QCS Enterprises, Inc.
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April 26, 2010

Susanne George, Bureau Regulations Coordinator
Department of Justice
Division of Law Enforcement
Bureau of Gambling Control
1425 River Park Drive, Ste 400
Sacramento, CA 95815

Re: Comments on Notice of Proposed Rulemaking

Dear Ms. George,

It's difficult to know, from our perspective, what costs are actually incurred in the department's investigations for new applicants. Let's just assume we are generally speaking of salaries. We feel that every entity and employee seeking a favorable status of suitability, should be screened thoroughly to find they are "squeaky clean" and operating an ethical business.

Our company would come under the renewal classification. Recently with our annual renewal application, we were invoiced $4,500. That amount of money is literally a hardship for us. And, we have no idea what needed to be investigated to merit that amount of money.

Our total company is four people. My husband and I, and my son and daughter-in-law. We have home-based offices for our telemarketing. We have made no changes in years. I receive an annual salary for my husband and myself of $80,000. Likewise, my son and his wife also receive $80,000 annually. With this challenging economy, we have made no bonuses in a couple of years, and don't expect to in the near future.

Business is "in the toilet" and we are reduced to selling party goods to squeak out a living in addition to our other markets of office supplies, hospitality items, and Indian Gaming. A lot of little stuff, and very little gaming related parts. We are always hopeful that more tribes/casinos will increase their sales, but the margins are so thin, the Vegas big guys can beat us out, and now the casinos are crying poor also. It is just poor timing to put more burden on little guys like us, who really depend on keeping the expenses down. (We just received an increase of 400 per month in our health care employee package. I'm frantically trying to shop out other plans that don't compromise our level of care.)

I did not even mention all those who have purchased this past year who don't intend to pay their bills. Well, you don't need any more examples, as I'm sure you know that all families are touched in some way by the times we are in.

Very sincerely,

Sharon L. Paul
Secretary / CFO
QCS Enterprises, Inc.

Mr. & Mrs. James R. Paul
55-585 Cherry Hills
La Quinta, CA 92253

Susanne George, Bureau Regulationx Crdnt
Department of Justice
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May 28, 2010

Ms. Susanne George
Bureau of Gambling Control
1425 River Park Drive, Suite 400
Sacramento, CA 95815

Re: Proposed Schedule of Investigation and Processing Costs Regulations
Notice File No. Z-2010-0325-01

Dear Ms. George:

I write on behalf of Artichoke Joe's with comments on the proposed changes to Bureau regulation Section 2037 entitled Schedule of Investigation and Processing Costs.

Subsection (a)

Subsection (a) would provide that "[a]ll costs and charges of the investigation, review, or approval must be paid before the Bureau may approve a contract, game, or gaming activity, or before a final determination is made by the California Gambling Control Commission." In requiring payment as a precedent to Bureau action, the regulation would seem unnecessarily inflexible.

Flexibility is needed for numerous reasons. Costs of investigation are not known until the investigation is complete, and the time between completion of the investigation and the Commission hearing might not be sufficient for billing the applicant and allowing time to pay. The Bureau might be unexpectedly busy and unable to produce a bill in a timely way. An owner of a small cardroom might be away during the wrong two weeks or might not be able to make payment on time. The bill or payment might get lost in the mail.

There is no need to require payment up front. The Bureau can easily bill the amount owed, and require it be paid by a certain date. Enforcement is not a issue. The Bureau could apply a late fee or discipline for non-payment.

We therefore suggest that to provide flexibility, a provision be included in the regulation authorizing the Bureau Chief to allow for late payment upon request and good cause.

Subdivision (b)

This section provides for determination of the amount of a deposit where there is engagement of "external specialized resources." Although this phrase is vague, we understand it to contemplate the use of private companies to perform investigative functions. We do not believe that engagement of "external specialized resources" is authorized by the statute, and thus this regulation is not authorized by the Act and is unnecessary.

The Act clearly assigns the duty of investigation to the Department of Justice. Section 19826 of the Act charges the Department with the responsibility of performing various investigations. The Department shall investigate "the qualifications of applicants" for licenses, permit, or other approvals (subd. (a)), "suspected violations of [the Act] or laws of the state related to gambling" (subd. (c)) and "complaints that are lodged against licensees" (subd. (d)).

Section 19868 of the Act reads, "the department shall commence ***its*** investigation." The use of the possessive "its" make clear the intent that the investigation be done by the Department. The Department is not authorized to contract out the investigation to private companies.

Section 19827 makes clear that the Department can employ outside experts, but only for certain purposes, namely determination of compliance with the Act. Section 19827(a)(1)(A) provides that the Department can "place expert accountants, technicians and any other person, as it may deem necessary, in all areas of the premises wherein controlled gambling is conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to" the Act. This contains two limitations. First, the experts are authorized for use only in areas of the premises where controlled gambling is conducted. Second, the purpose is to determine compliance with rules and regulations. Outside experts are not authorized to perform investigations.

An investigation by the Bureau is deeply intrusive into private matters. The Gambling Control Act requires that applicants for licences be thoroughly investigated. "All gambling operations, all persons having a significant involvement

in gambling operations ... must be licensed and regulated." Sec. 19801(l). The applicant must be "of good character, honesty and integrity." Sec. 19857(a). Investigation must involve the person's "criminal record, if any, reputation, habits, and associations." Sec. 1957(b). The application forms must include "complete information and details with respect to the applicant's personal history, habits, character, criminal record, business activities, financial affairs, and business associates." Sec. 19865.

The investigation intrudes into numerous private spheres. It requires investigation of criminal history, financial matters, family and friends, life history, education, habits, associations, employment, living situations, military career, other licenses, etc. The list is potentially endless. The financial investigation is extremely thorough. It requires disclosure of bank account statements, brokerage statements, tax returns, disclosure of salaries and investments. Sometimes it involves tracing of sources of money used to pay for certain assets. Not even a bank lending millions of dollars does as thorough an investigation as does the Department. This is undoubtedly one of the most intrusive investigations, if not the most, for a license issued by the state.

The reason for not allowing the Bureau to hire private companies to perform the investigation is because it is so invasive and undertaken by the government as a function of its police powers. The government has a special relationship with applicants and licensees, and its powers are limited by constitutional principles and statutory protections. A private company does not have the same relationship to the applicant and the public and is not necessarily bound the all of the same laws.

No regulation has authorized the use of private companies to perform investigations. Thus, the proposed regulation sets investigation costs for an action that is not authorized by statute or regulation. The proposed regulation is inconsistent with the Act and is unnecessary.

We appreciate your consideration of these comments.

Sincerely,

Alan Titus

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May 28, 2010

Susanne George, Regulations Coordinator
Bureau of Gambling Control
Department of Justice
Division of Law Enforcement
1425 River Park Drive, Suite 400
Sacramento, CA 95815

RE: Proposed Rulemaking;
Title 11, California Code of Regulations, Section 2037;
Schedule of Investigation and Processing Costs

Dear Ms. George:

The staff of the California Gambling Control Commission (Commission) has reviewed the proposed rulemaking referenced above which was noticed by the Bureau of Gambling Control (Bureau) April 16, 2010. We appreciate this opportunity and have prepared limited comments and recommendations concerning certain provisions of the proposed action, as outlined below:

Section 2037. Schedule of Investigation and Processing Costs

Subsection (a)

The fifth sentence of the amended subsection provides, in general, that all investigative costs must be paid before any action may be taken on an application. The current regulation states, in part, that those costs must be paid "*... before the Bureau may ... make a recommendation to the California Gambling Control Commission.*" The proposed amendments in this sentence may actually prohibit the Commission from taking any action on an application until the Bureau's costs are paid. We assume this is an unintended consequence that will be rectified. However, if that *is* the intent of this amendment, it is inappropriate and not authorized. It is inappropriate because it places the Commission in the position of acting as a collection agent for the Bureau and requires a determination to be made as to the appropriateness of the Bureau's charges; this is not the Commission's role. Furthermore, it is not authorized because there is no provision in the Act, either expressed or implied, that gives the Department/Bureau any authority to dictate to the Commission what it may or may not do, or when it may or may not act. Therefore, the current language should be retained, but could be amended for clarity and

consistency to say, "... *before the Bureau may ... or submit its report or make a recommendation to the California Gambling Control Commission.*"

The eighth and final sentence of this subsection addresses, in pertinent part, the refund of any unused portion of a deposit after an investigation has been concluded. While the proposed amendment does, indeed, describe the current general practice, being so prescriptive in the regulation is probably not necessary. The Commission might not always be the one to make these refunds and the actual practice could change at some point, which would necessitate a change in this regulation. The Bureau is already statutorily charged[1] with the responsibility of accounting for the expenditure of these funds and directed to make these refunds. This part of subsection (a), as with most of the rest of it, is essentially duplicative of the statute and may not be necessary anyway. If it is desirable to retain this duplicative language for convenience of reference or in order to be informative, it is preferable to use less specific and detailed language. The current regulation could simply be amended to read, "... *and shall cause a refund to be made of any unused portion of the deposit.*" The manner in which that refund is made, then, could be accomplished through the current practice, or by some other means that may become available in the future.

Paragraph 1

Paragraph (1) of subsection (a) provides a schedule of the various deposit amounts for various applicant categories in subparagraphs (A) through and including (N). For the most part, the proposed amendments simply increase the amount of each specified deposit. With a few exceptions, we have no comments concerning the proposed amendments or deposit amounts. The comments, questions and concerns we do have are as follows:

Subparagraph (A)

Subparagraph (A) specifies the amount of the deposit to be submitted by an applicant, other than a trust, for a state gambling license and includes, parenthetically, clarifying terms that seem to be intended to describe what is meant by the term "*applicant*" (i.e., "*Sole Proprietor, Corporation, Partnership, Shareholder, Partner, etc.*"). In addition to increasing the amount of the prescribed deposit, the proposed amendments also delete the descriptive parenthetical terms.

The Initial Statement of Reasons (ISOR)[2] for the proposed action states that the reason for deleting those descriptive terms is that they "... *are unnecessary and could cause confusion, as this section applies to all ownership structures, ... not just to those business entities listed.*" However, those descriptive terms actually include more than just business entities; they refer to individuals as well (i.e.,

[1] Business and Professions Code § 19867, subdivision (c)
[2] Page 4 of 10; last paragraph, beginning "Subparagraph (A) of paragraph (1) ..."

"*Shareholder, Partner*"). Given the very broad definition of "*applicant*" in subdivision (b) of section 19805 of the Business and Professions Code,[3] and given the wide variety of entities and individuals that may be required to apply for a gambling license, including owner-licensees and endorsed licensees, the absence of any clarification may be as confusing, if not more so, than retaining the language being deleted. It is also somewhat unclear whether this particular deposit applies to the owner-licensee applicant and each associated application individually (multiple deposits), or to the entire application package as a whole (a single deposit). We recommend that, current policies, practices and interpretations notwithstanding, there be some clarification of these issues included in this particular subparagraph.

Subparagraph (E)

Subparagraph (E) currently specifies the amount of the deposit to be submitted by an applicant, other than a trust, for renewal of a state gambling license. The proposed action renumbers this subparagraph as (F) and adds a new subparagraph (E), which will specify the amount of the deposit to be submitted by an applicant for renewal of a state gambling license for a "*gambling enterprise*."

The new subparagraph appears to have similar clarity issues as those discussed above relative to subparagraph (A). The ISOR[4] states that this amendment is intended "*... to clarify who must pay a deposit ...*" and to make "*... a distinction between the deposit amounts required for renewal of these license types.*" Given the very broad definition of "*applicant*" in subdivision (b) and the similarly broad definition of "*gambling enterprise*" in subdivision (m) of section 19805, and given the wide variety of entities and individuals that may be required to apply for renewal of a gambling license, including owner-licensees and endorsed licensees, the intended clarification and distinction appears to be lacking, especially since no mention of the term "*gambling enterprise*" is included in relation to an initial application for a gambling license (subparagraph (A)). Is this subparagraph supposed to apply to owner-licensees alone? If so, using the term "*gambling enterprise*" without any clarifying descriptive language does not make that distinction as that term, as defined, clearly includes both owner-licensees and endorsed licensees. Consequently, it is also unclear whether this particular deposit applies to the owner-licensee applicant and each associated application individually (multiple deposits), or to the entire application package collectively (a single deposit). We recommend, current policies, practices and interpretations notwithstanding, that there be some clarification of these issues included in this subparagraph.

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[3] All statutory references hereafter are to the Business and Professions Code, unless otherwise specified.

[4] Page 5 of 10; fourth paragraph, beginning "Subparagraph (E) of paragraph (1) ..."

Subparagraph (J)

Subparagraph (J) currently specifies the amount of the deposit required for the review of an amendment or change to any approved game or gaming activity. The proposed action seeks to add a new subparagraph (J) specifying the amount of a deposit to be submitted with a "*supplemental application requesting the approval of a change in location of a gambling enterprise*," and renumbers the current subparagraph as (L).

First, it should be noted that it is a "*gambling establishment*" that would be relocated, not the "*gambling enterprise*." Therefore, the correct terminology, in this context, would be "*gambling establishment*." It is the building or premises that is the subject of the relocation. If, for example, a corporate owner (i.e., the "*gambling enterprise*") simply moves its corporate offices, but not the "*gambling establishment*," the proposed language, as written, implies that more than a simple address change notification would be required.

Second, and more importantly, there is currently no requirement or process established in statute or regulation for requesting approval, in advance, of a location change for either a gambling establishment or enterprise. There is no "*supplemental application requesting the approval of a change in location of a gambling enterprise*," there is no responsibility specifically assigned to the Bureau in connection with a relocation that calls for investigations or reviews, and there is no specific authority to charge a fee. The only requirement that even comes remotely close is the requirement set forth in Title 4, CCR, Section 12004, which simply requires a registrant or licensee to report any change of address to the Commission within 10 days of the change. (Emphasis added) That section also specifies the form that is to be used; "Notice of Address Change" CGCC-032 (New 06/05). Clearly, then, this is only a notification requirement; moreover, it is a notification after the fact and not a request for approval to do something prospectively.

The Commission has recently included in its regulation priorities list, the development of a regulatory process for the review and approval of changes in the locations of gambling establishments. This falls within the jurisdiction and powers expressly conferred upon the Commission pursuant to subdivision (b) of section 19811, and subdivision (e) of section19824. The process will undoubtedly include the conduct of inspections, investigations and reviews, which would most likely be conducted by the Bureau. It may be appropriate to establish inspection and review deposits in or in conjunction with those regulations. For all of the foregoing reasons, it is premature to do so at this time and in the Bureau's current proposed action.

Paragraph 2

Paragraph (2) of subsection (a) relates to third-party providers of proposition player services (TPPPS) and gambling businesses, and provides a schedule of the various deposit amounts for contract approvals and contract amendment approvals in subparagraphs (A) and (B); various supplemental information packages (packages) relating to TPPPS and gambling businesses converting from registration to licensure in subparagraphs (C) through and including (G); and for TPPPS and gambling business license renewals in subparagraphs (H), (I) and (J). For the most part, the proposed amendments simply increase the amount of each specified deposit and add a few new categories. With a few exceptions, we have no comments concerning the proposed amendments or deposit amounts. The comments, questions and concerns we do have are as follows:

Subparagraphs (C), (D), (E), (F) & (G) - Clarity

Subparagraphs (C), (D) and (F) currently specify the deposit amounts for three different categories of packages (primary owner or owner, supervisor, and player or other employee) and include a specific reference to the meaning or definition of "*supplemental information package*" (i.e., "*as defined in Title 4, CCR, Chapters 2.1.and 2.2*"). The proposed action, in addition to increasing and adding deposit amounts, would eliminate the clarifying reference to the definition of the term "*supplemental information package*."

The ISOR[5] for the proposed action includes a statement regarding the amendment in paragraph (2) whereby the reference to Title 4, CCR, Chapters 2.1 and 2.2 is expanded to include specific section numbers, and explains that this addition allowed for the deletion of the redundant clarifying language in subparagraphs (C), (D) and (F) referring to the packages, and presumably in the new provisions as well. However, the elimination of that language may lead to uncertainty and confusion, and raises an issue of clarity. Deleting the seemingly redundant text does appear to be appropriate, but we would recommend that language be added in subparagraphs (C), (D), (E), (F) and (G), to be more specific about what the term "*supplemental information package*" actually means. For example, the opening phrase of subparagraphs (C), (D), (E) and (F) could simply be reworded to read, "*A supplemental information package (Title 4, CCR, §§ 12200 and 12220) to convert ...*" and subparagraph (G) could be reworded to read, "*If, after a review of the supplemental information package (Title 4, CCR, §§ 12200 and 12220) to convert ...*" This would eliminate the redundancy, but add specificity and clarity.

Subparagraphs (C)

Subparagraph (C), as amended, refers to "*an owner that is an individual and/or a sole proprietorship.*" The use of the terms "*individual*" and "*sole proprietorship*"

[5] Page 6 of 10; fifth paragraph, beginning "Paragraph (2) of subdivision (a) ..."

together appears to be redundant and unnecessary. When used in this context, both terms, by definition, are synonymous. (Black's, 6th Ed.) If, for some reason, it is determined that the use of both terms together is desirable, the use of the combined conjunctions "*and/or*" would be inappropriate and possibly confusing. The more correct of the two conjunctions to be used here is probably "*or*."

Subparagraph (D)
In subparagraph (D), the word "*for*" should be deleted from the phrase "..., *except for a sole proprietorship or trust, ...*"

Subparagraph (G)
In subparagraph (G), there are a few minor punctuation and editorial changes needed. First, there should be a comma (,) inserted following the word "*If*" at the beginning of the sentence. Second, another comma (,) should be inserted following the word "*Employee*." Third, the superfluous "*if*" following "*Employee*" should be deleted.

Subparagraphs (H), (I) & (J) - Consistency
The language of subparagraphs (H), (I) and (J) is somewhat inconsistent with the structure of similar provisions elsewhere in this regulation. It is suggested that these subparagraphs be rewritten, for consistency, as follows: "*An applicant for renewal of ... shall submit a deposit ...*"

Subparagraph (H)
In subparagraph (H), the word "*for*" should be deleted from the phrase "..., *except for a trust, ...*"

Authority and Reference Citations
The proposed action includes amendments to the reference citations for Section 2037, in particular the addition of section 19952. It appears that this reference citation is intended to apply to the addition of subparagraph (M) in paragraph (1) of subsection (a) of Section 2037. That does not appear to be a proper reference citation for this regulation.

Section 19952 merely authorizes the Commission to establish, by regulation, fees for special licenses to operate additional tables for tournaments and special events. That statute does not assign any responsibility or grant any authority to the Department/Bureau; it doesn't even mention the Department/Bureau. Furthermore, Section 2037 does not implement, interpret or make specific any provision of section 19952.

While the Bureau is responsible for reviewing requests for approval to temporarily operate additional tables and reporting its findings to the Commission, that responsibility is assigned by regulation,[6] not statute, and, most importantly, not by section 19952. The Bureau's

[6] Title 4, CCR, § 12358

general statutory authority to "investigate" requests for approval,[7] and to establish and collect deposit fees,[8] appear to be sufficient and appropriate both as authority and reference citations for the new deposit fee specified in subparagraph (M) of paragraph (1) of subsection (a) of Section 2037.

Thank you for considering our comments and recommendations. If you have any questions, please contact Jim Allen, Regulatory Actions Manager, at (916) 263-4024 or jallen@cgcc.ca.gov.

Sincerely,

Tina Littleton

TINA M. LITTLETON
Deputy Director
Licensing Division

cc: Norm Pierce
Terri Ciau
Joe Dhillon
Jim Allen

[7] Business and Professions Code § 19826
[8] Business and Professions Code § 19867

Crystal Casino

May 28, 2010

Via Fax (916) 263-0928 and Email (Susanne.george@doj.ca.gov)

Susanne George
Bureau Regulations Coordinator
Department of Justice
Division of Law Enforcement
Bureau of Gambling Control
1425 River Park Drive, Suite 400
Sacramento, CA 95815

Re: Draft Investigation and Processing Cost Amendments
Hearing Date: June 9, 2010

Dear Ms. George:

Please find the following comments to the aforementioned proposed MICS submitted on behalf of Crystal Casino & Hotel and Oceans 11 Casino.

§2037(a)(1)(L). Herein, we respectfully submit that the vast majority of changes submitted to a gaming activity are made to the collection structures, pay tables, etc. and are non-substantive in nature. Accordingly, the amount of time and cost necessary to review the application does not warrant an increase. Alternatively, it may be appropriate to create two different deposit structures, one for substantive changes to game rules and procedures, and one for non-substantive changes.

Finally, we believe that it may be appropriate to have a formal or informal hearing or meeting with an applicant before determining to engage external specialized resources §2037(b).

If you would like to discuss any aspect of these comments, please do not hesitate to call or respond directly to the undersigned.

Sincerely,

Mark Kelegian
President

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