



December 1, 2014

Susanne George
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Department of Justice
Bureau of Gambling Control
4949 Broadway
Sacramento, CA 95820

**RE: Proposed Amendment of Gaming Activity Authorization Regulation
Regarding Collection Fees**

Dear Ms. George:

On behalf of Communities For California Cardrooms (CCC), a 501 (c) 4 organization, I am writing you to discuss the Bureau of Gambling Control's invitation for comments on the Proposed Amendment to Gaming Activity Authorization Regulation in advance of the December 12, 2014 workshop.

After reviewing the proposed amendments, we have concluded that the Bureau does not have the statutory authority to regulate the collection of fees in player-dealer games. Moreover, the proposed amendments would not serve the Bureau's purported goal of encouraging players to take on the player-dealer position. Rather, the amendments would disproportionately impose costs on recreational, casual and low-wager players, encourage more risky "shot taking" gambling and destroy the economic viability of many gambling establishments, thereby harming local economies.

Since 2003, gambling establishments have had the ability to waive collection fees as permitted by Penal Code Section 337j(f). After more than a decade, the Bureau is proposing regulations that contradict their previous understanding of the statute—all three options allow the Bureau to regulate collection fees and prohibit fee waiver by making it impossible to waive a fee for one or some players. A "vacillating position" or interpretation that was not "contemporaneous with the enactment of the statute being interpreted" is entitled to little to "no deference." (*Yamaha Corp. of America v. State Bd. of Equalization* (1998) 19 Cal.4th 1, 13.)

While the Bureau cites to Business and Professions Code section 19826(g) and Penal Code sections 330.11 and 337j(f), none of these statutes grant the Bureau the authority to regulate collection fees or to restrict gambling establishment's right to waive them.

Without statutory authority, these regulations are invalid. “[I]t is well settled that administrative agencies have only the powers conferred on them...by Constitution or statute...Actions exceeding those powers are void.” (*American Federation of Labor v. Unemployment Ins. Appeals Bd.* (1996) 13 Cal.4th 1017, 1042.)

The Bureau rationalizes the amendments stating they are intended to be “player friendly” changes that encourage all players to take the player-dealer position. But common sense and basic math refute this. Requiring gambling establishments to charge a fee to all players does not incentivize a player to take the player-dealer position because there are other definitive factors in that decision. In addition, requiring fees for all players makes the game more expensive for all players, especially recreational and casual players, and incentivizes risky gambling behavior.

It is precisely because the imposition of the collection fee disincentivizes recreational and casual players to play at cardrooms that the Bureau’s proposed amendments injure cardrooms and harms local economies. A vast majority of the licensed gambling establishments rely on collection fee waivers to compete in their local markets. Requiring collection fees will force 60% of gambling establishments out of business, as they will no longer be economically viable operations. The closure of these gambling establishments will have a devastating effect on the on the local economies the gambling establishments support through lost jobs, lower tax revenue, and fewer purchasers of local goods and services.

Given the lack of statutory authority and likelihood of harm to both recreational players and local economies, we urge the Bureau to reconsider its endeavor to regulate the collection of fees in player-dealer games.

I. Summary of Proposed Regulations

On October 31, 2014, the Bureau issued proposed amendments to the California Code of Regulations and sent an invitation to a workshop to discuss the proposed changes to the Bureau’s Rulemaking List Members. (Invitation from the Bureau of Gambling Control to Rulemaking List Members, dated October 31, 2014, hereinafter “Invitation.”) The changes require a “licensee to identify in their submission to the Bureau for controlled game approval and modifications the parameters for which the licensee may waive the collection fee, pursuant to Penal Code section 337j(f).” (*Ibid.*)

The Bureau proposed three options for effectuating the change:

1. If the fee is not waived, each payer must pay a fee that “shall not be less than one-third of the amount of the fee assessed to the player-dealer position.”
2. Similar to Option 1, except there would be a cap set on the incremental increase from rate to rate based on the lowest fee charged at that table or that game.
3. Similar to Option 2, except it (a) specifically addresses the rate of increase between the lowest collection rate to the highest collection rate, and (b) requires that all players be charged the same fee for the same wager, regardless whether player or player-dealer.

(See Gaming Activity Authorization, Summary of Proposed Regulations, dated October 31, 2014, hereinafter “Summary.”)

All three options allow the Bureau to regulate the fee a gambling establishment can set. All three options indirectly prohibit a card club from waiving the fee by making it impossible to waive a fee for only one or some players. This intent is explicated by the list of Option 3 “Pros” including, “[r]equires a collection from all players, if the fee has not been waived pursuant to Penal Code section 337j(f) and as approved by the Bureau.” (*Ibid.*)

Significantly—and as the Bureau admits—the options incorporate parameters of legislation that failed to pass in 2014, Assembly Bill 820. (*See* Summary.) Special interest groups have attempted to push AB 820 through the legislature multiple times, but the bill has failed to receive enough support to even get to the floor. Just two weeks ago, the bill failed yet again. This failure is both illuminating and deeply troubling. It is illuminating because the California legislature appears to have recognized that these *are precisely the kinds of changes* that should only be enacted by statutory amendment. It is deeply troubling because the Bureau has apparently decided, in the face of that failure, to bypass the legislative process and simply regulate into law by fiat what the legislature was unable to accomplish by lawful means. This kind of overreaching is precisely what courts will focus on in connection with challenges to the Bureau’s actions.

In addition, Option 1 of the proposed amendments (creating a three-tier collection fee structure) directly contradicts the 2005 amendments passed by the Legislature, which permit a five-tier collection fee structure. This three-tier collection fee structure precisely mirrors that adopted by a small and outlier group of cardrooms that support the collection fee, solely as a basis for competing against other cardrooms. The Bureau should not support

The Bureau justifies the amendments as necessary to “effectively identify collection rate criteria so as to ensure compliance with collect rate maximums proscribed in statute,” to “better ensure the likelihood more players at the table in a game will accept the deal when it is rotated,” and to “adequately address[]...identification of the criteria upon which a collection fee may be waived.” (Summary.)

II. The Bureau Does Not Have The Statutory Authority To Enact The Proposed Changes

The Bureau rests its authority to promulgate the regulations on three statutes: Business and Professions Code section 19826(g), Penal Code section 337j, and Penal Code section 330.11. Pursuant to Business and Professions Code Section 19826(f), the Bureau has the right to adopt regulations reasonably related to its functions and duties as specified within the Gambling Control Act. But this power is limited to promulgating regulations that implement, interpret, or make specific certain provision of the Gambling Control Act related to the Bureau’s functions. (Cal. Gov’t Code § 11342.600 (2014).) Because none of the listed statutes grant the Bureau the power to regulate collection fees, the Bureau lacks the authority to promulgate the regulations in the proposed manner.

A. Business And Professions Code Section 19826(g)

The Bureau does not have the authority to regulate collection fees under Business and Professions Code section 19826(g) because the Bureau's authority is solely limited to approving "the play of any controlled game," and does not include the power to approve "collection rates."

Specifically, Business and Professions Code section 19826(g) grants the Bureau the "responsibilit[y]" to:

Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played. The department shall make available to the public the rules of play and the collection rates of each gaming activity approved for play at each gambling establishment on the Attorney General's Web site. Actual costs incurred by the department to review and approve game rules shall be reimbursed to the department by the licensee making the request.

(Bus. & Prof. Code § 19826(g).)

A plain and commonsense reading of the first sentence in the above subsection gives the Bureau the power to "[a]pprove the play of any controlled game," but makes no mention of collection rates. The second sentence requires the Bureau to make available to the public the "rules of play" and the "collection rates"; however, the second sentence regarding publication of the rules distinguishes rules of play from collection rates.

The Bureau interprets this this section to "vest[it] the responsibility of approving the play of any controlled game, including restrictions and limitations on the play of the game and the approval of collection rates for each gaming activity." (Summary, *emphasis added*; *see also ibid.* ["Statute vests the Bureau the responsibility to approve the play of any controlled game, including...to approve collection rates."].) Based on this interpretation, the Bureau asserts that, "a regulatory change is necessary to effectively identify collection rate criteria so as to ensure compliance with collection rate maximums proscribed in statute." (*Id.*)

This interpretation conflicts with settled principles of statutory interpretation.

First, "[i]n using two quite different terms... the Legislature presumably intended to refer to two distinct concepts." (*See San Jose v. Super. Ct.* (1993) 5 Cal.4th 47, 55.) The first sentence uses the phrase "play of any controlled game" while the second sentence uses two distinct phrases: "play of the game" and "collection rates." It is not proper to interpret "play of any controlled game" to include "collection rates" when the second sentence distinguishes between the two concepts.

Second, "[w]e ordinarily reject interpretations that render particular terms of a statute mere surplusage, instead giving every word some significance." If the play of any controlled game includes collection rates, then the additional reference to collection rates is surplusage.

Following these canons of statutory interpretation, the statute must be more reasonably interpreted to mean that the Bureau has (1) the responsibility to approve the play of games, and (2) the responsibility to make available to the public the rules for play of the game and the collection rates. It does not have the responsibility—or even the ability—to approve the collection rates.

Furthermore, the legislative history does not support the Bureau's interpretation. The Legislature enacted a prior version of 19826(g) in 1997 including only the first clause of the subsection—"Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played." (Gambling Control Act, 1997 Legis. Serv. Ch. 867 (S.B. 8) (West).) In 2004, the Legislature amended the statute to include the second clause of the current subsection—"The department shall make available to the public the rules of play and the collection rates..." In doing so, the Legislature gave no indication, much less clear directive, that it intended this change to also empower the Bureau to regulate fee rates pursuant to the first sentence.¹ If anything, the order of amendment and Legislative Counsel's Digest support the view that the Legislature viewed the first and second sentences as independent of one another. Therefore the Bureau does not have the statutory authority to regulate collection fees under Business and Professions Code section 19826(g).

B. Penal Code Section 337j(f)

The Bureau does not have the authority to regulate fee collection under 337j(f) because this statute only prohibits how gambling establishments can collect fees, permitting the gambling establishments to collect fees in any manner not specifically prohibited. The Bureau in part bases its justification for amending the Regulations to ensure that collections fees comply with Penal Code section 337j(f). (Summary.) The section provides:

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.* The actual collection of the fee may occur before or after the start of play. Ample notice shall be provided to the patrons of gambling establishments relating to the

¹ The Legislative Counsel's Digest states: "Existing law, 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. Existing law confers on the division the responsibility of approving the play of any controlled game. This bill would require the division to make available to the public the rules of play and the collection rates of each gaming activity approved for play at each gambling establishment on the Attorney General's Web site. The bill would also require that costs incurred by the division to review and approve game rules be reimbursed by the licensee making the request." (Gambling, Games of Chance, Rules and Regulations, 2004 Cal. Legis. Serv. Ch. 598 (A.B. 1489) (West).)

assessment of fees. Flat fees on each wager may be assessed at different collection rates, but no more than five collection rates may be established per table.

However, if the gambling establishment waives its collection fee, this fee does not constitute one of the five collection rates.

(Pen. Code § 337j(f) (emphasis added).)

In enacting and amending section 337j(f), all the Legislature has done is prohibited certain types of fees. It in no way has the Legislature authorized the Bureau to regulate fee collection, so long as card clubs do not collect fees in a manner contrary to the prohibitions. In addition, by specifically listing out what cannot be done, the Legislature has permitted the card clubs to collect fees in any manner not contrary to the prohibitions. It is settled that “if exemptions are specified in a statute, we may not imply additional exemptions unless there is a clear legislative intent to the contrary.” (*See Sierra Club, supra*, 7 Cal.4th at 1230.)

Moreover, the Legislature defined the scope of the law on the collection of player fees in the first sentence of the statute—section 337j(f) is meant to be the dispositive, exclusive final word, on the collection of fees.

The statute was amended in 2003 (additions noted in italics above), as described by the Bureau in the proposed regulations. (Summary.) The Bureau cites the legislative history to support its interpretation stating, “[T]he amendment to this section was purported to be ‘a ‘player-friendly’ change benefitting those players who do not receive action on their wager, or where a hand folds and there is not betting.’” (*Ibid.*) The Bureau contends this partial selection from the legislative history imbues them with the “responsibility...to approve collection rates.” (Summary.)

However, the selections are incomplete and without context. The Legislative Counsel’s Digest uses only one sentence to describe this change: “The bill would also revise the regulation of provisions relating to player’s fees with respect to the waiver of the collection of a fee or portion of the fee by a gambling establishment.” The Senate Committee on Governmental Organization provides greater explanation, but it also does not support the Bureau’s interpretation:

The bill will also clarify the law relating to the collection of fees in card clubs by allowing the club to waive specified fees, a “player-friendly” change benefitting 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 when these instances occur. The Attorney General has advised the clubs that this change will clarify the law relating to these circumstances.

(Senate Committee on Governmental Organization, Staff Analysis, A.B. 278.) Perhaps read as a partial quote without the second sentence, as was quoted by the Bureau, this could possibly support the Bureau’s position. However, when read as a complete paragraph and as part of a broader statutory scheme, nothing in this language gives authority to the Bureau to regulate fee collection. Rather, it allows gambling

establishments to utilize the fee waiver. In addition, the Legislature expanded the number of fee rates a card club could charge from three to five in a 2005 amendment, suggesting its intent is to give the card clubs more leeway in setting collecting fees. (*See* Gambling, Crimes and Offenses, Penalties, 2005 Cal. Legis. Serv. Ch. 546 (A.B. 1753) (West).)

Furthermore, it is illogical to respect the right to waiver specified in the statute for some controlled games but not others. The Bureau's interpretation requires it to distinguish the right to waive fees for various forms of poker but not in player-dealer game. Penal Code section 337j(f) applies equally to all controlled games. Since the definition of a controlled game includes all games approved by the Bureau, it is inexplicable how the Bureau could logically argue that player fee waivers are permitted in various forms of poker but not in rotating player-dealer games. The proposed regulations addressing the waiver of player fee collections need to apply equally to all games and not specifically player dealer games.

C. Penal Code Section 330.11

1. The Statute Does Not Provide The Bureau The Authority To Regulate Collection Of Fees

Penal Code section 330.11 does not give the Bureau the authority to regulate fee collection because the statute defines the term "banked game" to not include games with a rotating player-dealer; neither the text nor the legislative history even mention fee collection.²

The Bureau asserts the amendments are needed in order to "adequately address how to effectuate existing statute to provide a better likelihood that more players may accept the deal as it is continuously and systematically rotated amongst players." (*See, e.g.,* Summary.) The Bureau implies that it has the authority to enforce the provisions of section 330.11, stating that a banked game does not include "those games where the published rules feature a player-dealer position provided that the opportunity to serve as the player dealer position is 'continuously and systematically rotated' amongst of the players," and citing to this language as the "background" for the proposed amendments. (Summary.)

Nothing in the legislative history of section 330.11 discusses the collection of fees (only the Departments authority to collect reasonable fees), much less gives support to the

² The statute states: "'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." (Pen. Code § 330.11.)

argument that the Bureau has the authority to. (*See Business and Professions, Gambling, Licensing and Regulation, 2000 Cal. Legis. Serv. Ch. 1023 (A.B. 1416) (West).*)

2. Regulation of Collection Fees Will Not Encourage Customers To Assume The Player Dealer Position

a. Collection Fee Rates Do Not Affect The Calculus Of Deciding Whether To Accept The Player-Dealer Position

Even if 330.11 somehow authorized the Bureau to regulate fees to encourage acceptance of the player-dealer position, the proposed regulations will not encourage players to accept the player-dealer position. The Bureau's assertion that the proposed regulations will encourage players to accept the player dealer position more often is untenable as there is no correlation between the proposed regulation of collection fees and acceptance of the player dealer position. The position itself offers all the reward that is needed: a statistical advantage that the player-dealer will win more money than the other players at the table.

While there are many reasons why players choose not to accept the player-dealer position, a higher collection fee is not one of these reasons. A player makes a calculus in determining whether to accept the player-dealer position. First, the position offers a statistical advantage in a game; over time it is expected to have a positive expectation in the game as compared to non-player dealers. Depending on the particular controlled game, the player-dealer advantage can range between one and fifteen percent. This statistical advantage, however, takes a number of hands to manifest itself. Furthermore, of course, a statistical advantage may not manifest itself for any individual player-dealer and may require substantial coverage of bets (and losses) prior to the manifestation of that statistical advantage. Second, the position could demand that a player must cover the wagers of its fellow participants. This could require a significant amount of money that not all players are willing to cover. A player may also consider their personal superstitions or whether they want more control over their hand.

The foregoing point is confirmed by the fact that numerous gambling establishments have collection schedules that charge the player and player-dealer the same fees per wager, and these establishments have not seen any increase in the acceptance of the player-dealer position.

b. A Zero Collection Schedule Does Not Discourage Players From Accepting The Player-Dealer Position

Player-dealer collection rates are set at various rates to ensure equity between the players. Even though player-dealer collections are slightly higher than player collections, these rates are not so disproportionate that the player-dealer has a negative expectation in the game. If the player-dealer position were not profitable over time Third Party Propositional Player Companies would not exist, as the businesses would not be

profitable over time. Collection rates need to be set at different price points for different positions in order to ensure equity among the participants.

If the player and player dealer positions were set at the same collection rates, the player position would be at a significant disadvantage to the player-dealer position, and customers would refuse to play the games at all. As explained below, player collection fees create an instant negative expectation in all approved games, and players will generally refuse to play games when the odds are substantially against them.

There are many reasons why the player-dealer position should pay a higher collection rate, as they are able to take a statistical advantage in a game in which over time they are expected to have a positive expectation in the game. Since the player-dealer position is expected to win at a higher rate, they should be paying a collection that reflects their inherent advantage in the game. In the end, the regulations put forth by the Bureau are not “player friendly” and would ruin the customer experience for a majority of patrons.

III. A Zero Collection Schedule Is Better For The Economic Health Of The Consumer And Consistent With Public Policy Goals Regarding Responsible Gambling.

A zero collection fee schedule is a win-win for consumers and gambling establishments. Consumers pay less overall to participate in recreational gambling because their cost-per-hand is lower. Consumers also benefit because the fee schedule is more equitable. Once a mandatory collection fee is charged, players are incentivized to bet larger and larger amounts to account for the cost of the each hand. Gambling establishments benefit because a zero fee collection schedule encourages smart recreational gambling; collection fees schedules foster risky “shot-taking” gambling that gambling establishments – and the Bureau – do not want to promote.

A. A Zero Collection Schedule Benefits The Consumer By Providing A Lower Cost To Play Compared To A No Collection Schedule

A zero player collection-pricing model results in a lower cost to play particularly for casual and recreational players. From the consumer perspective, the cost to play a game includes both the negative edge and any additional fees charged per hand. For example, a \$10 per wager player in a Twenty-First Century Blackjack game accepts a 2-4% negative edge in the game depending on the player’s strategy.³ In a gambling establishment that waives player collection fees, that is the only cost per hand that the recreational player faces. In contrast, gambling establishments that charge player collection fees extract an additional fee per hand from each customer. A common collection scheme is \$1 per bet for wagers of \$10 to \$100.⁴ The inclusion of a \$1 fee per hand results in an additional,

³ Players improve their odds by playing optimal strategy and decrease their odds with variations from optimal strategy. We believe 2-4% negative edge in blackjack variant games is a reasonable assumption. We assume 3% in our calculations.

⁴ In Twenty-First Century No Bust Blackjack, the Commerce Casino and the Gardens (Hawaiian Gardens) charge customers \$1 per bet on \$10 to \$100 wagers.

non-recoverable cost to the consumer that substantially increases the price per hand.

The economic impact on the consumer can be seen in the calculations shown below. All of the calculations assume a blackjack variant game similar to Twenty First Century Blackjack with a 3% negative edge.

In a zero player collection game, the cost faced by the recreational customer is the expected loss on the game. Here we assume the consumer has a 3% expected loss on the blackjack variant wager. The expected cost to a \$10, \$25, and \$100 blackjack player with zero collection can be calculated as follows:

Expected cost to player making a \$10 wager

- Actual cost: $[(-\$10 \times 51.5\%) + (\$10 \times 48.5\%)] = \$0.30$ cost
- Percentage of outlay: $\$0.30/\10 wager = 3.0% cost

Expected cost to player making a \$25 wager

- Actual cost: $[(-\$25 \times 51.5\%) + (\$25 \times 48.3\%)] = \$0.75$ cost
- Percentage of outlay: $\$0.75/\25 wager = 3.0% cost

Expected cost to player making a \$100 wager

- Actual cost: $[(-\$100 \times 51.5\%) + (\$100 \times 48.5\%)] = \$3.00$ cost
- Percentage of outlay: $\$3.00/\100 wager = 3.0% cost

In a collection game, the customer pays the collection fee 100% of the time and does not recover that money with the outcome of the game. This results in a greater cost per hand to the customer. In this scenario, we assume a \$1 per hand collection, a common fee in collection card rooms. In the game itself, the customer loses roughly 51.5% of the time and wins 48.5% of the time depending on style of play. The expected cost to a \$10, \$25 and \$100 blackjack player with collection can be calculated as follows:

Expected cost to player making a \$10 wager

- Actual cost: $(-\$1 \times 100\%) + [(-\$10 \times 51.5\%) + (\$10 \times 48.5\%)] = \1.30 cost
- Percentage of outlay: $\$1.30/(\$10 \text{ wager} + \$1 \text{ collection}) = 11.8\%$ cost

Expected cost to player making a \$25 wager

- Actual cost: $(-\$1 \times 100\%) + [(-\$25 \times 51.5\%) + (\$25 \times 48.5\%)] = \1.75 cost
- Percentage of outlay: $\$1.75/(\$25 \text{ wager} + \$1 \text{ collection}) = 6.7\%$ cost

Expected cost to player making a \$100 wager

- Actual cost: $(-\$1 \times 100\%) + [(-\$100 \times 51.5\%) + (\$100 \times 48.5\%)] = \4.00 cost
- Percentage of outlay: $\$4.00/(\$100 \text{ wager} + \$1 \text{ collection}) = 4.0\%$ cost

The following chart summarizes the zero collection schedule and collection schedule calculations.

	Collection = \$0/hand	Collection = \$1/hand	Price Difference
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Wager	Cost/Bet \$	Cost/Bet %	Cost/Bet \$	Cost/Bet %	with Collection
\$10	\$0.30	3.0%	\$1.30	11.8%	333% increase
\$25	\$0.75	3.0%	\$1.75	6.7%	133% increase
\$100	\$3.00	3.0%	\$4.00	4.0%	33% increase

B. A Collection Schedule Creates Disproportionate Price Increases For Low-Wager Players

As seen in the table above, collection schedule results in higher relative price increases to smaller players compared to a zero collection schedule. Adding a \$1 per hand collection rate results in a 333% cost increase to the \$10 player. Note that the price increase falls as wager size increases—the \$100 player bears a relatively smaller increase than that borne by the \$10 players. The fixed fee collection model punishes smaller players disproportionately more than larger players. In contrast, zero collection pricing results in lower costs per hand to the consumer and more equitable pricing for all consumers.

C. Zero Player Collection Fees Provides Equitable Pricing to Consumers

When a player collection fee is introduced, the relative cost to bet ratio (as a percentage of amount wagered) increases as bet size decreases, meaning that the collection pricing is disproportionately expensive to smaller, recreational customers and favors large bettors since the relative cost to bet ratio decreases as bet size increases.

With collection pricing, the \$10 per wager player's cost per bet is 11.8% of money expended versus only 4.0% for the \$100 per hand player. With a zero collection pricing, the cost to the player is 3.0% regardless of bet size. The zero player collection schedule is more equitable to all players because the relative cost to play the game is the same regardless of bet size.

D. Collection Pricing Encourages "Shot-Taking," A Risky Gambling Practice That Benefits Neither Consumers Nor Gambling Establishments

A direct consequence of fixed fee collection is the promotion of "shot-taking," over-betting a hand to make up for the cost of the fee for the hand. Under a collection fee schedule, a player must pay a set amount regardless of the bet amount whereas under a no collection schedule the only cost to the player is his wager. If a player has to pay \$1 for every hand on top of his bet, the player will bet more than he would have otherwise to make for the cost of the fee. Since players have limited means with which to play, this results in fewer hands played but at a higher dollar amount. Collection pricing thus punishes smaller recreational wagers by encouraging them to take fewer but larger, bets. This behavior is the type of gambling activity that responsible gambling programs discourage.

IV. The Proposed Regulations Would Devastate Local Economies And Governments That Rely On Revenues And Jobs From Gambling Establishments.

A. Zero Collection Pricing Is Necessary For Gambling Establishments To Remain Economically Viable.

Over half of the 88 licensed gambling establishments waive player collections out of economic necessity, and a majority would be forced to close if they were no longer allowed to do so. Since the passage of Proposition 1A in 2000, gambling establishments have amended their collection rates in order to survive the fierce competition from nearby tribal casinos that do not charge collection fees. Most gambling establishments that waive their player collection fees have done so for over a decade with the explicit approval of the Bureau. Without the ability to waive the player collection, many gambling establishments would be forced out of business as customers would bypass their gambling establishments to go to a nearby tribal casino for lower prices.

The result of the proposed amendments would create an absurdity—the regulator would destroy the regulated.

B. The Loss of Gambling Establishments Would Eliminate Jobs, Reduce Local and State Tax Revenue, And Reduce Spending In Local Economies.

A recent economic study shows that gambling establishments provide over 23,000 living wage jobs for California and generate over the \$273 million in state and local tax revenue per year. If half the gambling establishments were forced to close due to the proposed regulations—as they likely would, California would lose over 10,000 living-wage jobs and nearly \$130 million in yearly tax revenue. The closure of these gambling establishments would directly affect over 70 local municipalities whom depend on revenue from their local gambling establishments.

For example, Club One Casino provides living-wage jobs for over 285 people in Fresno, California—an area with high unemployment, high poverty, and low college graduation rates. Club One Casino is the largest single contributor to the city's general fund, and pays table taxes of \$1 million to the city and table fees of \$200,000 to the State every year. Under the proposed regulations, the Club would be forced to let go or reduce the hours of 60% of its employees and would suffer a 60% decline in taxable revenue.

Furthermore, the Bureau and California Gambling Control Commission would have to make drastic cuts as they would lose over half of their yearly operating budget.

Mandating fee collection would cause irreparable harm to a majority of gambling establishments and it would further devastate the economies of numerous municipalities.

C. Local Communities, Card Rooms, and Employees Stand Have Expressed The Same Concerns

We are not alone in expressing grave concerns with the proposed amendments to collection fee regulations. Community leaders (including the mayor of Citrus Heights, the Coloma City Manager, and police chiefs of Coloma and Citrus Heights), civic organizations (including the Chamber of Commerce for Hayward, Citrus Heights, Rancho Cordova), dozens of card rooms, and thousands of employees have written comments to the Bureau expressing similar concerns. This letter encompasses those concerns.

V. Conclusion

The Bureau does not have the statutory authority to regulate the amount of fees that a gambling establishment may collect per wager. Neither Business and Professions Code Section 19826(g) nor Penal Code sections 330.11 and 337j(f) give the Bureau any authority to mandate that gambling establishments must collect fees from every player per wager or waive all collection. The Bureau's proposed regulations will create irreparable harm to low-wager players, gambling establishments, and their respective communities. Gambling establishments provide significant and important revenues that directly benefit numerous local governments. There is little doubt that the implementation of these proposed regulations will severely impact the ability of local governments to collect revenues from their gambling establishments, and without these revenues quality programs and vital services will be disrupted statewide. Therefore, we respectfully request that the Bureau cease any further promulgation of these proposed regulations.

Sincerely,



Jarrett Blonien

Communities for California Cardrooms

Executive Director