

December 10, 2018

**VIA ELECTRONIC (BGC\_REGULATIONS@DOJ.CA.GOV) AND U.S. MAIL**

Director Stephanie Shimazu  
Bureau of Gambling Control  
P.O. Box 168024  
Sacramento, California 95816-8024

Re: Rulemaking on Rotation of Player-Dealer Position

Dear Director Shimazu:

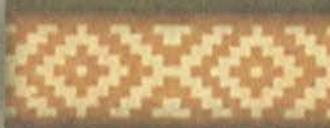
The Jamul Indian Village of California (the "Tribe") received the Bureau of Gambling Control's (the "Bureau") notice, dated October 15, 2018, regarding the upcoming workshops the Bureau will be hosting to receive comments on the rotation of the player-dealer position. On behalf of the Tribe, I am writing to submit written comments for your review and consideration in advance of the workshop to be held on January 14, 2019.

Our Tribe, through a subsidiary, owns and operates the Jamul Casino located in Jamul, California. The Jamul Casino offers class III gaming pursuant the tribal-state compact between the Tribe and the State of California (the "State"). Revenue from the Jamul Casino funds critical tribal government services, off-reservation road improvements, local emergency services and facilities, and provides critical employment opportunities for our Tribe and the surrounding community. Any impacts to the Jamul Casino's success impacts not only the tribal government and the services it provides, but also the local community. The positive impacts the Jamul Casino has on its local community is not unique to Jamul, the same positive impacts are felt by communities throughout the State as a result of successful tribal government gaming.

Our Tribe, like many others, has had growing concerns regarding the legality of the gaming offered at card rooms throughout the State. The use of third-party proposition players, the lack of actual rotation of the player-dealer position, and the lack of enforcement by the Bureau has created an atmosphere where illegal gaming has been allowed to flourish in violation of State law and the exclusivity guaranteed to tribal nations in California.

As the Bureau considers developing rules regarding the rotation of the player-dealer position, the Bureau should strictly adhere to the plain language of Penal Code Section 330.11 which requires the player-dealer position to rotate continuously and systematically amongst each of the participants during the play of the game. The guidance issued by the Bureau's letter to All California Gambling Establishments dated June 30, 2016 ("2016 Guidance") should not be used as a baseline for developing new rules governing the rotation of the player-dealer position. The 2016 Guidance is not consistent with the plain language of Penal Code Section 330.11 or applicable case law interpreting the same.

First, the 2016 Guidance perpetuates the false notion that merely offering the player-dealer position every two hands, as articulated in the in the 2007 letter from then Bureau Chief Robert Lytle to representatives from the Golden State Gaming Association and the Southern California Cardroom Association is sufficient. This concept of merely offering the player-dealer position was found to be insufficient to render the game legal by *Oliver v. County of Los Angeles* (1998) 66 Cal. App. 4th 1401.



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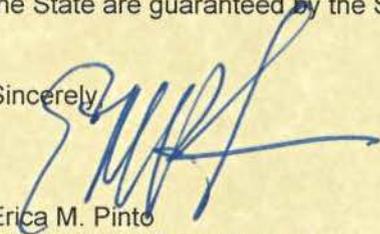
Second, the attempt in the 2016 Guidance to "limit" any one person from holding the dealer-player position is inadequate and does not satisfy the requirement that the player-dealer position rotate continuously and systematically to each player during the play of the game. In conjunction with permitting Third Party Proposition Players, the rule in the 2016 Guidance, which allows a game to continue uninterrupted for sixty minutes with the same person in the player-dealer position and to only require a two-minute break between such games, is not sufficient to render a game a nonbanking or percentage game. The result of the 2016 Guidance is to allow one person to operate as a bank during the play of the game by allowing one person to hold the player-dealer position for a long period of time and to keep the playing advantage for itself.

In accordance with the plain language of Penal Code §330.11, only games that actually rotate the player-dealer position every single hand meets the definition of "continuously and systematically". Anything short of that requirement would result in the Bureau authorizing illegal gaming, which it has no authority to do. However, should the Bureau determine that merely offering the player-dealer position is sufficient, which for the reasons discussed above would be inconsistent with §330.11, the Bureau should significantly reduce the time period with which a single person would be able to hold the player-dealer position. In addition, the requirement to only require a 2-minute break in between games should be removed. A new game should not be able allowed to be started until a new person assumes the player-dealer position. Finally, whatever the standard the Bureau decides to develop, the Bureau should include and enforce stringent enforcement provisions that require cardrooms to come into compliance immediately with the new rule and impose penalties, including revoking applicable licensing, for failure to comply with the established Bureau rules and regulations.

Our Tribe is aware that the cardroom industry is concerned with actual enforcement of the requirement to rotate the player-dealer position, as it would impact their revenue. However, such concerns regarding economic impacts to card rooms should not be a consideration in the development of regulations and the enforcement of such regulations, where the revenue is derived by illegal means. Offering banked games is illegal in California, except by tribal governments with compacts with the State. The fact that cardrooms have been allowed to profit from illegal gaming should not be a consideration for the Bureau in developing regulations governing the cardroom industry. We are not aware of any other situation where the economic impacts to an illegal source of revenue are taken into consideration when regulating an industry.

Thank you for the opportunity to provide the above comments on the Bureau's rulemaking process with regard to the rotation of the player-dealer position. The Tribe hopes the Bureau takes this opportunity to enforce the requirements of Penal Code §330 and to uphold the exclusivity tribal governments throughout the State are guaranteed by the State Constitution and their respective compacts with the State.

Sincerely,



Erica M. Pinto  
Chairwoman, Tribal Council  
Jamul Indian Village of California