) of the California Constitution, prohibits casinos of the type currently operating in Nevada and New Jersey with the exception of those gambling establishments located on Indian tribal trust lands as specified.

This bill:

- 1.States the intent of the Legislature to provide for the California Gambling Control Commission to permit on a case by case basis, an applicant or holder of a state gambling license, to have a financial interest not exceeding one percent in another lawful gambling business either inside or outside of California as specified.
- 2.Authorizes the Commission to deem a person suitable to hold a state gambling license even if the person has a financial interest in a business that conducts gambling activities outside the state, which, if conducted within California would be illegal, as long as: (1) the business' gambling activities are legal outside of California, (2) the person's direct or indirect financial interest in the out-of-state gambling business does not exceed one percent of the business, and (3) the person's interest in the out-of-state gambling business does not give the person control of that business.

### Background

According to the author's office, this bill is being carried on behalf of a group of card clubs in southern California. The author's office reports that existing law would disqualify an individual from owning a license as a gambling establishment that conducted gambling which would be in violation of Penal Code Section 330 regardless of whether the gambling was conducted within California boundaries or outside California boundaries, even if legal.

Thus, under existing law an individual who is a gambling establishment owner in California,

California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

may not own shares of stock in MGM Mirage, Starwood, Stations Casinos, or any other company which is involved in gambling, without being in violation of Penal Code Section 330 if conducted within the State of California.

The author's office points to developments that have occurred in California during recent years relating to Indian casinos that make this provision of law outdated. The author believes that it is ironic that companies that are involved in gambling in Las Vegas may invest money and have a business relationship with California tribal casinos, while California state law precludes those that are licensed gambling establishment owners in this state, from having any type of financial relationship with those who are owners and/or operators of tribal casinos in this state.

This bill would not permit specified publicly traded corporations in this state to hold a gambling license in California. The bill will allow an individual holding a California gambling license, to also have a financial relationship with a company or individual doing business either inside or outside California as specified.

As a result of the 2001 veto of a similar bill, SB 51, the Little Hoover Commission published a report titled Card Clubs in California: A review of Ownership Limitations . The Commission was asked to review ownership limitations and the reasons for these restrictions. The Commission concluded that limitations originally in place to protect the public, are no longer needed.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT : (Verified 4/27/07)

Commerce Club

Hollywood Park Casino

Crystal Park Casino

Normandie Casino

Bicycle Club

Hawaiian Gardens Casino

Oceans Eleven Casino

Hustler Club

OPPOSITION : (Verified 4/27/07)

California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

## California Coalition Against Gambling Expansion

ARGUMENTS IN SUPPORT : Supporters believe that there should be no prohibition against using your familiarity with an industry in making investments in that industry due to an arbitrary provision of state law. The regulation of the gambling industry under the Gambling Control Act will prevent any abuse of this activity, and will also prevent it from becoming a vehicle for avoiding the law.

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TSM:nl 4/24/07 Senate Floor Analyses  
SUPPORT/OPPOSITION: SEE ABOVE

CA B. An., S.B. 289 Sen., 2007

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California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

CA B. An., S.B. 289 Sen., 2007

California Bill Analysis, Senate Floor, 2007-2008 Regular Session, Senate Bill 289

2007  
California Senate  
2007-2008 Regular Session

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

THIRD READING

Bill No: SB 289

Author: Vincent (D)

Amended: As introduced

Vote: 27 - Urgency

SENATE GOVERNMENTAL ORG. COMMITTEE : 7-0, 4/10/07

AYES: Florez, Denham, Maldonado, Vincent, Wiggins, Wyland, Yee

NO VOTE RECORDED: Battin, Negrete McLeod

SENATE APPROPRIATIONS COMMITTEE : Senate Rule 28.8

SUBJECT : Gambling Control Act: licenses

SOURCE : Author

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California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

ANALYSIS : Existing law under the Gambling Control Act provides for the licensure and regulation of various legalized gambling activities and establishments by the California Gambling Control Commission and the enforcement of those activities by the Division of Gambling Control within the Department of Justice. (SB 8, Lockyer, Chapter 867, Statutes of 1997)

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Existing law under Article IV, Section 19, subdivision (e) of the California Constitution, prohibits casinos of the type currently operating in Nevada and New Jersey with the exception of those gambling establishments located on Indian tribal trust lands as specified.

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1.States the intent of the Legislature to provide for the California Gambling Control Commission to permit on a case by case basis, an applicant or holder of a state gambling license, to have a financial interest not exceeding one percent in another lawful gambling business either inside or outside of California as specified.

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California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

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As a result of the 2001 veto of a similar bill, SB 51, the Little Hoover Commission published a report titled Card Clubs in California: A review of Ownership Limitations . The Commission was asked to review ownership limitations and the reasons for these restrictions. The Commission concluded that limitations originally in place to protect the public, are no longer needed.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT : (Verified 4/27/07)

Commerce Club

Hollywood Park Casino

Crystal Park Casino

Normandie Casino

Bicycle Club

Hawaiian Gardens Casino

Oceans Eleven Casino

Hustler Club

OPPOSITION : (Verified 4/27/07)

California Bill Analysis, S.B. 289 Sen., 2007, California Bill Analysis, S.B. 289 Sen., 2007

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### California Coalition Against Gambling Expansion

ARGUMENTS IN SUPPORT : Supporters believe that there should be no prohibition against using your familiarity with an industry in making investments in that industry due to an arbitrary provision of state law. The regulation of the gambling industry under the Gambling Control Act will prevent any abuse of this activity, and will also prevent it from becoming a vehicle for avoiding the law.

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TSM:nl 4/24/07 Senate Floor Analyses  
SUPPORT/OPPOSITION: SEE ABOVE

CA B. An., S.B. 289 Sen., 2007

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California Senate Bill History, 2007-2008 S.B. 289, California Senate Bill History,...

CA S. B. Hist., 2007-2008 S.B. 289

California Bill History, 2007-2008 Regular Session, Senate Bill 289

2007-2008  
California Senate  
2007-2008 Regular Session

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 289

AUTHOR : Vincent

TOPIC : Gambling Control Act: licenses.

TYPE OF BILL :

Inactive  
Urgency  
Non-Appropriations  
2/3 Vote Required  
Non-State-Mandated Local Program  
Fiscal  
Non-Tax Levy

BILL HISTORY

2007

Oct. 5 Chaptered by Secretary of State. Chapter 294, Statutes of 2007.

Oct. 5 Approved by Governor.

Sept. 6 Enrolled. To Governor at 4 p.m.

Aug. 31 In Senate. To enrollment.

Aug. 30 Read third time. Urgency clause adopted. Passed. (Ayes 64. Noes 2. Page 2776.) To

California Senate Bill History, 2007-2008 S.B. 289, California Senate Bill History,...

Senate.

July 16 Read second time. To third reading.

July 12 From committee: Do pass. (Ayes 16. Noes 0.)

June 21 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 14. Noes 0.)  
Re-referred to Com. on APPR.

May 17 To Com. on G.O.

May 7 In Assembly. Read first time. Held at Desk.

May 7 Read third time. Urgency clause adopted. Passed. (Ayes 28. Noes 0. Page 869.) To  
Assembly.

Apr. 24 Read second time. To third reading.

Apr. 23 From committee: Be placed on second reading file pursuant to Senate Rule 28.8.

Apr. 12 From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 7. Noes 0.  
Page 540.) Re-referred to Com. on APPR. Set for hearing April 23.

Mar. 14 Set for hearing April 10.

Feb. 22 To Com. on G.O.

Feb. 16 From print. May be acted upon on or after March 18.

Feb. 15 Introduced. Read first time. To Com. on RLS. for assignment. To print.

CA S. B. Hist., 2007-2008 S.B. 289

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# EXHIBIT F



STATE OF CALIFORNIA

**GAMBLING CONTROL COMMISSION**

2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231

(916) 263-0700 Phone  
(916) 263-0499 Fax  
www.cgcc.ca.gov

Edmund G. Brown, Jr., Governor

RICHARD J. LOPES, CHAIRMAN  
TIFFANY E. CONKLIN  
LAUREN HAMMOND  
RICHARD SCHUETZ

June 13, 2014

VIA CERTIFIED MAIL

Mr. Haig T Kelegian, Jr  
8 Via Coralle  
Newport Coast, CA 92657

Re: Decision and Order (Case No. BGC-HQ2011-00007AL & OAH No. 201204332)

Dear Mr. Kelegian,

On June 12, 2014, the California Gambling Control Commission (Commission) deliberated and approved the Administrative Law Judge's Proposed Decision (Decision) in the above referenced case. In essence this Decision means that effective July 14, 2014, your Renewal State Gambling License (GEOW-003104) for endorsement on the State Gambling License of Crystal Casino and Hotel (GEGE-001282) has been approved and fines are due and payable to the Bureau of Gambling Control. A new endorsement for Crystal Casino and Hotel will be mailed after July 14, 2014. A copy of the Decision is attached for your reference.

If you have any questions or concerns, please do not hesitate to contact Katherine Ellis at (916) 263-0700.

Sincerely,

A handwritten signature in black ink that reads "Tina M. Littleton".

TINA M. LITTLETON  
Executive Director

Enclosure

cc: Stacey Luna-Baxter, Assistant Chief, Bureau of Gambling Control  
Frances Asuncion, DOJA II, Bureau of Gambling Control  
Katherine Ellis, Deputy Director of Licensing, California Gambling Control Commission

BEFORE THE  
GAMBLING CONTROL COMMISSION  
STATE OF CALIFORNIA

In the Matter of the Statement of  
Issues Against:

Haig Kelegian, Jr., shareholder,  
Crystal Casino & Hotel

Respondent.

OAH No. 201204332

DECISION AND ORDER OF THE COMMISSION:

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the State of California, Gambling Control Commission as its Decision in the above-entitled matter.

This Decision shall become effective on July 14, 2014.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_  
Richard J. Lopes, Chairman

Dated: June 12, 2014

Signature: Tiffany E. Conklin  
Tiffany E. Conklin, Commissioner

Dated: June 12, 2014

Signature: Lauren Hammond  
Lauren Hammond, Commissioner

Dated: 6/12/2014

Signature: Richard Schuetz  
Richard Schuetz, Commissioner

**BEFORE THE  
CALIFORNIA GAMBLING COMMISSION  
STATE OF CALIFORNIA**

**In the Matter of the  
Statement of Issues Against:**

**HAIG KELEGIAN, JR., shareholder  
CRYSTAL CASINO & HOTEL,**

**License No. GEOW-003104,**

**Respondent.**

**Case No. BGC-HQ2011-00007AL**

**OAH No. 2012040332**

**PROPOSED DECISION**

This matter, consolidated for hearing with case BGC-HQ2011-00001, Office of Administrative Hearings case number 2012040331, involving the same respondent and another property, came regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on March 26, 2014, in Los Angeles, California.

Ronald L. Diedrich, Deputy Attorney General, represented Complainant Wayne J. Quint, Jr., Chief, Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Craig Renetzky, Attorney at Law, represented Haig Kelegian, Jr. (Respondent), shareholder in the Crystal Casino & Hotel (Crystal Casino) and partner in the Ocean's Eleven Casino (Ocean's Eleven).

Complainant denied Respondent's applications to renew his endorsements on the licenses held by Crystal Casino and Ocean's Eleven on the basis that Respondent had a partial ownership in an out-of-state gaming establishment. With the exception of the Fifth and Sixth Causes for Denial, Respondent stipulated to the underlying allegations and to the violations of law contained in the Statements of Issue, and presented evidence in mitigation and rehabilitation.

Oral and documentary evidence, and evidence by written stipulation, was received at the hearing and the matter was submitted for decision.

### FACTUAL FINDINGS

1. Complainant filed the Statement of Issues on March 15, 2012, in his official capacity.

2. Crystal Casino is located at 123 East Artesia Boulevard, Compton, California. It is owned by Celebrity Casinos, Inc. Respondent is a shareholder and corporate officer of Celebrity Casinos, Inc. and, is required to be licensed pursuant to Business and Professions Code<sup>1</sup> sections 19851 and 19852.

3. On March 30, 2011, Respondent submitted an Application for a State Gambling License with the Commission to renew his endorsement, license number GEOW-003104, on the license for Crystal Casino, license number GECE-001282. The application was denied at the Commission's meeting of October 27, 2011, and Respondent verbally requested a hearing on his renewal application. The license expired on October 31, 2011. Respondent is allowed by law to continue to operate under his expired license pending the outcome of this matter.

4. On June 22, 2006, pursuant to a Stipulated Settlement in Lieu of Accusation, in the case of *In the Matter of Haig Kelegian, Jr., Shareholder in Ocean's 11, Inc.*, CGCC Case Number 2006-3, Respondent consented to pay a fine of \$2,500 for having a financial interest in an out-of-state business that was engaged in house banking, a form of gambling prohibited by Penal Code section 330. In that case, Respondent held a financial interest in Celebrity Casinos LLC, doing business as Marilyn's On Monroe, a cardroom located in Spokane, Washington, that provided house-banked games, for which he had been granted a Washington State gambling license. The cardroom closed prior to December 2005.

5. Respondent has been involved in the gaming industry since 1997, when he acquired an interest in Ocean's Eleven. He acquired an ownership interest in Crystal Casino in 2006, and has been involved in every aspect of the business since then. He became Crystal Casino's chief financial officer in 2006 and its president in 2012. Respondent also has experience in the insurance business, but has not been trained as an attorney.

6. In 2010, Respondent acquired real property in a bankruptcy sale in Seattle, Washington. The property had a cardroom on it, and he decided to let his wife operate it as a casino. Respondent made the decision in order to provide for his wife in the event something happened to him since she had no interest in his other businesses. Respondent and his wife formed Kelco Gaming, LLC, doing business as Skyway Casino and Bowl (Kelco). He kept his interest in Kelco to one percent to comply with California gaming law. He also lent Kelco \$750,000.

---

<sup>1</sup> Unless otherwise stated, all further references are to the Business and Professions Code.

7. Kelco applied for a gaming license to operate a casino on the property. Respondent had no direct involvement in any of the activities of the cardroom being developed, except for overseeing construction work on the building. Respondent's wife ran the day to day operations of the venture, with the assistance of Scott Walker, the casino manager and a person with experience in running gaming and food establishments in Washington. She named the business Lucky Dragonz Casino – Skyway (Lucky Dragonz). The casino opened in April 2011, and was closed about one month later.

8. Respondent was aware that he could not own more than one percent in any out-of-state gaming entity. As set forth in factual finding number 4, Respondent had been previously cited for having an ownership interest in an out-of-state gaming corporation, and he wanted to make sure there would be no problems with the Commission before moving forward with the Skyway project. He consulted his brother, Mark Kelegian (Kelegian), an attorney licensed to practice law in California and a person familiar with gaming laws in the State. Kelegian advised Respondent that so long as he did not own more than one percent of the Washington business he would be in compliance with California law.

9. a. Respondent also sought the advice of Elijah Zuniga (Zuniga), a gaming consultant and former Bureau employee. Zuniga reviewed the details of the proposed plan and told Respondent that there should not be a problem in California as long as he did not own more than one percent of the Washington casino. Zuniga suggested, out of an abundance of caution, that Respondent inform the Bureau about his plans.

b. Zuniga described Respondent as a reputable businessman, a person who wants to do everything right and who is not one to push the outer limits of what is legally permissible.

10. Respondent informed the Bureau of his plan to obtain a gaming license for the Lucky Dragonz. He sent a letter to the Bureau dated December 2, 2010, stating: "Please accept this letter as a courtesy to the [Bureau] informing you of my intention to apply for a one percent (1%) ownership (keeping within the requirements of the Gambling Control Act) in a licensed card room located in the State of Washington. . . ." (Exh. 14.)

11. As he conceded in his testimony, Kelegian provided incorrect advice to Respondent due to his lack of familiarity with community property law or the impact it would have on Respondent's interest in Kelco. By virtue of his interest in his wife's share of the business, Respondent's share of the business exceeded one percent.

12. a. At all times relevant, Lucky Dragonz was a gambling establishment that provided house-banked games in Seattle, Washington, which if located in California would have been operating in violation of Penal Code section 330.

b. At all times relevant, Lucky Dragonz also maintained and operated punchboard/pull-tab devices, commonly known as slot machines, which if operated in California would violate Penal Code sections 330, 330b, and 330c.

13. Respondent, as coowner of Kelco, indirectly had more than one percent financial/ownership interest in Lucky Dragonz at all relevant times.

14. Respondent, as an indirect owner, managing owner, and source of funding for Kelco, had control of Lucky Dragonz at all relevant times.

15. Respondent denied having any intent to violate California gaming laws, citing his due diligence efforts, including seeking and following the advice of counsel and of Zuniga. He was also open about his ownership interest in the two California casinos in his discussions with State of Washington licensing authorities, who appeared to be in contact with the Bureau.

16. It was not established, as alleged in the Fifth and Sixth Causes for Denial, that Respondent failed to fully disclose to the Bureau that he had engaged in or attempted to engage in out-of-state gambling activities that were unlawful in California.

17. When notified that his ownership interest in the Lucky Dragonz exceeded one percent, Respondent promptly divested himself of all interest in the Washington business.

18. The Crystal Palace is one of Compton's major employers and Respondent has supported community goals and activities over the years. In a letter dated March 25, 2014, Aja Brown, Mayor and Chair of the Compton Gaming Commission, wrote about Respondent's, and his family's, contributions to the City. The Mayor wrote: "I have been impressed by his pride and concern for our community and have come to appreciate his vision for an even better operation at Crystal Casino; a vision that has Crystal Casino securely connected to the community around it. He has been responsive to our requests for support for community priorities and has shown himself to be a person of excellent integrity." (Exh. B, at p. 1.)

19. Respondent also submitted a letter of support from Isadore Hall, III (Hall), Assemblymember of the 64th District. Hall was in regular contact with Respondent from 2006 through 2008 while a member of the Compton City Council and has followed Respondent's activities in the community after that period. Assemblymember Hall described Respondent as helpful to the community and someone of the highest integrity and moral foundation.

20. The Bureau has reasonably expended at least \$30,000 in costs of investigation and prosecution in this matter.

### LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for renewal of his endorsement, license number GEOW-003104, on the license for Crystal Palace pursuant to sections 19858, subdivision (a), and 19858.5 because he had a financial interest greater than one percent in another business that conducts lawful gambling outside the state that, if conducted within California, would be unlawful, by reason of factual finding numbers 6, 7, and 11 through 14.

2. Cause does not exist to deny Respondent's application for renewal of his endorsement, license number GEOW-003104, on the license for Crystal Palace pursuant to sections 19857, subdivisions (a) or (b), or 19859, subdivision (b), because it was not established that he failed to fully disclose his interest in the Lucky Dragonz, by reason of factual finding numbers 8 through 16.

3. Cause exists to order Respondent to pay the Bureau's costs of investigation and prosecution in the sum of \$30,000 pursuant to section 19930, subdivisions (d) and (f), by reason of factual finding number 20 and legal conclusion numbers 1 and 2.

4. All evidence offered in support of and against continued licensure has been considered. While the violations are serious, there are mitigating circumstances. Respondent did not intend to mislead the Commission and, while ignorance of the law is no excuse, he performed due diligence research in connection with the matter of the ownership of the Lucky Dragonz. He has been in the industry for more than 15 years and only has one relatively minor prior citation. He contributes to the well-being of the local community and others attest to his integrity and good character. The order that follows is therefore necessary and sufficient for the protection of the public.

### ORDER

1. The application of Respondent Haig Kelegian for renewal of his endorsement, GEOW-003104, on the license for Crystal Casino, license number GEGE-001282, is approved.

2. Respondent Haig Kelegian shall pay the Bureau a fine in the total amount of \$200,000; provided, \$125,000 of the fine is stayed for five years on the following terms and conditions.

a. Respondent shall pay \$75,000 to the Bureau within 30 calendar days of the effective date of the Commission's Decision in this matter.

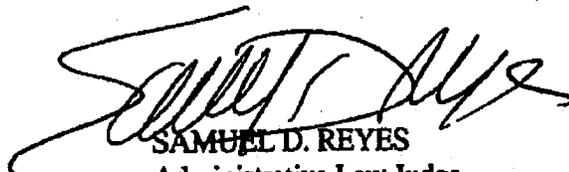
b. Respondent shall pay \$30,000 to the Bureau as the reasonable costs of investigation and prosecution of this matter. The entire \$30,000 shall be due and payable to the Bureau within 30 calendar days of the effective date of the Commission's Decision.

c. With respect to any business or organization that is engaged in any form of gambling prohibited by Penal Code section 330, whether in California or outside California, Respondent shall not engage in any of the following activities: (1) have, hold, possess, obtain, or attempt to obtain any financial interest, including a community property financial interest; (2) exercise any form of management or control; (3) provide any services; or (4) accept any form of employment. However, should sections 19858 and 19858.5 be amended, repealed or replaced so as to allow any person licensed pursuant to the California Gambling Control Act to lawfully have an unlimited financial interest in a business or organization that conducts lawful gambling outside of California that if conducted within California would be unlawful or prohibited by Penal Code section 330, then this term and condition shall cease to have any effect.

d. Failure to comply with any of the foregoing conditions shall constitute grounds to discipline Respondent's license, and the Commission may, after notice and the opportunity to be heard, impose the stayed fine.

e. If the Bureau initiates a disciplinary action regarding any of Respondent's licenses or recommends denial of any future application for licensure by Respondent, then the stay shall remain in effect until such an action or denial becomes final before the Commission or until Respondent's appeal rights have been exhausted through the superior court should Respondent choose to timely file an appeal pursuant to section 19932. The stayed \$125,000 fine shall be due and payable in full to the Bureau within 30 calendar days of the date of the Commission's decision, unless Respondent appeals the Commission's decision to the superior court pursuant to section 19932. In that event, the stayed \$125,000 shall be due and payable in full to the Bureau within 30 calendar days of the date of the superior court's decision denying Respondent's appeal in whole or in part. In the event Respondent is wholly successful in his appeal to the superior court and the matter is remanded to the Commission, the stay shall remain in effect until the subsequent decision issued by the Commission is final or the five years have successfully elapsed, whichever is longer.

DATED: 4/23/14



SAMUEL D. REYES  
Administrative Law Judge  
Office of Administrative Hearings



STATE OF CALIFORNIA

Edmund G. Brown, Jr., Governor

**GAMBLING CONTROL COMMISSION**

RICHARD J. LOPES, CHAIRMAN  
TIFFANY E. CONKLIN  
LAUREN HAMMOND  
RICHARD SCHUETZ

2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231  
(916) 263-0700 Phone  
(916) 263-0499 Fax  
www.cgcc.ca.gov

June 13, 2014

**VIA CERTIFIED MAIL**

Mr. Haig T Kelegian, Jr  
8 Via Coralle  
Newport Coast, CA 92657

Re: Decision and Order (Case No. BGC-HQ2011-00001 & OAH No. 201204331)

Dear Mr. Kelegian,

On June 12, 2014, the California Gambling Control Commission (Commission) deliberated and approved the Administrative Law Judge's Proposed Decision (Decision) in the above-referenced case. In essence, this Decision means that effective July 14, 2014, your Renewal State Gambling License (GEOW-001222) for endorsement on the State Gambling License of Ocean's Eleven Casino (GEGE-000473) has been approved and fines are due and payable to the Bureau of Gambling Control. A new endorsement for Ocean's Eleven Casino will be mailed after July 14, 2014. A copy of the Decision is attached for your reference.

If you have any questions or concerns, please do not hesitate to contact Katherine Ellis at (916) 263-0700.

Sincerely,

A handwritten signature in black ink that reads "Tina M. Littleton".

TINA M. LITTLETON  
Executive Director

Enclosure

cc: Stacey Luna-Baxter, Assistant Chief, Bureau of Gambling Control  
Frances Asuncion, DOJA II, Bureau of Gambling Control  
Katherine Ellis, Deputy Director of Licensing, California Gambling Control  
Commission

BEFORE THE  
GAMBLING CONTROL COMMISSION  
STATE OF CALIFORNIA

In the Matter of the Statement of  
Issues Against:

Haig Kelegian, Jr., partner,  
Ocean's Eleven Casino

Respondent.

OAH No. 201204331

DECISION AND ORDER OF THE COMMISSION:

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the State of California, Gambling Control Commission as its Decision in the above-entitled matter.

This Decision shall become effective on July 14, 2014.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_  
Richard J. Lopes, Chairman

Dated: June 12, 2014

Signature: Tiffany E. Conklin  
Tiffany E. Conklin, Commissioner

Dated: June 12, 2014

Signature: Lauren Hammond  
Lauren Hammond, Commissioner

Dated: 6/12/2014

Signature: Richard Schuetz  
Richard Schuetz, Commissioner

**BEFORE THE  
CALIFORNIA GAMBLING COMMISSION  
STATE OF CALIFORNIA**

**In the Matter of the  
Statement of Issues Against:**

**HAIG KELEGIAN, JR., partner  
OCEAN'S ELEVEN CASINO,**

**License No. GEOW-001222,**

**Respondent.**

**Case No. BGC-HQ2011-00001**

**OAH No. 2012040331**

**PROPOSED DECISION**

This matter, consolidated for hearing with case BGC-HQ2011-00007AL, Office of Administrative Hearings case number 2012040332, involving the same respondent and another property, came regularly for hearing before Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, on March 26, 2014, in Los Angeles, California.

Ronald L. Diedrich, Deputy Attorney General, represented Complainant Wayne J. Quint, Jr., Chief, Bureau of Gambling Control (Bureau), Department of Justice, State of California.

Craig Renetzky, Attorney at Law, represented Haig Kelegian, Jr. (Respondent), shareholder in the Crystal Casino & Hotel (Crystal Casino) and partner in the Ocean's Eleven Casino (Ocean's Eleven).

Complainant denied Respondent's applications to renew his endorsements on the licenses held by Crystal Casino and Ocean's Eleven on the basis that Respondent had a partial ownership in an out-of-state gaming establishment. With the exception of the Fifth and Sixth Causes for Denial, Respondent stipulated to the underlying allegations and to the violations of law contained in the Statements of Issue, and presented evidence in mitigation and rehabilitation.

Oral and documentary evidence, and evidence by written stipulation, was received at the hearing and the matter was submitted for decision.

### FACTUAL FINDINGS

1. Complainant filed the Statement of Issues on March 15, 2012 in his official capacity.

2. Ocean's Eleven is located at 8 Villa Coralle, Newport Coast, California. It is owned by Ocean's Eleven Casino General Partnership. The general partners are North County Gaming, Inc. and Ocean's 11 Casino, Inc. Respondent is a shareholder of Ocean's 11 Casino, Inc. and a trustee of the Haig Kelegian Grantor Trust No. 2, which is also a shareholder of Ocean's 11 Casino, Inc. Respondent is therefore required to be licensed under Business and Professions Code<sup>1</sup> sections 19851 and 19852 as a person with a financial interest in a gambling establishment.

3. On November 2, 2010, Respondent submitted an Application for a State Gambling License with the California Gambling Commission (Commission) to renew his endorsement, license number GEOW-001222, on the license for Ocean's Eleven, license number GEGE-000473. The application was denied at the Commission's meeting of August 25, 2011, and Respondent verbally requested a hearing on his renewal application. Respondent's license expired on August 31, 2011, but Respondent is allowed by law to continue to operate under his expired license pending the outcome of this matter.

4. On June 22, 2006, pursuant to a Stipulated Settlement in Lieu of Accusation, in the case of *In the Matter of Haig Kelegian, Jr., Shareholder in Ocean's 11, Inc.*, CGCC Case Number 2006-3, Respondent consented to pay a fine of \$2,500 for having a financial interest in an out-of-state business that was engaged in house banking, a form of gambling prohibited by Penal Code section 330. In that case, Respondent held a financial interest in Celebrity Casinos LLC, doing business as Marilyn's On Monroe, a cardroom located in Spokane, Washington, that provided house-banked games, for which he had been granted a Washington State gambling license. The cardroom closed prior to December 2005.

5. Respondent has been involved in the gaming industry since 1997, when he acquired an interest in Ocean's Eleven. He acquired an ownership interest in Crystal Casino in 2006, and has been involved in every aspect of the business since then. He became Crystal Casino's chief financial officer in 2006 and its president in 2012. Respondent also has experience in the insurance business, but has not been trained as an attorney.

6. In 2010, Respondent acquired real property in a bankruptcy sale in Seattle, Washington. The property had a cardroom on it, and Respondent decided to let his wife operate it as a casino. He made his decision in order to provide for his wife in the event something

---

<sup>1</sup> Unless otherwise stated, all further references are to the Business and Professions Code.

happened to him since she had no interest in his other businesses. Respondent and his wife formed Kelco Gaming, LLC, doing business as Skyway Casino and Bowl (Kelco). He kept his interest in Kelco to one percent to comply with California gaming law. Respondent also lent Kelco \$750,000.

7. Kelco applied for a gaming license to operate a casino on the property. Respondent had no direct involvement in any of the activities of the cardroom being developed, except for overseeing construction work on the building. Respondent's wife ran the day to day operations of the venture, with the assistance of Scott Walker, the casino manager and a person with experience in running gaming and food establishments in Washington. She named the business Lucky Dragonz Casino – Skyway (Lucky Dragonz). The casino opened in April 2011, and was closed about one month later.

8. Respondent was aware that he could not own more than one percent in any out-of-state gaming entity. As set forth in factual finding number 4, Respondent had been previously cited for having an ownership interest in an out-of-state gaming corporation, and he wanted to make sure there would be no problems with the Commission before moving forward with the Skyway project. He consulted his brother, Mark Kelegian (Kelegian), an attorney licensed to practice law in California and a person familiar with gaming laws in the State. Kelegian advised Respondent that so long as he did not own more than one percent of the Washington business he would be in compliance with California law.

9. a. Respondent also sought the advice of Elijah Zuniga (Zuniga), a gaming consultant and former Bureau employee. Zuniga reviewed the details of the proposed plan and told Respondent that there should not be a problem in California as long as he did not own more than one percent of the Washington casino. Zuniga suggested, out of an abundance of caution, that Respondent inform the Bureau about his plans.

b. Zuniga described Respondent as a reputable businessman, a person who wants to do everything right and who is not one to push the outer limits of what is legally permissible.

10. Respondent informed the Bureau of his plan to obtain a gaming license for the Lucky Dragonz. He sent a letter to the Bureau dated December 2, 2010, stating: "Please accept this letter as a courtesy to the [Bureau] informing you of my intention to apply for a one percent (1%) ownership (keeping within the requirements of the Gambling Control Act) in a licensed card room located in the State of Washington. . . ." (Exh. 14.)

11. As he conceded in his testimony, Kelegian provided incorrect advice to Respondent due to his lack of familiarity with community property law or the impact it would have on Respondent's interest in Kelco. By virtue of his interest in his wife's share of the business, Respondent's share of the business exceeded one percent.

12. a. At all times relevant, Lucky Dragonz was a gambling establishment that provided house-banked games in Seattle, Washington, which if located in California would have been operating in violation of Penal Code section 330.

b. At all times relevant, Lucky Dragonz also maintained and operated punchboard/pull-tab devices, commonly known as slot machines, which if operated in California would violate Penal Code sections 330, 330b, and 330c.

13. Respondent, as coowner of Kelco, indirectly had more than one percent financial/ownership interest in Lucky Dragonz at all relevant times.

14. Respondent, as an indirect owner, managing owner, and source of funding for Kelco, had control of Lucky Dragonz at all relevant times.

15. Respondent denied having any intent to violate California gaming laws, citing his due diligence efforts, including seeking and following the advice of counsel and of Zuniga. He was also open about his ownership interest in the two California casinos in his discussions with State of Washington licensing authorities, who appeared to be in contact with the Bureau.

16. It was not established, as alleged in the Fifth and Sixth Causes for Denial, that Respondent failed to fully disclose to the Bureau that he had engaged in or attempted to engage in out-of-state gambling activities that were unlawful in California.

17. When notified that his ownership interest in the Lucky Dragonz exceeded one percent, Respondent promptly divested himself of all interest in the Washington business.

18. Respondent's other business, Crystal Casino, is one of Compton's major employers and Respondent has supported community goals and activities over the years. In a letter dated March 25, 2014, Aja Brown, Mayor and Chair of the Compton Gaming Commission, wrote about Respondent's, and his family's, contributions to the City. As the Mayor wrote: "I have been impressed by his pride and concern for our community and have come to appreciate his vision for an even better operation at Crystal Casino; a vision that has Crystal Casino securely connected to the community around it. He has been responsive to our requests for support for community priorities and has shown himself to be a person of excellent integrity." (Exh. B, at p. 1.)

19. Respondent also submitted a letter of support from Isadore Hall, III (Hall), Assemblymember of the 64th District. Hall was in regular contact with Respondent from 2006 through 2008 while a member of the Compton City Council and has followed Respondent's activities in the community after that period. Assemblymember Hall described Respondent as helpful to the community and someone of the highest integrity and moral foundation.

20. The Bureau has reasonably expended at least \$30,000 in costs of investigation and prosecution in this matter.

#### LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for renewal of his endorsement, license number GEOW-001222, on the license for Ocean's Eleven, pursuant to sections 19858, subdivision (a), and 19858.5 because he had a financial interest greater than one percent in another business that conducts lawful gambling outside the state that, if conducted within California, would be unlawful, by reason of factual finding numbers 6, 7, and 11 through 14.

2. Cause does not exist to deny Respondent's application for renewal of his endorsement, license number GEOW-001222, on the license for Ocean's Eleven, pursuant to sections 19857, subdivisions (a) or (b), or 19859, subdivision (b), because it was not established that he failed to fully disclose his interest in the Lucky Dragonz, by reason of factual finding numbers 8 through 16.

3. Cause exists to order Respondent to pay the Bureau's costs of investigation and prosecution in the sum of \$30,000 pursuant to section 19930, subdivisions (d) and (f), by reason of factual finding number 20 and legal conclusion numbers 1 and 2.

4. All evidence offered in support of and against continued licensure has been considered. While the violations are serious, there are mitigating circumstances. Respondent did not intend to mislead the Commission and, while ignorance of the law is no excuse, he performed due diligence research in connection with the matter of the ownership of the Lucky Dragonz. He has been in the industry for more than 15 years and only has one relatively minor prior citation. He contributes to the well-being of the local community and others attest to his integrity and good character. The order that follows is therefore necessary and sufficient for the protection of the public.

#### ORDER

1. The application of Respondent Haig Kelegian for renewal of his endorsement, license number GEOW-001222, on the license for Ocean's Eleven, license number GEGE-000473, is approved.

2. Respondent Haig Kelegian shall pay the Bureau a fine in the total amount of \$200,000; provided, \$125,000 of the fine is stayed for five years on the following terms and conditions.

a. Respondent shall pay \$75,000 to the Bureau within 30 calendar days of the effective date of the Commission's Decision in this matter.

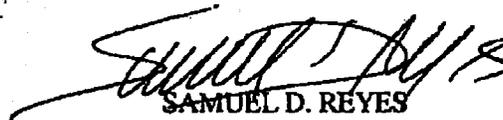
b. Respondent shall pay \$30,000 to the Bureau as the reasonable costs of investigation and prosecution of this matter pursuant to section 19930. The entire \$30,000 shall be due and payable to the Bureau within 30 calendar days of the effective date of the Commission's Decision in this matter.

c. With respect to any business or organization that is engaged in any form of gambling prohibited by Penal Code section 330, whether in California or outside California, Respondent shall not engage in any of the following activities: (1) have, hold, possess, obtain, or attempt to obtain any financial interest, including a community property financial interest; (2) exercise any form of management or control; (3) provide any services; or (4) accept any form of employment. However, should sections 19858 and 19858.5 be amended, repealed or replaced so as to allow any person licensed pursuant to the California Gambling Control Act to lawfully have an unlimited financial interest in a business or organization that conducts lawful gambling outside of California that if conducted within California would be unlawful or prohibited by Penal Code section 330, then this term and condition shall cease to have any effect.

d. Failure to comply with any of the foregoing conditions shall constitute grounds to discipline Respondent's license, and the Commission may, after notice and the opportunity to be heard, impose the stayed fine.

e. If the Bureau initiates a disciplinary action regarding any of Respondent's licenses or recommends denial of any future application for licensure by Respondent, then the stay shall remain in effect until such an action or denial becomes final before the Commission or until Respondent's appeal rights have been exhausted through the superior court should Respondent choose to timely file an appeal pursuant to section 19932. The stayed \$125,000 fine shall be due and payable in full to the Bureau within 30 calendar days of the date of the Commission's decision, unless Respondent appeals the Commission's decision to the superior court pursuant to section 19932. In that event, the stayed \$125,000 shall be due and payable in full to the Bureau within 30 calendar days of the date of the superior court's decision denying Respondent's appeal in whole or in part. In the event Respondent is wholly successful in his appeal to the superior court and the matter is remanded to the Commission, the stay shall remain in effect until the subsequent decision issued by the Commission is final or the five years have successfully elapsed, whichever is longer.

DATED: 4/23/14

  
SAMUEL D. REYES  
Administrative Law Judge  
Office of Administrative Hearings

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
LARRY C. FLYNT, HAIG KELEGIAN, SR., and HAIG T. KELEGIAN, JR.
(b) County of Residence of First Listed Plaintiff Los Angeles
(c) Attorneys (Firm Name, Address, and Telephone Number)
LIPSITZ GREEN SCIME CAMBRIA LLP
1631 West Beverly Blvd., Second Floor
Los Angeles, CA 90026
(323) 883-1807

DEFENDANTS
KAMALA D. HARRIS, et al
County of Residence of First Listed Defendant Sacramento
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
CONTRACT
110 Insurance
120 Marine
130 Miller Act
140 Negotiable Instrument
150 Recovery of Overpayment & Enforcement of Judgment
151 Medicare Act
152 Recovery of Defaulted Student Loans (Excludes Veterans)
153 Recovery of Overpayment of Veteran's Benefits
160 Stockholders' Suits
190 Other Contract
195 Contract Product Liability
196 Franchise
TORTS
PERSONAL INJURY
310 Airplane
315 Airplane Product Liability
320 Assault, Libel & Slander
330 Federal Employers' Liability
340 Marine
345 Marine Product Liability
350 Motor Vehicle
355 Motor Vehicle Product Liability
360 Other Personal Injury
362 Personal Injury - Medical Malpractice
PERSONAL INJURY
365 Personal Injury - Product Liability
367 Health Care/Pharmaceutical Personal Injury Product Liability
368 Asbestos Personal Injury Product Liability
PERSONAL PROPERTY
370 Other Fraud
371 Truth in Lending
380 Other Personal Property Damage
385 Property Damage Product Liability
PRISONER PETITIONS
Habeas Corpus:
463 Alien Detainee
510 Motions to Vacate Sentence
530 General
535 Death Penalty
Other:
540 Mandamus & Other
550 Civil Rights
555 Prison Condition
560 Civil Detainee - Conditions of Confinement
FORFEITURE/PENALTY
625 Drug Related Seizure of Property 21 USC 881
690 Other
LABOR
710 Fair Labor Standards Act
720 Labor/Management Relations
740 Railway Labor Act
751 Family and Medical Leave Act
790 Other Labor Litigation
791 Employee Retirement Income Security Act
IMMIGRATION
462 Naturalization Application
465 Other Immigration Actions
BANKRUPTCY
422 Appeal 28 USC 158
423 Withdrawal 28 USC 157
PROPERTY RIGHTS
820 Copyrights
830 Patent
840 Trademark
SOCIAL SECURITY
861 HIA (1395ff)
862 Black Lung (923)
863 DIWC/DIWW (405(g))
864 SSID Title XVI
865 RSI (405(g))
FEDERAL TAX SUITS
870 Taxes (U.S. Plaintiff or Defendant)
871 IRS—Third Party 26 USC 7609
OTHER STATUTES
375 False Claims Act
400 State Reapportionment
410 Antitrust
430 Banks and Banking
450 Commerce
460 Deportation
470 Racketeer Influenced and Corrupt Organizations
480 Consumer Credit
490 Cable/Sat TV
850 Securities/Commodities/Exchange
890 Other Statutory Actions
891 Agricultural Acts
893 Environmental Matters
895 Freedom of Information Act
896 Arbitration
899 Administrative Procedure Act/Review or Appeal of Agency Decision
950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983
Brief description of cause:
Plaintiffs allege violations of the dormant Commerce Clause and Due Process Clause

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.
DEMAND \$ Attorneys' Fees Only
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE DOCKET NUMBER

DATE 11/30/2016
SIGNATURE OF ATTORNEY OF RECORD /s/Paul J. Cambria, Jr.

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE