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VIA E-MAIL: BGC_Regulations@doj.ca.gov

Re: Rotation of Player-Dealer Regulations – Draft Concept Language

Dear Director Morrow and Ms. McMillen,

Please allow us to lodge the following comments regarding the Draft Concept Language for the Regulations regarding Player-Dealer Rotation dated September 2023. While we acknowledge that agency regulation is frequently an effective way to maintain public order and safety, in certain instances, it can raise questions about the balance of power in a democratic system, as it involves unelected officials making significant policy decisions. This is one such instance.

The Department of Justice, Bureau of Gambling Control ("Bureau") has stated that it intends to promulgate regulations on player-dealer rotation in a controlled game. This issue has been raised solely by tribal gaming interests for almost a quarter century. The Legislature has not found it necessary to respond to the vociferous tribal arguments regarding the rotation of the player-dealer position. The cardrooms and the communities affected have repeatedly addressed why the rules regarding the rotation of the player-dealer position comply with the law. The current system has been institutionalized and has provided a predictable basis for businesses such as Third-Party Propositional Players Services ("TPPPS") to exist. The current system causes no harm to anyone, including tribal gaming interests. Though there has been reliance on the law, compliance with Bureau regulations, and no verifiable damage to any entity, it appears we are at a point where political interests trump sound policy.

The proposed regulations are inconsistent with the existing law and not fact-supported. They are so onerous that they will effectively end regulated cardroom businesses and the need for the agencies themselves. The proposed regulation lacks (1) necessity, (2) authority, (3) clarity, and (4) consistency required for adoption under the Administrative Procedure Act. (Gov't Code §11349.1.)

The Bureau has not identified any rationale for the proposed rules. No Statement of Reasons has been issued. Government Code section 11346.2 requires a regulatory agency that intends to promulgate new regulations to explain the "specific purpose" for each new or modified rule, including "the problem the agency intends to address." (Gov't Code § 11346.2(b)(1).) The agency must also provide descriptions of reasonable alternatives and explain why those alternatives have been rejected. Though the Bureau has discussed modifying its standards for cardroom game approvals since 2014, the Bureau has yet to provide any law contrary to the law presented in numerous comment letters over the last ten years. Nor has the Bureau started any specific concerns regarding the approvals it has issued over the last 20 years. If the Bureau intends to engage in any discussion regarding the new Rotation Proposal, it is required to provide actual facts, analysis, and support for the proposed changes to the rules that have existed for over two decades.

We strongly urge that the Bureau choose a path consistent with the existing law, supported by facts, and leave intact the cardroom's ability to continue contributing to California's economy. Alternatives to adopting the proposed regulation include continuing the status quo allowing Californians to enjoy safe, regulated gaming for over two decades.

The Law

The law distinguishes between "banked" and "non-banked" card games in California. Penal Code Section 330 prohibits "banking" games. "Banking game has come to have a fixed and accepted meaning: the 'house' or 'bank' is a participant in the game, taking on all comers, paying all winners, and collecting from all losers." (*Sullivan v. Fox* (1987) 189 Cal.App.3d 673, 678 (citations omitted.) In November 1984, California's constitution was amended to prohibit casinos "of the type currently operating in Nevada and New Jersey." Article IV, section 19. The California Supreme Court has said: [T]he "type" of casino referred to must be an establishment that offers gaming activities including banked table games and gaming devices, i.e., slot

machines .... Similarly, "the type" of casino "operating in Nevada and New Jersey" presumably refers to a gambling facility that did not legally operate in California ..... The type of casino then operating in California was commonly called a "card room" ... a type that did not offer gambling activities, including banking games and gaming devices. (*Hotel Employees & Restaurant Employees v. Davis* (1999) 21 Cal.4th 585, 604-05 (citations omitted).)

The Legislature adopted Penal Code section 330.11 in 2000, codifying the usage of the player-dealer position.

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

An earlier version of this bill would have provided that no player could hold the player-dealer position for more than two consecutive hands. (See, e.g., Section 3, Senate versions, 3/23/2000 - 5/16/2000.) However, in the Senate Amendments dated July 5, 2000, 3 AB 1416. Section One: The Legislature finds and declares as follows: (a) In 1983 and 1984, California card clubs played games with cards involving a player-dealer position in which players were afforded the temporary opportunity to wager against multiple players at the table where the player-dealer position continuously and systematically rotated among the players, before the amendment of Section 19 of Article IV of the California Constitution by the California State Lottery Act in 1984. This method of play was approved by the Courts of Appeal in *Sullivan v. Fox* (1987) 189 Cal.App.3d 673, *Walker v. Meehan* (1987) 194 Cal.App.3d 1290, *City of Bell Gardens v. County of Los Angeles* (1991) 231 Cal.App.3d 1563, and *Huntington Park Club Corp. v. County of Los Angeles* (1988) 206 Cal.App.3d 241.

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TPPPS Players Offering Rotation Of The Player Dealer Position Is Continuous And Systematic.

The Legislature and the courts have understood that not every player accepts the player-dealer position. “The position of dealer rotates systematically among the players, and each player has the **opportunity** to act as the dealer for two consecutive rounds." (Emphasis added.) Contentions that such games constitute banking games are "wholly lacking in merit." (Penal Code §330.11 and *Bell Gardens*, supra 231 Cal. App.3d at p. 1566, 1570.)

The Legislature has not seen fit to change this interpretation. Nine years after *Bell Gardens*, the Legislature adopted Penal Code section 330.11. (See above.) The Legislature also adopted the Business and Professions Code section *, allowing TPPPS vendors to provide players at the tables. These vendors and players are separate from the Cardroom itself. They are not the house. They are independent businesses with licenses from the California Gambling Control Commission (“CGCC”). Nothing in law or fact supports the idea that the TPPPS companies are the cardrooms. Tribal Gaming entities that argue that TPPPS companies are the house ignore the factual reality. While the TPPPS companies provide services within the cardrooms, they each run as independent businesses and are subject to separate regulation and taxation. Vendors and owners are not the same company simply because a contract exists. Just as doctors in California work for medical groups and are legally prevented from working for hospitals, TPPPS providers are not the same entity as the cardrooms. A misperception is not a reality and certainly not one that warrants changing the law.

Moreover, when adopting the Business and Professions Code section 19984, the Legislature understood that the TPPPS player might occupy the player-dealer position while, at the same time, systematically and continuously offering the player-dealer position to patrons who wish to accept the role. This is the current system. It is legal, it is fair, it does not infringe on tribal gaming rights, and it is working.

The Proposed Language Is Flawed. It Violates Constitutional Rights And Other Laws:

The proposed regulations attempt to define “continuously and systematically” by placing onerous limitations on player rotation. We want to address sections 2077(a) 1, 3, 4, 5, and 7.

"(1) The player-dealer position may only be occupied by a person seated at the table, and shall be offered to the other seated players at the table before every hand. The game rules shall specify the means by which the player-dealer position is selected at the opening of a new game, and upon rotation of the player-dealer position to the next person."

This section requires that the player-dealer position be offered before every hand rather than after every two hands, as has been the approved practice for the last 40 years. The proposed rule directly conflicts with controlling precedent involving player-dealer games. The rule also does nothing to further any policy aim but negatively impacts gameplay.

California courts have repeatedly considered games where the practice was to offer the opportunity to be the player-dealer to each active player in clockwise order every two hands. For example, in *Bell Gardens*, supra, 231 Cal.App.3d at p. 1566, the court noted that the player-dealer position "rotates systematically among the players, and each player has the opportunity to act as the dealer for two consecutive rounds." The court found that player-dealer games operated under these rules were not banked games.

The Bureau cannot impose a rule that the offer must occur after every hand when a court has already found that every two hands is appropriate. There is no necessity, authority, or consistency with court decisions for any requirement that the player-dealer position be offered after every hand.

Moreover, the offer of the player-dealer position after every hand is impractical. The proposed rule would slow down the game significantly. It would also create a disincentive for players to accept the player-dealer position since holding that position for two hands in a row enables players to even out their wins and losses.

"(3) Before every hand, the dealer shall offer the player-dealer position verbally and physically to each of the seated players at the table. The offer shall be visible to surveillance cameras."

This language is hopelessly vague and burdensome. What physical gesture is required? Must the dealer, who could be a patron and not a licensed TPPPS player, perform a particular body movement? What body movement will suffice? What if the player is disabled? Can some accommodation be made for players who cannot meet this dance or cardroom salute?

In the United States, the government, whether at the state or federal level, cannot generally require citizens to perform a prescribed salute or any other specific bodily expression. This principle is firmly rooted in the First Amendment of the U.S. Constitution, which protects the freedom of speech and expression. The U.S. Supreme Court has upheld the right of individuals to choose not to engage in symbolic acts, such as saluting the flag, reciting the Pledge of Allegiance, or participating in other forms of patriotic expression. In the landmark case *West Virginia State Board of Education v. Barnette* (1943) 319 U.S. 624, the Court ruled that public schools could not compel students to salute the flag and recite the Pledge of Allegiance. The Court held that such compulsion violated the student's First Amendment rights. We have a strong American tradition of protecting freedom of expression. Compelling someone to perform a specific physical gesture could be seen as an infringement on this fundamental freedom. Forcing citizens to perform a particular physical gesture as a requirement for playing a game infringes on their ability to make choices and decisions about their bodies. While it is well known that cardroom tables are under surveillance, there is a concern that requiring specific body movements is too much of an intrusion into an individual's private life.

Requiring specific physical gestures could disproportionately affect certain groups of people, potentially leading to discrimination and unequal treatment. The proposed requirement does not state what physical movement will be required or how such a prescription could be accommodated under the Americans with Disabilities Act (1990) 42 USC §12101. As such, the proposed regulation also does not comply with California Government Code section 11135, which bans not only intentional discrimination but actions that appear to be neutral but have a negative, disparate impact on a protected group or person.

The physical gesture requirement is ill-defined, most likely unconstitutional and violative of State and Federal law.

Requiring a verbal offer after every single hand is also troublesome as it is unnecessary, inconsistent with precedent, furthers no sound public policy, and conflicts with longstanding industry practice and controlling legal authority. The Proposal is unclear as to whether the verbal offer of the player-dealer position needs to be made to each player individually or whether the offer needs to be announced to the whole table at the same time. Players will already know that

they can take the player-dealer position due to the posted written notice required under subsection (2).

(4) The player-dealer position shall rotate to at least two players other than the TPPPS every 40 minutes or the game shall end.

This, in effect, invalidates B&P Code 19984, which provides, *"(a) Any agreement, contract, or arrangement between a gambling enterprise and a third-party provider of proposition player services shall be approved in advance by the department, and in no event shall a gambling enterprise or the house have any interest, whether direct or indirect, in funds wagered, lost, or won*."

By limiting the time that a TPPPS player can act as the player-dealer, the regulation diminishes the right to contract and provide services given by the Legislature. The government can regulate various activities in the public interest, but such regulations should be reasonable, lawful, and not unduly burdensome. The proposal to require the rotation of the player-dealer position at least twice every forty minutes to a non-licensed player restricts the license of a TPPPS company to the point that the value of the license is significantly reduced. This is a government taking without a solid reason or need.

The regulation also places a new regulatory burden on the cardrooms to have a person from the house at every table checking the status of every player, keeping a stopwatch on the play, and making sure the required words and offering dance are done. This is Kafaka-esque.

When does the 40-minute period begin and end? Why is it 40 minutes? Can the Bureau state the factual basis for this number or the basis for it being two other players assuming the player-dealer position in that time frame? The regulation appears arbitrary, capricious, and impossible to implement practically.

The Legislature has already approved and allowed TPPPS companies to exist. Their very role is to keep the games that require more than one player vibrant and active for patrons. This proposed regulation diminishes the activity allowed at any table unless the patron is willing to assume the role of player-dealer.

Courts review agency regulations for the facts supporting the regulation. If there is substantial evidence from the records showing that the agency decisions are adequate and rational, then the agency decisions will be upheld. We have NO evidence of any need to make such a regulation and no factual support for the 40-minute or two-player dealer requirement. This regulation is intended to put TPPPS companies out of business and diminish play in all of California's cardrooms to the point that they no longer thrive.

It is a job killer and will significantly impact the communities that have benefitted from controlled gaming revenues.

(5) If rotation of the player-dealer position has not occurred and the game ends as prescribed in subdivision (a)(4) of this section, game play shall stop, the table shall be cleared of all wagers and cards, no cards shall be dealt, and no wagers shall be made. No further play shall be allowed or commenced unless and until another person accepts the player-dealer position. If there is only one player at the table in addition to the TPPPS, the player-dealer position shall rotate to that player a minimum of two times every 40 minutes, or the game shall end.

The language is vague and ambiguous. How long must the play end? Further, the language directly blocks the continuous requirement. "Continuous" means something that occurs **without** interruption or gaps. The proposed regulation is specifically requiring gaps. It creates an artificial break that then violates the continuous requirement.

The current process of offering the player-dealer position is continuous and systematic. It is simple, well-organized, and follows a plan. It is carried out in an orderly and structured manner. Offering the dealer position to everyone at the table in accordance with the currently approved game rules is not sporadic or haphazard. It meets the law.

This Regulation also appears to be punitive. The patron, uncomfortable with assuming the player-dealer position, is now prevented from playing. They are being prevented from lawful activity by the government mandating that they now perform as a dealer, managing the betting pot and paying out winnings after each hand. Many patrons will not be comfortable keeping track of cards, scores, and wagers. Not everyone is willing or able to perform accurate arithmetic, and many feel anxiety when asked to do so. Not every player is comfortable with covering all bets. What about patrons with recognized disabilities, such as Dyslexia – they are

being forced to either take the player-dealer position or not be allowed to play. The Americans with Disabilities Act (ADA) prohibits discrimination based on disability. Dyslexia is considered a disability under the ADA. The ADA requires business establishments to make reasonable accommodations for people with disabilities. What is the reasonable accommodation contemplated by this regulation?

The TPPPS player is also being prevented from doing their job. They are hired to play cards but now must sit on the sidelines until a patron willing to engage in the player-dealer position is ready to take that role.

There is no factual support for the need for this draconian regulation. It is arbitrary and capricious on its face and potentially violative of State and Federal law.

(7) If the player-dealer position is occupied by a TPPPS owner licensee, or a TPPPS employee licensee, as defined in California Code of Regulations, title 4, section 12002, subdivisions (aw) and (as), the next person in the rotation of the player-dealer position shall not be the owner or employee of that TPPPS.

This is an assault on TPPPS companies and players that have followed the rules and complied with the law for years. This regulation transforms the need for and the role of the TPPPS company and player. The Legislature has approved a role, the courts have agreed, and no branch of government has changed in over twenty-three years.

TPPPS players can no longer keep games going but will have to stop the "continuous and systematic" play and sit idly by waiting for a patron who is willing and able to accept the player-dealer position. This regulation will put tax-paying Californians out of work.

Though the Bureau has provided no factual support for why it believes this regulation is necessary, it appears to rely on the false notion that the TPPPS companies are the house. This fallacy is easily disproven through the licensing, law, records, and history of California gaming. A regulation based on speculation and with no basis in reality is arbitrary, capricious, and will not survive judicial scrutiny.

The Bureau has proffered no factual basis for the proposed Regulations. Instead, the proposed language creates a system that is a dehumanizing labyrinth of absurd rules. The bureaucracy has

overtaken logic. The proposed Regulations violate State and Federal law and severely impact many people inside and outside the cardrooms.

Comments on Section 2077(b)

This section prohibits back-line wagering in the player-dealer position, direct bets between players, and players combining funds for wagers. These restrictions are not authorized, necessary, or consistent with the law.

This proposed rule directly convenes statutory and judicial authority. The Gambling Control Act authorizes backline betting. No law limits backline wagers to seated players. Under Business and Professions Code section 19843, other players can place wagers "with a single seated player upon whose hand the wagers are placed." In the decisions upholding player-dealer games, the game rules included the possibility of wagers made by the players behind a seated player. (See *Huntington Park*, supra, 206 Cal.App.3d at p. 245 ["More than one participant may wager on a hand."]; *Sullivan*, supra, 189 Cal.App.3d at p. 677, n.2.) There is no exception or exclusion for the player-dealer position, and the Department cannot create one. (*In re Sabrina H*. (2007) 149 Cal.App.4th 1403, 1412 ["It is … against all settled rules of statutory construction that courts should write into a statute by implication express requirements which the Legislature itself has not seen fit to place in the statute."], quotation marks omitted.) Section 330 must be construed in harmony with section 19843, which expressly provides for backline wagering without excepting the player-dealer position. (See *Dyna-Med, Inc. v. Fair Employment & Housing Com*. (1987) 43 Cal.3d 1379, 1387 ["statutes or statutory sections relating to the same subject must be harmonized"].)

In 2000, when section 330.11 was adopted, there was no provision eliminating or curtailing backline wagers in the player-dealer position. To the contrary, the existing practice was explicitly codified.

When more than one patron wagers on the player-dealer position, no one person is taking on all comers, paying all winners, and collecting from all losers, and none of the players is "taking on all comers, paying all winners, and collecting from all losers." (*Sullivan*, supra, 189 Cal.App.3d at p. 678.)

Any proposed regulations should include these betting practices as options for ensuring compliance with the prohibition on banking games, rather than attempt to prohibit authorized conduct that furthers the regulation's objectives.

Comments on Section 2077(c)

The proposed language provides that only one TPPPS can offer services at a table in a player-dealer game. This would be a substantial change in the law and one that exceeds the Bureau's regulatory authority.

The CGCC's regulations allow more than one TPPPS may play at a single table: TPPPS contracts are required to provide only "[t]hat no more than one owner, supervisor, or player from each provider of proposition player service shall simultaneously play at a table." (Cal. Code Regs., tit. 4, § 12200.7(b)(5), italics added.) Similarly, "a gambling establishment may contract with more than one [third party service] at the same time." (Cal. Code Regs., tit. 4, § 12200.7(g).) Having two TPPPS would facilitate rotation.

The proposed language is beyond the scope of the Bureau's authority and is poor public policy that directly controverts the existing law.

Impact On Industry, Cities, And The State Agencies Themselves.

Before a regulation is adopted that threatens all of this economic vitality, there should be a factual basis and reasoning that clearly articulates the need for change. There has not been any evidence or factual presentation that the proposed regulation substantially advances a state interest. This regulation is meant to infringe on the rights of cardrooms, TPPPS companies, patrons, and the communities that benefit from cardroom taxes. A State gaming license is more than a 'purely economic privilege' granted by the State. Operating for many years under the law and in compliance, these businesses have made substantial investments in reliance on those interpretations. Changing the fundamental nature of the role of TPPPS players by imposing an arbitrary and capricious definition of rotation will dramatically impact the financial viability of these businesses. The Bureau has not provided any facts or evidence that a change is required and is instead proposing harming Californians. Interference with the right to continue an established business is serious. This right is sufficiently personal, vested, and essential to preclude its extinction by a nonjudicial body.

In response to the COVID-19 pandemic, the economy plunged into recession in 2020, and many businesses shut down permanently. Smaller businesses were hit harder than larger businesses. By the end of 2020, small business revenues and the number of small businesses open were down about 30 percent from a year earlier.[1] The most significant job losses occurred in the leisure and hospitality industry.[2] In a March 2020 survey, the National Federation of Independent Business (NFIB) asked small business owners to rate the importance of 75 different economic issues for their firms. After the cost of health insurance, finding and retaining good employees, and taxes, the biggest issue was "unreasonable government regulations."[3]

The proposed regulations will increase costs for small businesses more than for large ones. Most of the regulated cardrooms are small establishments with fewer than ten tables. Most are family-owned small businesses. The proposed regulations will impact these businesses the most as fewer patrons will be willing to do the prescribed dance and accept the player-dealer position.

A 2018 study by economist Dustin Chambers and colleagues used a measure of federal regulatory restrictions by industry from 1998 to 2015 to estimate that as restrictions increased, the number of small firms in an industry decreased, but not the number of large firms[4].

Regulatory governance will raise already sky-high rates being charged by the Commission. The Commission and Bureau have raised rates without providing additional services, and the added supervision for this regulation will cause this to become prohibitively expensive. While the Bureau and the Commission can raise rates and continue spending, the small businesses that support this endeavor have a limited market of players and face inflation in their costs. The pockets of the cardrooms are not limitless.

California cardrooms generate a substantial portion of their annual revenue through gaming operations. Most revenue is from blackjack-style games. This revenue contributes to local and

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[1] . Wilmoth, Daniel. "Small Business Employment Plummets." U.S. Small Business Administration Small Business Facts, May 2020.
[2] Handwerker, Elizabeth Weber, et al. "Employment Recovery in the Wake of the COVID-19 Pandemic." Monthly Labor Review, U.S. Bureau of Labor Statistics, December 2020.
[3] Wade, Holly, and Andrew Heritage. Small Business Problems and Priorities. Nashville: National Federation of Independent Business, 2020, table 6.
[4] Chambers, Dustin & McLaughlin, Patrick & Richards, Tyler. (2018). Regulation, Entrepreneurship, and Firm Size. SSRN Electronic Journal. 10.2139/ssrn.3169332.

state taxes, providing public services and infrastructure funds. Cardrooms offer employment opportunities to thousands of Californians. They hire staff as dealers, supervisors, security personnel, waitstaff, and administrative employees. These jobs directly benefit local communities. Cardrooms often stimulate the local economy by attracting customers who may also visit nearby restaurants, hotels, and other businesses. This can lead to increased economic activity in the surrounding areas. In addition to direct taxes on cardroom revenue, these businesses also pay licensing fees and other regulatory charges, contributing to government revenue. Many cardrooms engage in philanthropic activities, supporting local charities, events, and community initiatives. This regulation will decrease the local and state taxes and lessen the ability to fund positions for law enforcement and regulation.

If seventy percent of the regulated cardrooms see a significant drop in revenue, will the Bureau and the Commission reduce their staff and costs? Public employees have vested rights in their jobs, so adopting a regulation that will significantly impact the need for those jobs should be carefully considered. The Bureau should issue a policy or plan on reducing its size according to the needs of a shrinking industry.

We believe that a Standardized Regulatory Impact Assessment (SRIA) is required for this regulation as the economic impact on the communities, including the communities that employ regulators, will exceed $50 million.

The Proposed Regulation Impairs the Scope and Function of Existing Statutes.

Administrative regulations that violate acts of the Legislature are void, and no protestations that they are merely an exercise of administrative discretion can sanctify them. They must conform to the legislative will to preserve an orderly system of government. Under Government Code section 11373, "Each regulation adopted [by a state agency], to be effective, must be within the scope of authority conferred. ..." Whenever a state agency is authorized by statute "to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute. ..." (Gov. Code, § 11374.)

Administrative regulations that alter or amend the statute or enlarge or impair its scope are void, and courts not only may, but it is their obligation to strike down such regulations. (*Whitcomb*

Hotel v. California Emp. Com. (1944) 24 Cal.2d 753; *Hodge v. McCall* (1921) 185 Cal. 330, 334; *Boone v. Kingsbury* (1928) 206 Cal. 148, 161-162; *First Industrial Loan Co. v. Daugherty* (1945) 26 Cal. 2d 545, 550; see *Brock v. Superior Court* (1938) 11 Cal. 2d 682, 688.)

The proposed regulations conflict with Penal Code section 330.11. (See above). Cardrooms are not playing banked games. The proposed regulations, if adopted, would:

1. Make continuous and systematic rotation impossible as they mandate breaks in the game's play.
2. Mandate that the game is not played unless patrons accept the player-dealer position on an undefined schedule, using mandated physical movements, and with no statement of accommodation that complies with the Americans with Disabilities Act.
3. Make the game's play impossible by not allowing TPPPS players to act in the player-dealer position at certain times.

The Legislature has spoken on this issue. The current rules meet the requirements of the law, and there is no evidence that anyone is harmed or disadvantaged by the current rules.

TPPPS are valid under the law. The argument that TPPPS holding the player-dealer position when no other player is willing to accept the role “effectively” creates house-banked games is false. The TPPPS do not use house money, are separate licensed companies, are not in an agency relationship with the Cardrooms, and are simply vendors with contracts approved by the Bureau. TPPPS companies and GEOW are highly regulated and monitored.

There is also no infringement on tribal exclusivity. The house is not at the table in the cardrooms.

The Legislature has declined to change the law regarding TPPPS or address rotation. We urge the Bureau and the Department of Justice to decline to change the interpretation of the law because the impact will undoubtedly affect far more than a few cardrooms. According to estimates by the California Gaming Association, the state's 72 cardrooms support more than 32,000 jobs and generate about $1.6 billion in wages. Putting Californians, including law enforcement officers, out of work is poor public policy.

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Alternatives To The Proposed Regulations:

The Bureau has stated that it welcomes suggestions regarding alternatives to the proposed regulations. We believe there are several.

The first and least disruptive alternative is to maintain the status quo. Just because a controversy exists and political pressure exists to make a change does not mean that good public policy requires change.

The Legislature has refused to change the current method of play in cardrooms. Once a particular policy path has been set, it is difficult to change this path because actors and policies have become institutionalized. Twenty-three years of the current methods of play fall into this category. Regulation changes will have a significant impact and likely some unintended consequences. The role of political actors, like the Legislature, is to make decisions that necessitate great efforts and costs. Change should come from the Legislature addressing the whole series of operational questions and what would work rather than an agency taking on a change of such magnitude. Policy change goes hand in hand with policy implementation. The Bureau should be active in implementation, not the creator of institutional change with far-reaching effects on the economy of California. The Legislature should be heard, and democracy should prevail.

Another alternative is to allow a second TPPPS company to be part of the rotation. The proposed regulatory language makes gaming less safe, forcing patrons to take on the player-dealer position. Why not allow people with licenses to be a part of the rotation? This allows greater assurances of fairness, safety, and oversight.

Finally, there have been multiple suggestions over the years to allow the creation of player trust pools. A "player trust pool" would be a fund of money that exists for the benefit of the players at a gambling establishment licensed pursuant to Business and Professions Code Section 19800. This pool of money would be irrevocably dedicated to the benefit of players and would not be used for any purpose other than that provided for by regulation. As the source of funds, the risk of loss is shared when the "player trust pool player-dealer" occupies the player-dealer position. The player trust pool player-dealer would place the wagers won by the "player trust pool" into the pool and pay those who won sums of money from the "player trust pool." The gaming

establishment is not involved, and the method spreads the risk for the player-dealer position. While this does not eliminate the problems we see with the proposed regulation forcing players to take the player-dealer position, it reduces the risk any single player faces to cover all bets.

Conclusion

We oppose the proposed regulations and any regulations that result in withdrawing approvals for existing games. We believe that the most prudent path is for the Legislature to implement enormous changes, and the Bureau's role is to carry out the Legislature's wishes.

We remain unaware of the Bureau's evidence to support changing the status quo.

The Bureau should not ignore the rights of the People of California and should not infringe on those rights by adopting these ill-conceived regulations.

Very Truly Yours,

Jarhett Blonien