



**PALA BAND OF  
MISSION INDIANS**

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July 9, 2014

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

RE: Regulatory Review of Cardroom Collection Fee Waivers

Dear Chief Quint,

On behalf of the Pala Band of Mission Indians, I want to thank you for considering amendments to the Bureau of Gambling Control regulations in order to establish standards for approval of collection fees charged to patrons by California cardrooms which would make clear the parameters under which the collection fee charged to each patron may be waived.

Background: California law prohibits California cardrooms from operating banked or percentage card games. (CA Constitution Article 4 Section 19; CA Penal Code 330). California law prohibits any cardroom from having a direct or indirect interest in the card game. (CA Busi & Prof Code 19984). California law provides for cardrooms to make their revenue by charging each patron a collection fee to play the game, which fee may be waived only under narrow circumstances established by Penal Code Section 337j(f) "after the hand or round has begun pursuant to the rules of the game and the notice provided to the public."

Specifically, Section 337J of the Penal Code was amended in 2003 to add at subdivision (f):

"This subdivision is intended to be dispositive of the law relating to the collection of player fees in gambling establishments. A fee may not be calculated as a fraction or percentage of wagers made or winnings earned. The amount of fees charged for all wagers shall be determined prior to the start of play of any hand or round. However, the gambling establishment may waive collection of the fee or portion of the fee in any hand or round of play after the hand or round has begun pursuant to the published rules of the game and the notice provided to the public.....[N]o more than five collection rates may be established per table." (Emphasis added).

The plain language of the statute requires a collection fee be charged to each patron for all wagers except in narrow circumstances when a waiver of this rule is permissible – only after the hand or round has begun. The legislative history of Penal Code Section 337J(f) explains:

"The bill also will clarify the law relating to the collection of fees in card clubs by allowing the club to waive specified fees, a "player-friendly" change benefiting those players who do not receive action on their wager, or where a hand folds and there is no betting. Currently, clubs give a "free-play" token in when [sic] these instances occur. The Attorney General has advised the clubs that this change will clarify this section of law relating to these circumstances." (See attached Bill Analysis for AB 278).

Proposed Standards: We have attached proposed Standards for BGC Approval of Collection Fees that would ensure compliance with California law, as follows:

1. The gambling establishment charges each player a fixed collection fee for each wager in a controlled game.

\*Note: This ensures compliance with Penal Code Section 337J(f), third sentence.

2. Waiver of such fee shall occur only under the following circumstances: (1) After the hand or round has begun and notice to public; and (2) Where the player receives no action on his or her wager or where a hand folds and there is no betting.

\*Note: This ensures compliance with Penal Code Section 337J(f), fourth sentence, as intended by the legislature and reflected in the Bill Analysis of AB 278.

3. The collection fee charged to each player, including the proposition player service, for participation in any controlled game shall be the same for the same level of participation.

\*Note: This ensures compliance with CGCC regulation 12200.7, enacted in 2004, and as currently proposed in the CGCC regulatory review.

4. The fixed fee on each wager shall increase proportionate to the amount of the wager and shall be in no case less than \$.50, provided that no more than five collection rates may be established per table.

\*Note: This ensures compliance with Penal Code Section 337J(f), seventh sentence, and that collection fees have some proportionate relationship to the amount of wager and some value that is not de minimis.

5. The fee shall be paid to the gambling establishment from each player's own funds and shall not be reimbursed to such player.

\*Note: This ensures compliance with Penal Code Section 337J(f) by eliminating loopholes, such as the fee being paid by Third Player Proposition company funds rather than each player (whether by direct payment to the cardroom or reimbursement to the player), which would render the subdivision meaningless.

6. A fee shall not be calculated as a fraction or percentage of wagers made or winnings earned.

\*Note: This ensures compliance with Penal Code Section 337J(f), second sentence.

We thank you for this opportunity to comment and look forward to your next regulatory meeting in this review process.

Sincerely,



Robert Smith, Chairman  
Pala Band of Mission Indians

Cc: Susanne George, Research Analyst II, CA DOJ