



December 1, 2014

Sent Via U.S. Mail & Email Susanne.George@doj.ca.gov

Susanne George Research Analyst
Department of Justice
Bureau of Gambling Control
4949 Broadway Avenue, Room E231
Sacramento, California 95820

Re: Workshop on Proposed Regulation of "No Collection Fee"

Dear Ms. George:

Please find the following comments to the aforementioned proposed No Collection Regulations on behalf of Ocean's Eleven Casino and Crystal Casino.

Conflict with Penal Code §337(j)(f)

It is respectfully submitted that the proposed regulations inherently conflict with Penal Code §337(j)(f) which specifically authorized gambling establishments to waive collection over 6 years ago without authorizing or requiring any conditions before being allowed to do so or in connection with doing so. More importantly, it specifically states it is intended to be "*dispositive of the law relating to the collection of player fees in gambling establishments.*" Accordingly, inasmuch as this section is intended to be **the last word** on the subject, it is respectfully submitted that no regulations can subsequently impose conditions or other criteria where none are contemplated or called for in this dispositive law; and as such, the proposed regulation, in its entirety, is an impermissible attempt to change the law. As such, the only means left to change this dispositive statement of law is through legislative amendments to the Penal Code or other statute. *In short, any change must be through legislation not regulation.*

No Need for Regulation

Notwithstanding the Bureau's ability to impose conditions through regulation instead of legislation, it is respectfully submitted that there is no objective need to change or amend the existing regulations. The old adage, "if it ain't broke don't fix it" aptly applies.

Where is the cry for clarity or notice of rules, from the public, the gambling establishments, or the TPPPS? The reality is that there is none for the simple reason that there is no confusion, no notice issues, and no need for additional guidelines.

Nearly every gambling establishment in the state, from the three largest cardrooms in Los Angeles County to the smallest cardrooms, waive player collection fees in some or all of their games with player-dealer positions. Most have been doing so since the enactment of Penal Code §337(j)(f) and others, like every one of the cardrooms in Los Angeles county, began doing so in recent years only.

To date, other than the grumblings of some of the mammoth Los Angeles cardrooms and tribal casinos who may have lost a sliver of a fraction of their market share or revenue, the cardroom industry is unaware of any complaints or objections by gambling establishments to the current state of regulations. Moreover, for nearly all of them, the waiving of collections is the only means the cardroom has to compete with tribal casinos and the giant cardrooms in their area, maintain jobs, and contribute to their cities.

By example, before Crystal Casino began waiving player collection fees in 2013, it teetered on the precipice of remaining viable. A significant source of funding for the City of Compton was in serious jeopardy, as were nearly 400 jobs and the gambling establishment itself. Today, Crystal Casino is once again a major financial contributor to the City of Compton, and the home to 400 jobs.

By further example, Ocean's 11 began waiving collection from players in Pai Gow Poker soon after the passage of Penal Code §337(j)(f). Prior thereto, it could not compete with numerous tribal casinos in the area to attract *any* customers. However, since doing so, it is home to many players who otherwise would not be playing there, and along with Baccarat, is a significant source of revenue for the City of Oceanside and responsible for the employment of dozens of employees.

Further, we believe that the overwhelming response from cardrooms in the central and northern part of the state is that they would be out of business if any form of these regulations were put in place.

More importantly, the cardroom industry is unaware of any complaints or objections by the general playing public in the last 7 years. This is not surprising since the entire practice is inherently “player-friendly.” Moreover, it is respectfully submitted that there is no basis for any contention that the general playing public is being harmed or prejudiced in any way by this practice.

Taking the Player-Dealer Position

It is respectfully submitted that the Bureau’s proffered reason for imposing these proposed regulations, namely that players are dissuaded from taking the player-dealer position, is without any factual support; and, suffers from a misconception and misinformation of a players’ decision-making process, needs, and choices.

There is simply no causal relationship between the waiver of player fees and the player’s decision to take the rotated player-dealer position. Similarly, there is no causal relationship between the amount of player fees and the player’s decision to take the rotated player-dealer position.

The overwhelming experience of gambling establishment operators, and the TPPPS licensees, is that the waiving of player collection fees has in fact had no effect on the number of players or the number of times that players have accepted the player-dealer position over the last 6 years. Likewise it is equally axiomatic and undisputed that the relationship between fees charged to players, if any, and player-dealer fees, has had no effect on the number of players or number of times that players have accepted the player-dealer position. In other words, players take the player-dealer position with the same frequency now as they did before the gambling establishments began waiving player collection fees.

Simply put, the only credible experience and information is that the decision to take the player-dealer position is a personal choice unique to each player based on their personal funds, amount they are willing to risk in any hand of play, choice to play against the other players at the table, and other factors unique to their personality.

Further, there is no nexus or logical connection between waiving player collection fees and the decision to play against the other players at the table.

Additionally, we are certain that the few supporters of these regulations will not be able to offer any credible facts, surveys, or objective evidence, to dispute the foregoing.

Moreover, if the Bureau has any information to the contrary we respectfully submit that it should be shared with the cardroom industry and open to discussion at the workshop.

Lastly, any doubt or uncertainty as to the foregoing contentions can be easily resolved by a survey or polling of players in all the cardrooms by the Bureau, Commission, and the cardroom owners conducted either jointly or independently. We would also be in favor of retaining an independent survey firm to ensure fairness and objectivity.

Specifically, we believe that the survey should seek the players' opinions on fee waivers, the taking of the player-dealer position, and the causal connection between player fees and player-dealer fees.

Finally, we believe that if a joint effort is opted for that a group consisting of gambling establishment and TPPPS licensees in all tiers and in each part of the state should be formed to prepare the survey.

Options

At the outset, we believe that none of these options are "business friendly" or required.

Moreover, since there are no clarity or notice issues, none serve to enhance these non-existent issues.

Further, it should be up to the cardroom to decide whether it is in its best interests to elect to waive a fee.

Rather, with the exception of the few largest cardrooms, each option will devastate the cardroom industry, employees, and the cities that rely on them.

Although we oppose all the options for all the foregoing reasons stated above, options 2 and 3 are particularly onerous, arbitrary and capricious. Incremental increases serve no purpose and satisfy no need. They have no place in any collection plan.

On behalf of Ocean's 11 Casino and Crystal Casino, thank you for the opportunity to address these issues.

Sincerely,



Mark Kelegian
Ocean's 11 Casino Managing Partner
Crystal Casino Vice President and General Counsel