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VIA EMAIL AND FIRST CLASS MAIL

The Honorable Kamala D. Harris
Attorney General, State of California
Department of Justice
1300 I Street, Room 1142
Sacramento, CA 95814-2963

Mr. Wayne Quint, Bureau Chief
Bureau of Gambling Control
4949 Broadway, Rm. E231
Sacramento, CA 95820

Re: Proposed Regulations

Dear Madam Attorney General and Mr. Quint:

This letter pertains to the regulation proposed by the Bureau of Gambling Control, which mandate the collection of fees of all card room customers. It is our opinion that this proposed regulation creates an artificial and unfair competitive disadvantage for card rooms. If implemented, we believe that this regulation will have a destructive impact upon the card room industry at the state and local level.

The idea of mandating the collection of fees has been discussed for several years. While this idea has failed in the form of legislation in both 2013 and 2014, this same idea is now being proposed as an amendment to Section 2071 (Gaming Activity Authorization) of the California Code of Regulations.¹ A vast majority of California card rooms (both large and small) oppose the proposed regulation (as well as the prior legislation) because of the detrimental impact such regulations would have on their businesses. Specifically, this language favors the extraordinarily large card rooms (only 2 or 3 card rooms in the State are supporting this legislation) in a market in which smaller card rooms will be unable to compete.

It is understood that one of the major differences between play in a card club and play in a tribal casino is that tribal casinos can have bank/percentage games, whereas card clubs cannot because they are

¹ Title 11, Division 3, Chapter 1, Article 1

prohibited from having an interest in the outcome of a card game.² As a result, card room revenue is generated numerous other ways, one of which is the collection of a player fee. Currently, this is not a mandated fee, as Section 337j(f) of the Penal Code allows for a card room to waive this fee. Instead of collecting from each player, fees are charged to players serving in the player-dealer position (i.e., the third party proposition player). For over 10 years, this policy has allowed for market factors to dictate where a collection is feasible. This policy has allowed for competition throughout California.

We believe that any of the three (3) fee options in the proposed regulation would be materially damaging to the card room industry.³ Again, regional market factors will inevitably dictate where a collection is feasible and where a collection is not. It is our opinion that these mandated fees create a competitive advantage for the largest card rooms in the larger markets. The proximity of smaller card rooms to either larger clubs or tribal casinos combined with the mandated fee will negatively impact smaller card clubs as it will be pragmatically impossible for the smaller clubs to be competitive in that market.

The current rules protect the industry and also create the competition the industry should have. The ability to waive a fee is important for the smaller card rooms, and we do not believe there to be a downside to allowing the fee to be waived as a result. The proposed regulation ignores the realities of the card room industry, and we believe the anti-competitive sentiment underlying those options and the entire proposal is clear.

Further, this proposed regulation does not take into account the impact on the vast majority of card rooms and local jurisdictions. For example, in the City of Fresno, the impact this regulation is likely to have is as follows:

- 80% of Club One Casino's gaming activity affected, which increases prices to recreational players
- 70-80% reduction in Club One taxable revenue (\$8-\$10 million)
- 250-300 living wage jobs lost in downtown Fresno
- \$800,000+ annual decrease to City of Fresno General Fund
- Detrimental impact on local vendors and non-profits

² Penal Code Section 330.11 provides that banked games do 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 each of the players of the game at the table.

³ The proposal includes three (3) options for the collection of fees, all of which are problematic for the card room industry. **Option 1** assesses the fee based on a 3:1 ratio; the fee assessed shall not be less than one-third of the amount of the fee assessed to the player dealer in each hand or round of play. **Option 2**, if more than one fee is taken per table, the increase rate shall not increase by more than the amount of the lowest fee. **Option 3** would result in all players, including the player-dealer, being charged the same fee for the same level of wager.

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Statewide, this proposal is also likely to have an enormously negative impact as well:

- Thousands of living wage jobs lost
- Millions of local General Fund revenue lost
- Detrimental to local economies
- Reduces the value of state coffers (redistributes taxable revenue to non-taxpayers)
- Less competition in the industry
- Punishes small businesses and general gaming public

Given the impact that we believe this regulation will have at the state and local level, there does not appear to be a valid reason for this regulation to be implemented. This regulation will undo 10+ years of sound policy by mandating that each card room charge customers a fee. This will have the effect of restricting a card room's ability to recapture costs and value from its rotating bank games. The California card room industry is a billion dollar industry and employs 20,000 Californians state wide. The significant contribution to local economies cannot be understated. For example, between city and state taxes, Club One Casino contributes \$1 million annually to the City of Fresno general fund (\$20 Million since 1995). Statewide, this number is over \$200 Million.

While this proposal may be phrased (without merit) in such a manner as to suggest that more revenue would be brought in, a mandatory fee will unequivocally deter people from playing at these establishments. If players are now charged a fee for the 70-80% of controlled games impacted, it is probable that those players will go play where they do not get charged (i.e. a tribal casino), i.e., you get more bang for your buck if you don't have to utilize your monies for a collection fee. We believe the text of the proposal ignores the realities of how this industry has come to work, and while we understand the need for the industry to evolve and improve, we do not believe this is the manner in which it should.

Respectfully,



Willie L. Brown, Jr.



Steven Kay