California Gambling Control Commission
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# MINUTES OF JULY 20, 2006 COMMISSION MEETING

## OPEN SESSION

1. **Call to Order and Pledge of Allegiance.**

Chairman Shelton called the meeting to order at 1:30 p.m., and asked everyone to stand for the Pledge of Allegiance.

2. **Roll Call of Commissioners.**

Roll Call of Commissioners was taken with Chairman Shelton and Commissioners Cruz and Vuksich present.

3. **Approval of Minutes of June 8, 2006 Commission Meeting.**

The motion made by Chairman Shelton, seconded by Commissioner Cruz, to approve the June 8, 2006 Commission meeting minutes unanimously carried in a roll call vote, with Chairman Shelton and Commissioner Cruz and Vuksich voting yes.

Deputy Director Ciau announced the two following changes to the agenda:

1. Agenda Item 9A – Robert Burgum Diamond Jim's Casino, is being rescheduled for the August 3rd Commission meeting. The applicant requested the change.

2. Agenda Item 10A – Pa Kou Vang is listed under Empire Sportsmen's Association. The correct cardroom is Merced Cardroom.

4. Applications for State Gambling License Including All Associated Applicants and Endorsees: (Pursuant to Business and Professions Code section 19856):
   A. Bicycle Casino:
      i. **Carter LCP Partnership, Limited**
      ii. **David Carter, Limited Partnership**

**iii. Deborah Hunt, Limited Partnership**
**iv. Jerry Carter, Limited Partnership**
**v. Carter Grantor Trust No. 1**
**vi. Carter Grantor Trust No. 2**

7. Requests for Approval of Transfer of Shares (Pursuant to Business and Professions Code Section 19904):
   A. Bicycle Casino:
      **vii. Carter LCP Partnership, Limited**
      **viii. David Carter, Limited Partnership**
      **ix. Deborah Hunt, Limited Partnership**
      **x. Jerry Carter, Limited Partnership**
      **xi. Carter Grantor Trust No. 1**
      **xii. Carter Grantor Trust No. 2**

Both Agenda Items 4.A. and 7.A. were considered together by the Commission under one motion. Deputy Director Ciau indicated that staff concurs with the Division's recommendation to approve Carter LCP Partnership, Limited, David Carter, Limited Partnership, Deborah Hunt, Limited Partnership, Jerry Carter, Limited Partnership, Carter Grantor Trust No. 1, and Carter Grantor Trust No. 2 to be endorsed on the Bicycle Casino's state gambling license; and staff recommends that the Commission approve the requests for approval of transfer of shares. Commissioner Vuksich moved to adopt the staff recommendation and Commissioner Cruz seconded the motion.

Kevin Bagley, Carter LCP Partnership, responded to questions posed by Commissioner Cruz concerning the applicants and the transfer of shares.

The motion made by Commissioner Vuksich and seconded by Commissioner Cruz unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes.

B. Golden State Casino: **Keith Hoang**, Sole Proprietor

Deputy Director Ciau indicated that staff concurs with the Division's recommendation to approve the initial state gambling license for Keith Hoang, Item 4.B. Upon motion of Commissioner Cruz, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission adopted the staff recommendation.

C. Johnny B's: **Kim Bui**, Sole Proprietor

Deputy Director Ciau indicated that staff concurs with the Division's recommendation to deny the application for a state gambling license for Kim Bui, Item 4.C. Deputy Director Ciau further indicated that Ms. Bui was notified by certified mail of the staff's recommendation and the Commission's meeting date in the event she wished to attend.

Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission adopted the staff recommendation.

5. Applications for Renewal of State Gambling License Including All Associated Applicants and Endorsees: (Pursuant to Business and Professions Code section 19876):
   A. **Artichoke Joe's Casino**: Artichoke Joe's Incorporated, a California Corporation

Deputy Director Ciau indicated that staff recommends that the renewal license for Artichoke Joe's Casino, Item 5.A., be extended from August 1, 2006 through November 30, 2006 to allow the Division time to complete the background investigation and for staff to review the Division's report. Commission Cruz moved to adopt the staff recommendation and Commissioner Vuksich seconded the motion.

Michael Franchetti, attorney for Lucky Chances, expressed his client's opposition to renewal of Artichoke Joe's Casino's license, indicating that the City of San Bruno's gambling ordinance does not satisfy the requirements concerning wagering limits pursuant to Business and Professions Code section 19860. Written comments presented by Mr. Franchetti are incorporated into the minutes as Attachment A

The motion made by Commissioner Cruz and seconded by commissioner Vuksich to adopt the staff recommendation unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes.

B. **Bicycle Casino**: LCP Associates, Ltd, Limited Partnership

Deputy Director Ciau indicated that staff recommends that the Commission approve the license for the remaining renewal period August 1 through December 31, 2006 to include shareholders and key employees listed in Attachment B to the minutes for the Bicycle Casino, Item 5.B. The staff is also recommending that the current condition that requires certain shareholders who have their interests in trusts, submit an application by June 30, 2005, be removed, and that the following conditions be placed on the license:

1. *David Tait must submit an application for a state gambling license within 90 days of approval of the Casino's gambling license.*

2. *Thomas Madigan must pay off the outstanding liens owed to the counties of Orange, Los Angeles, and San Diego in the amount of $12,647 by August 31, 2007.*

Commissioner Cruz moved to adopt the staff recommendation and Commissioner Vuksich seconded the motion.

Joy Harn, attorney for Bicycle Casino, requested that license term be extended beyond December 2006 to alleviate repeating the work involved in processing the applications so soon after having just been approved.

Francis Asuncion, Division of Gambling Control, indicated that the Division foresees no problems with Ms. Harn's request.

The motion made by Commissioner Cruz and seconded by Commissioner Vuksich to approve the staff recommendation unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes.

C. **Black Sheep Casino Company**: Noel Paulson, Jr., Sole Proprietor

Deputy Director Ciau indicated that staff recommends to the Commission that the renewal license for Black Sheep Casino Company, Item 5.C., be extended from August 1, 2006 through October 31, 2006, to allow the Division time to complete their background investigation and staff to review and prepare a repot for the Commission. Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

D. **El Resbalon**: Marcos Cabrera, Sole Proprietor

Deputy Director Ciau indicated that staff recommends to the Commission that the renewal license for El Resbaslon, Item 5.D., be extended from June 1, 2006 through August 31, 2006, to allow the Division time to complete their background investigation and staff to review and prepare a report for the Commission. Upon motion of Commissioner Vuksich, seconded by Chairman Shelton and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

E. **Lucky Derby Casino**: Point Walker, Inc., a California Corporation

Deputy Director Ciau indicated that staff recommends that the renewal license for Lucky Derby Casino, Item 5.E., be extended from August 1, 2006 through July 31, 2007, to include Kermit Schayltz, as shareholder, Sandra Schayltz as community property interest holder, Leo Chu as shareholder, Ivy Chu as community property interest holder and the following key employees: Roger Ankenbauer, Dennis Glasco, Ronald Sadauskas and Donald Schayltz. Upon motion of Commissioner Cruz, seconded by Chairman Shelton and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

F. **Outlaw's Card Parlour**: Alfred and Dora Brown, Sole Proprietors

Deputy Director Ciau indicated that staff recommends that the Commission approve the renewal license for Outlaw's Card Parlour, Item 5.F., for the period of August 1, 2006 through July 31, 2007 with the condition that the owner must submit a key employee application pursuant to Business and Professions Code section 19854, by September 30, 2006. The staff also recommends that the condition be removed, which requires the licensee to pay the annual table fees pursuant to Business and Professions Code section 19876(a). Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

G. **Phoenix Casino and Lounge**: Phoenix Casino and Lounge, Inc., a California Corporation

Deputy Director Ciau indicated that staff recommends that the renewal license for Phoenix Casino and Lounge, Item 5.G., be extended from August 1, 2006 through September 30, 2006, to allow staff time to review the Division's recommendation and prepare a staff report. Upon motion of Commissioner Vuksich, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

H. **Poker Flats Casino**: Terry Vargas, Sole Proprietor

Deputy Director Ciau indicated that staff recommends that the renewal license for Poker Flats Casino, Item 5.H., be extended from August 1, 2006 through October 31, 2006, to allow the Division time to complete their renewal background investigation and staff time to review and prepare a staff report. Upon motion of Commissioner Cruz, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

I. **The Silver Fox**: The Silver F., a California Corporation

Deputy Director Ciau indicated that staff concurs with the Division's recommendation to approve the renewal license for The Silver Fox, Item 5.I., for the period of August 1, 2006 through July 31, 2007 with Kenneth Worsham as shareholder and Shirley Worsham as a community property interest holder and key employee Jack Rubsham, Shelley Robbins, Lai Saechao, Jason Lee and Anita Chu. Upon motion of Commissioner Vuksich, seconded by Chairman Shelton and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

6. Request for Approval of Articles of Incorporation (Pursuant to Business and Professions Code Section 19881):
   **Player's Poker Club**: Player's Poker Club, Inc.

Senior Legal Counsel Herb Bolz indicated that staff recommends approval of the Articles of Incorporation for Player's Poker Club, Item 6. Upon motion of Commissioner Cruz, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

7. Requests for Approval of Transfer of Shares (Pursuant to Business and Professions Code Section 19904):
   B. **Oceans Eleven Casino**: Ocean's 11, Inc. - General Partnership

Senior Legal Counsel Bolz indicated that staff recommends that the Commission approve the request for approval of transfer of shares for Oceans Eleven Casino, Item 7.B. Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes the Commission adopted the staff recommendation.

8. Requests for Additional Permanent Authorized Tables (Pursuant to California Code of Regulations, Title 4, section 12359):
   A. **Crystal Park Casino**

Deputy Director Ciau indicated that staff concurs with the Division's recommendation to approve the request for 15 additional tables for a total of 45 table authorized on the state gambling for license for Crystal Park Casino, Item 8.A. Upon motion of Commission Vuksich, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

   B. **Lucky Derby Casino**
   C. **Phoenix Casino and Lounge**

Deputy Director Ciau indicated that since both the Lucky Derby Casino, Item 8.B., and Phoenix Casino and Lounge, Item 8.C., were in the same local jurisdiction staff is presenting their recommendation to the Commission for consideration under on motion. Deputy Director Ciau further indicated that staff recommends that the Commission approve the two requests for one additional table each for a total of nine tables authorized on the license for each of the gambling establishments.

Chairman Shelton moved to table consideration of both requests pending receipt from the City of Citrus Heights that the city ordinance passed.

Rodney Blonien presented comments to the Commission concerning the City of Citrus Heights gambling ordinance, urging the Commission's approval of the requests.

Chairman Shelton amended his motion to grant a conditional approval that the requests of each gambling establishment, for one additional table each, will be in effect following adoption by the City of Citrus Heights of an amended gambling ordinance that allows the gambling establishments to operate at least nine tables. Commissioner Cruz seconded the motion, which unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes.

9. Applications for Key Employee License (Pursuant to Business and Professions Code section 19854):
   A. Diamond Jim's Casino: **Burgum, Robert Leroy**

Consideration of the application for Robert Leroy Burgum, Item 9.A. was tabled at the request of staff.

   B. The Silver Fox: **Hancock, Terris**

Deputy Director Ciau indicated that staff recommends that the Commission approve the application for a key employee license for Terris Hancock, Item 9.B. Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

10. Applications for Work Permit (Pursuant to Business and Professions Code section 19912):
   A. Empire Sportsmen's Association: **Suon, Chanthou**

Deputy Director Ciau indicated that staff recommends that the Commission deny the application for a work permit for Chanthou Suon, Item 10.A. Deputy Director Ciau indicated that the applicant was notified of the pending Commission action and Mr. Suon is present today.

Chanthou Suon requested an evidentiary hearing.

Chairman Shelton directed the licensing staff to work with Mr. Suon to coordinate a date for a hearing and continued consideration of the item to be determined at a future hearing.

Merced Poker Room: **Vang, Pa Kou**

Deputy Director Ciau indicated that staff recommends that the Commission deny the application for a work permit for Pa Kou Vang, Item 10.A. Deputy Director Ciau further

indicated that the applicant was notified by certified mail of the pending Commission action. Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

B. Sundowner Cardroom: **Castaneda, Raymond**

Deputy Director Ciau indicated that staff recommends that the Commission deny the application for a work permit for Raymond Castaneda, Item 10.B. Deputy Director Ciau further indicated that the applicant was notified by certified mail of the pending Commission action. Upon motion of Chairman Shelton, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

Commissioner Cruz stated that a list of which crimes the Commission considers to be crimes of Moral Turpitude should be made available to the public and directed staff to address this.

11. Proposed Withdrawal of the TPPPS Registration Application (Pursuant to Business and Professions Code section 19869):
Progressive Gaming Group, Inc.: **Mitchell, Wesley**

Deputy Director Ciau indicated that staff recommends that the Commission approve the request for withdrawal, without prejudice, of the TPPPPS registration application for Progressive Gaming Group, Item 11. Upon motion of Commission Vuksich, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

12. Application for Tribal-State Compact Gaming Resource Supplier Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.5):
**Shuffle Master, Inc.**: Mark L. Yoseloff, Paul C. Meyer, Richard L. Baldwin, Louis J. Castle II, Kenneth J. Robson, Garry W. Saunders, a Publicly Traded Corporation (Minnesota)

Deputy Director Ciau indicated that staff recommends approval of the Tribal-State Gaming Resource Supplier Finding Of Suitability for Shuffle Master, Inc., Item 12. Commission Vuksich moved to adopt the staff recommendation with a directive to staff to include in the notice of Commission approval to Shuffle Master, Inc., the Commissions expectations, that they will not sell to tribal casinos any product that is not legal under the Compacts and they will not sell class III games to cardrooms. Commissioner Cruz seconded the motion, which unanimously carried with Chairman

Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

13. Applications for Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
    A. Chemehuevi Indian Tribe of the Chemehuevi Reservation – Havasu Landing Resort Casino: **Jacques, Manuel**

Deputy Ciau indicated that staff concurs with the Division's recommendation to approve the Tribal-State Compact key employee finding of suitability for Manuel Jacques, Item 13.A. Upon motion of Commissioner Vuksich, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

    B. Picayune Rancheria of Chukchansi Indians of California – Chukchansi Gold Resort and Casino: **Jauregui, James**

Deputy Ciau indicated that staff concurs with the Division's recommendation to approve the Tribal-State Compact key employee finding of suitability for James Jauregui, Item 13. B. Upon motion of Chairman Shelton, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation.

14. Proposed Revision to the Commission's Conflict of Interest Code (Government Code sections 87300 and 87302)

Senior Legal Counsel Herb Bolz presented to the Commission for its consideration a proposed revision to the Commission's Conflict of Interest Code. Mr. Bolz stated that the revisions were to include in the Code the positions added by the Commission following the initial approval of the Code by the Fair Political Practices Commission in 2001. Upon motion of Commissioner Cruz, seconded by Commissioner Vuksich and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission approved the staff recommendation. The proposed revisions to the Conflict of Interest Code as well as other supporting documents that were provided to the Commission for its consideration of the item are incorporated into the minutes as Attachment C.

**CONSENT CALENDAR ITEMS:**

15. Applications for Renewal Work Permit: (Authority Pursuant to Business and Professions Code section 19870):

101 Casino:

| | |
|---|---|
| **Descaro, Gregg** | **Fernandez, Robert** |
| **Khem, Tot** | **Lauano, Tipera** |
| **Wood, Rose** | **Xie, Lei** |

16. Applications for Tribal-State Compact Key Employee Finding of Suitability (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):

A. Bear River Band of the Rohnerville Rancheria - Bear River Casino:
**Clause, George** **Molyneaux, Sean**
**Tomkins, Ernest**

B. Blue Lake Rancheria – Blue Lake Casino: **Leslie III, Fred**

C. Cabazon Band of Mission Indians - Fantasy Springs Resort Casino:
**Barger, Katie** **Lhotka, Malcolm**
**Liford, Bradford**

D. Campo Band of Diegueno Mission Indians of the Campo Indian Reservation – Golden Acorn Casino & Travel Center: **Marceau, Doyle**

E. Cher-Ae-Heights Indian Community of the Trinidad Rancheria – Cher-Ae-Heights Casino: **Phelps, Wade**

F. Coyote Valley of Pomo Indians – Coyote Valley Shodakai Casino:
**Muniz, Enrique**

G. Hopland Band of Pomo Indians of the Hopland Rancheria – Shokawah Casino and Bingo: **Quellete, Stanley**

H. Jackson Rancheria of Me-Wuk Indians of California - Jackson Rancheria Casino, Hotel, and Conference Center:
**Bachmann, Connie** **Carney, Dion**
**Hay, Richard** **Maciolek, Deborah**
**Montgomery, Russell** **Shirley, Scott**

I. Mooretown Rancheria of Maidu Indians of California – Feather Falls Casino: **Sylva, Christopher**

J. Morongo Band of Cahuilla Mission Indians of the Morongo Reservation - Casino Morongo:
**Lingana, Janet** **Miller, Patricia**
**Moreno, Suzette** **Neumann, Karl**
**Perrotta, Danette** **Roach, Lisa**

K. Pala Band of Luiseno Mission Indians of the Pala Reservation - Pala Casino:
**Espiritu, Annette** **Morlett, Patricia**
**Nguyen, Dean** **Piccola, Ralph**
**Reyes, Alfredo** **Richards, Dean**
**Rodriquez, Nora** **Roll, Sarah**
**Stocking, Ronda**

L. Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation - Casino Pauma: **Williams, Luanne**

M. Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation - Pechanga Gaming Center: **Corey, George; Schwartz, Maria**

N. Picayune Rancheria of the Chukchansi Indians - Chukchansi Gold Resort and Casino:
**King, Bruce** **Rodriguez, Albert**
**Romo, Maritza**

O. Rincon Band of Mission Indians - Harrah's Rincon Casino & Resort:

**Lang, Douglas** **Mendenhall, Thomas**
**Wolin, Richard**

P. Rumsey Indian Rancheria of Wintun Indians of California - Cache Creek Casino Resort: **Mouges, Soufuying; Nguyen, Tuong**
Q. San Pasqual Band of Diegueno Mission Indians of California - Valley View Casino: **Clifton, Jeffery; Ortega, Ross**
R. Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation - Chumash Casino Resort:
**Giuli, Matthew** **Steckler, Leonard**
S. Soboba Band of Luiseno Indians – Soboba Casino:
**Bunnell, Jack** **Flad, Amanda**
T. Sycuan Band of Diegueno Mission Indians of California – Sycuan Casino and Resort: **Oraha, Amir**
U. Table Mountain Rancheria of California - Table Mountain Casino:
**Clem, Jason** **Kopecky, Jane**
**Saephanh, Mai** **Seifert, Coleen**
**Vera, Laura**
V. Tule River Indian Tribe of the Tule River Reservation – Eagle Mountain Casino: **Lisenberry, James**
W. Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California – Black Oak Casino: **Bell, Cindy; Robinson, Candace**
X. United Auburn Indian Community of the Auburn Rancheria of California - Thunder Valley Casino: **Glenn, Gerald; Thomas, Stanley**
Y. Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation – Viejas Casino & Turf Club: **Castle, Marcus**

17. Applications for Tribal-State Compact Key Employee Finding of Suitability Renewals: (Authority Pursuant to the Tribal-State Gaming Compact, section 6.4.4):
A. Agua Caliente Band of Cahuilla Indians of the Agua Caliente Reservation – Agua Caliente Casino: **France, Sharon; Myslinski, Gary**
B. Alturas Indian Rancheria – The Desert Rose Casino: Touchatt, Sandra
C. Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation Barona Casino: **LeGrand, Linda; Liptak, Susan**
D. Dry Creek Rancheria of Pomo Indians of California – River Rock Casino:
**Belcher, Winton** **King, Shirley**
E. Elk Valley Rancheria – Elk Valley Casino: **Juden, Brett**
F. Jackson Rancheria of Me-Wuk Indians of California - Jackson Rancheria Casino, Hotel, and Conference Center:
**Hall, Derek** **Laird, Jeffrey**
**Munson, Steven** **Pate, George**
G. Morongo Band of Cahuilla Mission Indians of the Morongo Reservation – Casino Morongo: **Frink, Lisa; Martin, Charles; Pasqurelli, Leonardo; Velasquez, Jerry**

H. Pala Band of Luiseno Mission Indians of the Pala Reservation - Pala Casino: **Hoover, Stacy; Jackson, Lynda**
I. Paskenta Band of Nomlaki Indians of California – Rolling Hills Casino: **Galford, Charles; Felix, Arthur; Komar, Donna; Payne, Christopher; Thomas, Bruce**
J. Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation – Pechanga Gaming Center:
**Fredrick, Dale** **Kanoknata, Supat**
**Long, Phouthone** **Pearce, Deborah**
K. Picayune Rancheria of Chukchansi Indians of California – Chukchansi Gold Resort and Casino: **Mart, Charlisha; Munoz, Clarice; Vaidhayakul, Ronnarong**
L. Rincon Band of Luiseno Mission Indians of the Rincon Reservation – Harrah's Rincon Casino and Resort: **Helm, Katherine; Nguyen, Tien**
M. Rumsey Indian Rancheria of Wintun Indians of California – Cache Creek Casino: **Little, Jeffery; Major, Debra**
N. Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation - Chumash Casino Resort:
**Fenske, Danean** **Fritz, Patrick**
**Jimenez, Johnny** **Lombrana, Kerry**
**Milbourne, Jay** **Saccullo, Peter**
O. Susanville Indian Rancheria – Diamond Mountain Casino: **Greer, Jamie**
P. United Auburn Indian Community of the Auburn Rancheria of California - Thunder Valley Casino:
**Bushman, David** **Hermosillo, Luis**
**Ma, Duke** **Nguyen, Erica**
**Passer, Alfred** **Smith-Kenter, Kimberly**
Q. Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation – Viejas Casino & Turf Club
**Coughlin, Joan** **Fletes, Alicia**
**Her, Xiong** **Monahan, Patrick**
**Nguyen, Kevin** **Oraha, Bassam**

Deputy Director Ciau presented the Consent Calendar to the Commission for its consideration of the applications for work permit renewals, Tribal-State Compact Key Employee Findings of Suitability and renewal of Tribal-State Compact Key Employee Findings of Suitability. Upon motion of Chairman Shelton, seconded by Commissioner Cruz and unanimously carried in a vote by roll call with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the Commission adopted the consent calendar.

**PUBLIC COMMENT**

Jade Jaeckle, designated agent for Gaming Fund Group, presented comments concerning the temporary badges for proposition players indicating that on the badges

the word "Temporary TPP Player Registration" is highlighted in yellow. Ms. Jaekle requested that the Commission consider using a muted color instead, stating that the bright yellow color calls attention to the fact that the TPP is a new employee with less experience which may lead to cheating.

**CLOSED SESSION:**

Chairman Shelton announced that the Commission would not adjourn to Closed Session since there were no new matters under Government Code section 11126(e) that required discussions.

**ADOURNMENT**

Upon motion to adjourn the meeting by Commissioner Vuksich, seconded by Commissioner Cruz and unanimously carried in a roll call vote, with Chairman Shelton and Commissioners Cruz and Vuksich voting yes, the meeting adjourned at 2:33 p.m.

ATTACHMENT A


# MICHAEL FRANCHETTI
## Attorney at Law

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Via Messenger

May 30, 2006

Dean Shelton
Chairman
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento CA 95833

Re: Artichoke Joes Casino

Dear Chairman Shelton:

I am contacting you on behalf of my client Lucky Chances Inc. to express our opposition to the renewal of the state gambling license which has been issued to Artichoke Joes Casino in San Bruno, California. Business and Professions Code section 19860 prohibits the Commission from renewing Artichoke Joes' state gambling license because the gambling establishment ordinance in the City of San Bruno does not govern wagering limits as is mandated by that section.

The San Bruno gambling establishment ordinance delegates the authority to set wagering limits to the gambling establishment. The pertinent language is:

"All table and wagering limits shall be fixed by the gambling club in its discretion..." Title IV Chapter 4.36 Section 4.36. 090 (B) 7 ("Operations Procedures) San Bruno Municipal Code. (Exhibit A).

In 1998 the Town of Colma adopted a gambling establishment ordinance which also delegated the authority to set wagering limits. That version of the Colma ordinance, which has been repealed, stated in pertinent part:

> " No cardroom permittee, owner or employee shall allow any person playing in any game to make any bet or wager in excess of the betting or wagering limits established by the then current posted house rules applicable to games played at the cardroom.

Attached is a copy of a legal opinion prepared for the Director of the Division of Gambling Control which concluded that the Colma ordinance "fails to satisfy the requirement of Section 19860, and because it unlawfully delegates the City's legislative authority to the cardrooms, is invalid. (Exhibit B)

A comparison of the two ordinances on their face demonstrates that the current San Bruno ordinance contains the same illegal delegation of authority flaw as did the 1998 version of the Colma ordinance. As the result the City of San Bruno gambling establishment ordinance does not govern wagering limits.

Section 19860 does not give the Commission any discretion regarding this issue. Section 19860 expressly states "The commission **shall deny** a gambling license with respect to any gambling establishment that is located in a city.....that does not have an ordinance governing....(4) wagering limits..."

The law requires that the Commission follow the mandate of Section 19860 and deny the renewal of the Artichoke Joes Casino gambling license because the City of San Bruno gambling establishment ordinance is defective in that it does not govern wagering limits.

Sincerely,

**Original signed by**
**MICHAEL FRANCHETTI**
Michael Franchetti

cc: Commissioners Cruz and Vuksich
Deputy Director Terri Ciau
Chief Counsel Cy Rickards

EXHIBIT A

ORDINANCE NO. 1598

# AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO REPEALING EXISTING CHAPTER 4.36 OF TITLE IV OF THE SAN BRUNO MUNICIPAL CODE AND ADOPTING NEW CHAPTER 4.36 OF TITLE IV RELATING TO GAMBLING CLUBS

(Licenses & Regulations No. 13)

The City Council of the City of San Bruno does ordain as follows:

**Section 1.** Chapter 4.36 (Gaming Clubs) of Title IV of the San Bruno Municipal Code is hereby repealed.

**Section 2.** New Chapter 4.36 (Gambling Clubs) is hereby added to Title IV of the San Bruno Municipal Code to read as follows:

4.36.010 Definitions and Construction.

As used in this chapter, the following words, phrases, and terms shall have the following meanings:

A. "Applicant" means the individual, sole proprietorship, partnership, business, corporation, limited liability company, trust or officer, partner or director thereof applying for or otherwise seeking to operate a gambling club pursuant to this Chapter.
B. "Board" means the California Gambling Control Board.
C. "Chief of Police" means the Chief of Police of the City of San Bruno or his or her designee, who shall be a peace officer pursuant to California Penal Code Section 830 et seq.
D. "City" means the City of San Bruno, California.
E. "Commission" means the California Gambling Control Commission.
F. "Conducted" shall include the terms "operated", "engaged in", "allowed", "permitted" and "suffered" within its meaning.
G. "Conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. The record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Chief of Police may inquire into the circumstances surrounding the commission of the crime for purposes of applying the provisions of this ordinance.
H. "Designated responsible employee" means an employee who shall have the responsibility for the operation of the gambling club in the absence of a manager or the licensee himself except that no employee other than a manager shall have

directed may only be answered or otherwise responded to by such person.

No subpoena shall compel the attendance of any person before the Chief of Police or at any hearing conducted under this chapter in less than seventy-two (72) hours after receipt of such service by the person(s) upon whom such service is to be made; reasonable requests for extension of time to appear shall be granted for up to an additional forty-eight (48) hours by the Chief of Police upon a declaration that sets forth a reasonable ground for such extension, which declaration is executed under penalty of perjury (based on information and belief) by any person who would be subject to the service of a subpoena under this paragraph.

6. All financial information of a licensee, both corporate and personal, which may be legally required to be provided to the Chief of Police shall be held in strictest confidence and not disclosed, discussed, disseminated or published without the written permission of the person providing such information or as otherwise provided by State law.
7. All table and wagering limits shall be fixed by the gambling club in its discretion (and be posted as required by Section 4.36.090 C.1.a) and shall comply with all State laws and all ordinances of the City.
8. A licensee shall have in effect a security plan to address the security and safety of patrons in and around the cardroom. The plan, and any amendments thereto, must be filed with and approved by the Chief of Police. The licensee shall be liable for the security and safety of its patrons to the extent required by law. Any information about security measures that is provided to the City by a gambling club shall be confidential and not open to public inspection.

4.36.100 Work permits -- Required.

A. A person shall not be employed as an employee of a gambling club unless he or she first has been issued a valid, unexpired, and unrevoked work permit.
B. Each applicant for a work permit shall submit to the Chief of Police a completed, City-approved application, made under penalty of perjury, which shall contain the following information:

1. The true name, address, date of birth, physical description and telephone number of the applicant;
2. The past criminal record, if any, of the applicant;
3. Fingerprints taken by the San Bruno Police Department;
4. Two (2) full face photographs of 1" by 1" exact size taken within sixty (60) days immediately preceding the date of filing of the application;
5. A written statement directed from a licensee indicating a willingness and intent to employ the applicant if the latter is issued a work permit;
6. A complete copy of the application (if any) and exhibits filed by the applicant under the Gambling Control Act and a copy of any current key

EXHIBIT B

*BILL LOCKYER*
*Attorney General*

*State of California*
*DEPARTMENT OF JUSTICE*

1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 327-6750
Facsimile: (916) 322-5609
E-Mail: christine.murphy@doj.ca.gov

February 3, 2004

**Confidential Attorney-Client Communication**

Robert E. Lytle, Jr., Director
Division of Gambling Control
1425 River Park Drive, Suite 400
Sacramento, CA 95815

Re: City of Colma Ordinance Amendment

Dear Mr. Lytle:

This is in response to your letter dated October 14, 2003, and received here October 21, 2003, that requests legal advice on whether the amendment to the City of Colma's gambling ordinance violates Business and Professions Code section 19962.[1] The amendment eliminates the City's cardroom wager limit and replaces it with a provision that states wager limits are established by the cardroom's posted house rules. (Colma Ord. No. 530.)

It is our informal opinion that amended gambling ordinance does not satisfy Section 19860's local ordinance, wagering limit requirement and is invalid because it unlawfully delegates the city's legislative authority to the cardrooms. Because we have concluded that the ordinance amendment is invalid, we do not need to reach the issue of whether the amendment constitutes an expansion of gambling as contemplated by section 19962.

**BACKGROUND**

On January 1 1996, Colma Municipal Code section 4.929 limited the amount that could be wagered at gambling establishments in the jurisdiction to two hundred dollars. The municipal code section, which was adopted on February 10, 1993, specifically stated:

---

[1] All further statutory references will be to the Business and Professions Code unless otherwise indicated.

> (a) No cardroom permittee, owner or employee shall allow any person playing in any poker game to make any single bet or wager in excess of two hundred dollars ($200.00) or at any time during any poker game to permit an ante in excess of two hundred dollars ($200.00) total sum anted by players participating in the game.
>
> (b) No cardroom permittee, owner, or employee shall allow any person playing in any Asian game to make any single bet or wager per betting slot in excess of two hundred dollars ($200).

(Colma Ord. No. 450.)

On April 8, 1998, the Colma City Council amended Colma Municipal Code section 4.929 by eliminating the two-hundred dollar wager limit and replacing it with a provision that states wager limits are established by the cardroom's posted house rules. (Colma Ord. No. 526.) The municipal code section then read as follows:

> **Bets or Wagers.** No cardroom permittee, owner or employee shall allow any person playing in any poker game to make any bet or wager in excess of the betting or wagering limits established by the then current posted house rules applicable to the games played at the cardroom.

(Colma Ord. No. 526.)

On May 13, 1998, Colma Municipal Code section 4.929 was amended again to clarify that the wager provisions applied to all permitted games, not just poker games. (Colma Ord. No. 530.) The municipal code section now states:

> **Bets or Wagers.** No cardroom permittee, owner or employee shall allow any person playing in any game to make any bet or wager in excess of the betting or wagering limits established by the then current posted house rules applicable to the games played at the cardroom.

(Colma Ord. No. 530.) The May 13, 1998 amendment by the City of Colma did not receive voter approval.

## ANALYSIS

The current request for advice asks us to determine whether the City of Colma's amendment of its gambling ordinance, which eliminates its cardroom wager limit and replaces it

with a provision that states wager limits are established by the cardroom's posted house rules, expands gaming in the jurisdiction as contemplated by section 19962. Effective January 1, 2004, section 19962, subdivision (b) states:

> An ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may not be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.[2]

(Stats. 2002, ch. 738, § 111.) We, however, do not resolve whether the amendment results in an expansion of gaming for purposes of section 19962, subdivision (b) because the code section as amended does not satisfy Section 19860's local ordinance requirement for wagering limits and unlawfully delegates the city's legislative authority to the cardrooms and therefore, is invalid.[3]

Under the Gambling Control Act, in order for controlled gambling to operate in the City, the City of Colma must have certain cardroom regulations. Section 19860 states:

> (a) The Commission shall deny a gambling license with respect to any gambling establishment that is located in a city, county, or city and county that does not have an ordinance governing all of the following matters:
>
> (1) The hours of operation of gambling establishments.

---

[2] Prior to January 1, 2004, section 19962, subdivision (b), stated:

> No ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county may be amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996.

Senate Bill 814 amended the statute to its current form. It is our opinion that Senate Bill 814's amendment has no substantive effect and was simply meant to clarify the sentence by changing its structure.

[3] We also note that the City of Colma, pursuant to subdivision (a) of section 19961, could only amend their gambling ordinance to expand gambling in the jurisdiction once without voter approval. Accordingly, the May 13, 1998 amendment, assuming it expands gambling, is invalid because voter approval was not obtained.

> (2) Patron security and safety in and around the gambling establishment.
>
> (3) The location of gambling establishments.
>
> (4) Wagering limits in gambling establishments.
>
> (5) The number of gambling tables in each gambling establishment and in the jurisdiction.

Subdivision (k) of section 19801 also states in pertinent part:

> The location of lawful gambling premises, the hours of operation of those premises, the number of tables permitted in those premises, and wagering limits in permissible games conducted in those premises are proper subjects for regulation by local governmental bodies.

Colma Municipal Code section 4.929 was intended to meet the City of Colma's section 19860[4] obligation to provide an ordinance governing wagering limits. (See section 1, subdivision (d) of Colma Ord. No. 526.) The 1998 amendment to the municipal code section allows the jurisdiction's cardrooms to establish the wager limits for their cardrooms. It is our opinion that the amended code section does not meet the requirements of section 19860 because when the code section states the ordinance must "govern" wager limits, it should, in our opinion, be interpreted to mean the ordinance itself must prescribe the wagering limits.

Various provisions in the Gambling Control Act support this position that wagering limits must be set by the local jurisdiction. Section 19961 prohibits, without voter approval, the amendment of local ordinances that result in an expansion of gambling increase of twenty-five percent or more in the maximum amount permitted to be wagered in a game. Whether an amendment results in an expansion of gambling in violation of this section cannot be determined if the local jurisdiction has not set a maximum wager amount. Also section 19960 provides the requirements for a ballot measure seeking approval from the voters to permit controlled gambling in a local jurisdiction. The ballot measure must include initial implementing ordinances which set forth, among other things, wager limits. The code section does not authorize the ordinance merely to adopt any convenient mechanism or procedure for establishing wager limits. It requires wager limits to be governed by the ordinance. Based on these code sections, it is our

---

[4] Section 19860 was previously numbered 19851. The code section was renumbered pursuant to Stats. 2002, c. 738 (A.B. 2431), § 45.

opinion that Section 19860 should be interpreted to mean the ordinance itself must prescribe the limit.

Further, the decision regarding the appropriate wagering limits cannot lawfully be delegated to the cardrooms. "An unconstitutional delegation of authority occurs. . . . when a legislative body (1) leaves the resolution of fundamental policy issues to others or (2) fails to provide adequate direction for the implementation of that policy." (*Carson Mobile Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 190 [quoted in *People v. Sun Pacific Farming Co.* (2000) 77 Cal.App.4th 619, 633].)

> "In order to avoid an unlawful delegation of its authority, the Legislature must first resolve the 'truly fundamental issues,' and must then 'establish an effective mechanism to assure the proper implementation of its policy decisions.' [Citation.] [¶] Thus, a delegation of authority must be accompanied by safeguards which insure that the delegatee does not act arbitrarily. [Citation.]"

(*People v. Sun Pacific Farming Co.* (2000) 77 Cal.App.4th 619, 633; [quoting *Wilkinson v. Madera Community Hospital* (1983) 144 Cal.App.3d 436, 442]; see also *Int'l Assn. of Plumbing and Mechanical Officials v. Cal. Building Standards Comm.* (1997) 55 Cal.App.4th 245, 253 [stating the legislature cannot lawfully grant the power to make laws to a private entity].)

It is our opinion that the maximum amount allowed to be wagered in a game is a fundamental policy decision that must be determined by the City. Wager limits, albeit in combination with other factors, such as the number of tables in operation, can significantly influence the extent of wagering that occurs in a gambling establishment and in a jurisdiction as a whole. This decision should be made by the jurisdiction, not the regulated industry, especially in light of the Gambling Control Act provisions, discussed above, limiting the expansion of gambling in the state. A review of the other topics included in the list of regulations required by section 19860 also supports this position. For example, subdivision (a)(3) requires the local jurisdictions to adopt an ordinance regarding the location of gambling establishments. The location of gambling establishments is not a policy decision that would be left to the regulated industry whose focus is on the success of the business. The impact a gambling establishment will have on neighboring businesses and the impact if it is located near a school, church or in a residential neighborhood must be considered and should be done by the entity whose interest is in the jurisdiction as a whole. In addition, even if the determination of the wager limit was not a fundamental policy issue, the delegation of authority by the City of Colma in this case does not provide any safeguards to insure the cardrooms do not act arbitrarily when setting their wager limits. Accordingly, it is our opinion that the City of Colma unlawfully delegated its legislative authority over the establishment of wagering limits to the cardrooms.

**CONCLUSION**

For the foregoing reasons, it is our informal advice that the amendment of the City of Colma's gambling ordinance fails to satisfy the requirements of Section 19860 and, because it unlawfully delegates the City's legislative authority to the cardrooms, is invalid.

If you have any questions or need further assistance, please do not hesitate to contact me at (916) 327-6750.

Sincerely,

CHRISTINE M. MURPHY
Deputy Attorney General

For BILL LOCKYER
Attorney General

CMM:plc

**ATTACHMENT B**

Attachment For Agenda Item 5B

# LCP Associates, Ltd.

Walter J. Lack
Barbara Lack (Community Prop. Interest)

Haig Kelegian

Robert H. Carter
Sandra L. Carter (Community Prop. Interest)
Carter Management Group, Inc.
Robert H. Carter - President

Maureen O'Dea

David C. Pierson

Juliann K. Coyne

Robert D. Gilbert

Robert D. Gilbert Family Trust
Co-Trustees
Hugh R. Sommers
Wendi Sommers
Beneficiaries
Cezanne Farris-Gilbert
Fabienne Shknevsky
Savannah Farris-Gilbert
Patricia Pierson

Melinda Longaker

Stacey Pierson

Meredith L. Russell

Hashem Minaiy

Douglas Ayres

Shirley Kunisaki
Thomas Kunisaki

Katie DeChamplain

Judith Krokover

Thomas Madigan

Kim Siner

Jamie Madigan Tait

Estate of Yoshiaki Ota
Valeria Ota - Executor

Valerie Ota

# The Bicycle Casino Key Employees

- Thomas Budds – Security Manager
- Richard Cloward, Jr. – Manager Poker Operations/Tournaments
- Mario Conte – Executive Chef
- Zaven Esmaili – Senior Lead Floor – Asian Games
- Cynthia Fuentes – V.P./Controller
- Randy Hanson – Surveillance Manager
- Joy Fernbach Harn – V.P./General Counsel
- John Hoffman – Poker Lead Floor
- Fabricio Martinez – Lead Floor Supervisor
- Kelley O'Hara – Marketing Director
- Elena Sagato – Cage Operations Manager
- Sinan Sinanyan – Facilities Manager
- Mark Ventre – Senior Lead Floor
- James Wang – V.P./Casino Manager

The Commission approved the following key employees after the The Bicycle Casino submitted their renewal application; therefore, they are not part of the renewal application.

- Charlie Gin – Asian Lead Floorperson
- Eveliene Dullaart – Casino Administrator
- John O'Donnell – Credit Manager
- Joseph Padilla – Food and Beverage Manager
- John Tian – Lead Floor – Asian Games
- Gerry Turner – Senior Human Resources Manager

# ATTACHMENT C
# PART A

CALIFORNIA GAMBLING CONTROL COMMISSION
P.O. BOX 944255, 300 CAPITOL MALL, SUITE 300, SACRAMENTO, CA 95814
(916) 322-3095 · FAX (916) 322-5441

**CONFLICT OF INTEREST CODE**

The Political Reform Act (Government Code Sections 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 California Code of Regulations Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code, and which may be amended by the FPPC, to conform to amendments in the Political Reform Act, after public notice and hearings. The terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the FPPC, along with the attached Appendix A, in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Gambling Control Commission.

Designated employees shall file statements of economic interests with the FPPC filing officer in the California Gambling Control Commission who will make the statements available for inspection and reproduction. With respect to the Commissioners, and the Executive Secretary of the Commission, the California Gambling Control Commission shall make and retain a copy and forward the original of these statements to the FPPC (per the FPPC, Gambling Control Commission officials who are determined to manage public investments within the meaning of Government Code Section 87200 are to file their statements with the Gambling Control Commission).

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300 and 87302.

Appendix A

Disclosure Category I – Full disclosure is required for the following employees: All Commissioners, the Executive Secretary (Director), Assistant Executive Secretary (Chief Deputy Director), Chief Counsel, all Managers, and all counsel to the Commission, and all Administrative Law Judges.

Any Commissioner, officer, employee or consultant in this category shall disclose all investments, interests in real property, sources of income and business positions.

Disclosure Category II – Executive Assistants to the Commission; auditors and investigators employed by the Commission; all persons involved in scheduling hearings or administrative proceedings before the Commission; and all persons whose duties include participating in the management, auditing or distribution of funds held by the Commission in trust for the benefit of Indian Tribes.

Any officer, employee, or consultant in this category shall disclose investments, business positions, and sources of income from any entity that is subject to the jurisdiction of the Commission, as established by law or by compacts between the State and/or Indian Tribes. Any employee in this category shall also dis-

close any interest in real property located within five miles of an entity that is subject to regulation, permit, or licensing by the Commission.

Consultant Disclosure Category – Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category subject to the following limitation: The Executive Secretary may determine in writing that a particular consultant is hired to perform a range of duties that are limited in scope and, thus, is not required to fully comply with the disclosure requirements in this section.

# ATTACHMENT C
# PART B

CALIFORNIA GAMBLING CONTROL COMMISSION
2399 GATEWAY OAKS DRIVE, SUITE 100, SACRAMENTO, CA 95833-4231
~~P.O. BOX 944255, 300 CAPITOL MALL, SUITE 300, SACRAMENTO, CA 95814~~
~~(916) 322-3095 · FAX (916) 322-5441~~
(916) 263-0700 · FAX (916) 263-0452

# CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code Sections 81000, *et seq.*) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 California Code of Regulations Section 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code, and which may be amended by the FPPC, to conform to amendments in the Political Reform Act, after public notice and hearings. The terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the FPPC, along with the attached Appendix A, in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the California Gambling Control Commission ("Commission").

Designated employees shall file statements of economic interests with the FPPC filing officer in the ~~California Gambling Control Commission~~Commission, who will make the statements available for inspection and reproduction. With respect to the Commissioners, and the Executive ~~Secretary~~Director of the Commission, the~~California Gambling Control~~ Commission shall make and retain a copy and forward the original of these statements to the FPPC. ~~(per the FPPC, Gambling Control Commission officials who are determined to manage public investments within the meaning of Government Code Section 87200 are to file their statements with the Gambling Control Commission).~~

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300 and 87302, Government Code.

~~Appendix A~~

~~Disclosure Category I. Full disclosure is required for the following employees: All Commissioners, the Executive Secretary (Director), Assistant Executive Secretary (Chief Deputy Director), Chief Counsel, all Managers, and all counsel to the Commission, and all Administrative Law Judges.~~

~~Any Commissioner, officer, employee or consultant in this category shall disclose all investments, interests in real property, sources of income and business positions.~~

~~Disclosure Category II. Executive Assistants to the Commission; auditors and investigators employed by the Commission; all persons involved in scheduling hearings or administrative proceedings before the Commission; and all persons whose duties include participating in the management, auditing or distribution of funds held by the Commission in trust for the benefit of Indian Tribes.~~

CALIFORNIA GAMBLING CONTROL COMMISSION
CONFLICT OF INTEREST CODE
APPENDIX A

| List of Designated Positions | Assigned Disclosure Categories |
|---|---|
| **COMMISSIONERS** | |
| Commissioners | 1 |
| **EXECUTIVE ADMINISTRATION** | |
| Executive Director | 1 |
| Deputy Executive Director | 1 |
| Staff Management Auditor | 1 |
| Executive Assistant | 2 |

**LEGAL DIVISION**

| | |
|---|---|
| Chief Counsel | 1 |
| Staff Counsel III | 1 |
| Staff Counsel | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |

**LEGISLATIVE & PUBLIC AFFAIRS OFFICE**

| | |
|---|---|
| Deputy Director | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |

**SUPPORT SERVICES**

| | |
|---|---|
| Deputy Director | 1 |
| Staff Services Manager I | 1 |
| Senior Programmer Analyst | 2 |
| Systems Software Specialist I | 2 |
| Research Analyst II | 2 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |
| Senior Accounting Officer | 2 |

**LICENSING DIVISION**

| | |
|---|---|
| Deputy Director | 1 |
| Staff Services Manager I | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |

**COMPLIANCE DIVISION**

| | |
|---|---|
| Deputy Director | 1 |
| Senior Management Auditor | 1 |
| Staff Management Auditor | 2 |
| Associate Management Auditor | 2 |
| Staff Services Management Auditor | 2 |

**CONSULTANTS**

| | |
|---|---|
| Consultant | 1 |

**DISCLOSURE CATEGORY 1** – Full disclosure is required. Any officer, employee, or consultant in this category shall disclose all interests in real property in the State of California, as well as investments, business positions, and sources of income, including gifts, loans and travel payments.

**DISCLOSURE CATEGORY 2** –Any officer, employee, or consultant in this category shall

disclose investments, business positions, and sources of income from any entity that is subject to the jurisdiction of the Commission, as established by law or by ~~compacts between the State and/or Indian Tribes. Any employee~~tribal-state compact. Any person in this category shall also disclose any ~~in~~interest in real property located within five miles of an entity that is subject to regulation, permit, or licensing by the Commission.

~~Consultant Disclosure Category~~**CONSULTANT DISCLOSURE CATEGORY** – Consultants shall be ~~included in the list of designated employees and shall disclose pursuant to the broadest~~ placed in disclosure category 1, subject to the following limitation: ~~T~~the Executive ~~Secretary~~ Director may determine in writing that a particular consultant ~~is~~has been hired to perform a range of duties that ~~are~~is limited in scope and, thus, is not required to fully comply with the disclosure requirements in this ~~section.~~Code.

# ATTACHMENT C
# PART C

CALIFORNIA GAMBLING CONTROL COMMISSION
2399 GATEWAY OAKS DRIVE, SUITE 100, SACRAMENTO, CA 95833-4231
(916) 263-0700 · FAX (916) 263-0452

# CONFLICT OF INTEREST CODE

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Designated employees shall file statements of economic interests with the FPPC filing officer in the Commission, who will make the statements available for inspection and reproduction. With respect to the Commissioners, and the Executive Director of the Commission, the Commission shall make and retain a copy and forward the original of these statements to the FPPC.

NOTE: Authority cited: Section 87300, Government Code. Reference: Sections 87300 and 87302, Government Code.

CALIFORNIA GAMBLING CONTROL COMMISSION
CONFLICT OF INTEREST CODE
APPENDIX A

| List of Designated Positions | Assigned Disclosure Categories |
|---|---|
| **COMMISSIONERS** | |
| Commissioners | 1 |
| **EXECUTIVE ADMINISTRATION** | |
| Executive Director | 1 |
| Deputy Executive Director | 1 |
| Staff Management Auditor | 1 |
| Executive Assistant | 2 |
| **LEGAL DIVISION** | |
| Chief Counsel | 1 |
| Staff Counsel III | 1 |
| Staff Counsel | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |
| **LEGISLATIVE & PUBLIC AFFAIRS OFFICE** | |
| Deputy Director | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |
| **SUPPORT SERVICES** | |
| Deputy Director | 1 |
| Staff Services Manager 1 | 1 |
| Senior Programmer Analyst | 2 |
| Systems Software Specialist I | 2 |
| Research Analyst II | 2 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |
| Senior Accounting Officer | 2 |
| **LICENSING DIVISION** | |
| Deputy Director | 1 |
| Staff Services Manager I | 1 |
| Associate Governmental Program Analyst | 2 |
| Staff Services Analyst | 2 |

**COMPLIANCE DIVISION**

| | |
|---|---|
| Deputy Director | 1 |
| Senior Management Auditor | 1 |
| Staff Management Auditor | 2 |
| Associate Management Auditor | 2 |
| Staff Services Management Auditor | 2 |

**CONSULTANTS**

| | |
|---|---|
| Consultant | 1 |

**DISCLOSURE CATEGORY 1** – Full disclosure is required. Any officer, employee, or consultant in this category shall disclose all interests in real property in the State of California, as well as investments, business positions, and sources of income, including gifts, loans and travel payments.

**DISCLOSURE CATEGORY 2** –Any officer, employee, or consultant in this category shall disclose investments, business positions, and sources of income from any entity that is subject to the jurisdiction of the Commission, as established by law or by tribal-state compact. Any person in this category shall also disclose any interest in real property located within five miles of an entity that is subject to regulation, permit, or licensing by the Commission.

**CONSULTANT DISCLOSURE CATEGORY** – Consultants shall be placed in disclosure category 1, subject to the following limitation: the Executive Director may determine in writing that a particular consultant has been hired to perform a range of duties that is limited in scope and, thus, is not required to fully comply with the disclosure requirements in this Code.

# ATTACHMENT C
# PART D

CALIFORNIA GAMBLING CONTRTOL COMMISSION
CONFLICT OF INTEREST CODE
JUSTIFICATION FOR AMENDMENTS

Non-Substantive Changes

The proposed amended code contains several non-substantive changes such as an update of the current address of the Commission and changing the titles of the Executive Secretary to Executive Director and Assistant Executive Secretary to Deputy Executive Director to conform to Gambling Control Act amendments

Substantive Changes

Appendix A has been reformatted and substantively changed from the current Code that was originally written in 2001 when there were approximately seven positions in total, four of them Commissioners. Most current positions were created after September 2001. The amended Appendix A replaces general job headings with specific position titles for each respective division within the Commission and assigns disclosure categories for each of the designated positions.

1. The change of title of the Executive Secretary and Assistant Executive Secretary is addressed above as a non-substantive change.

2. The Code is being amended to include the position Deputy Director. This position did not exist when the 2001 Code was drafted. The Deputy Director, Division of Legislative & Public Affairs, is responsible for the development and management of legislative program and advises the Commission on legislative matters. The Deputy Director, Support Services Division, is responsible for the planning, research, and administrative support activities for the Commission. The Deputy Director, Licensing Division, is responsible for the formulation, implementation and administration of departmental policies of licensing program activities. The Deputy Director, Compliance Division, is responsible for the administration and implementation of the fiduciary responsibilities associated with the Indian Gaming Revenue Sharing Trust Fund, the Indian Gaming Special Distribution Fund, and the field-testing of electronic gaming devices.

3. The 2001 general job heading of "all Managers" is being amended to the position title of Staff Services Manager under their respective divisions. The Staff Services Manager I, Licensing Division, functions as the Commission's authority on and coordinator of gambling license application

approval, denial, conditional, suspension, and revocation process. The Staff Services Manager I, Support Services Division, coordinates planning, research and administrative support activities for the Commission. The Senior Management Auditor, Compliance Division, directs and supervises staff in auditing and distribution of funds held by the Commission in trust for the benefit of Indian tribes.

4. The general job heading of "all counsel" is being amended to the position titles of Staff Counsel and Staff Counsel III under the Legal Division. The Staff Counsel and Staff Counsel III advise Commission Members and staff on the authority, responsibilities, and obligations of the Commission pursuant to the State-Tribal Gaming Compacts, and other applicable statutes and regulations.

5. The Code is being amended to delete Administrative Law Judges because this position does not exist at the Commission. Administrative Law Judges are employed by the Office of Administrative Hearings, and are subject to the filing requirements of the Office of Administrative Hearings' Conflict of Interest Code.

6. The Code is being amended to include the position Staff Management Auditor. This position serves as lead auditor and is responsible for conducting internal fiscal and administrative reviews to ensure the integrity of the Special Distribution Fund receipts and distributions, and receipts and distributions of the Revenue Sharing Trust Fund. This position did not exist when the 2001 Code was drafted.

7. Disclosure Category I is being amended to make specific what is to be disclosed within the jurisdiction of the State of California.

8. The Code is being amended to include the position Staff Services Analyst. The Staff Service Analyst, Legal Division, is responsible for the organization of all Commission litigation information and assists with the conduct of quasi-judicial hearings. The Staff Service Analyst, Division of Legislative and Public Affairs, provides consultative advice to Commission staff and develops research in support of the Commission's gambling oversight function. The Staff Service Analyst, Support Services Division, performs the administrative functions for the Commission, including fiscal and budget services support. The Staff Service Analyst, Licensing Division, reviews and prepares final written recommendations for administrative approval on all types of licenses, registrations, work permits, and restricted transactions submitted by applicants. The Staff Services Analyst, Support Services Division, performs the administrative functions for the Commission, including fiscal and business services support.

9. The Code is being amended to include the position Senior Programmer Analyst. This position did not exist when the 2001 Code was drafted. The Senior Programmer Analyst functions as a project leader in the development of data processing and technical applications for the Commission's oversight function.

10. The Code is being amended to include the position Systems Software Specialist. This position did not exist when the 2001 Code was drafted. The Systems Software Specialist provides information technology support and security in networking systems administration.

11. The Code is being amended to include the position Research Analyst. This position did not exist when the 2001 Code was drafted. The Research Analyst provides consultative advice to Commission staff and performs research in support of the Commission's gambling oversight function.

12. The Code is being amended to include the position Associate Governmental Program Analyst. This position did not exist when the 2001 Code was drafted. The Associate Governmental Program Analyst, Support Services Division, performs the administrative functions for the Commission, including fiscal and business services support. The Associate Governmental Program Analyst, Licensing Division, provides program support in processing and reviewing recommendations form the Division of Gambling control for issuance of a state gambling license, work permits and restricted transactions. The Associate Governmental Program Analyst, Legal Division, is responsible for the organization of all Commission litigation information and assists with the conduct of quasi-judicial hearings. The Associate Program Governmental Analyst, Division of Legislative and Public Affairs, provides consultative advice to Commission staff and develops research methodology in support of the Commission's gambling oversight function.

13. The Code is being amended to include the position Senior Accounting Officer. This position did not exist when the Code was drafted in 2001. The Senior Accounting Officer is responsible for monitoring and reconciling the Revenue Sharing Trust Fund, the Special Distribution Fund and the Gambling Control Fund.

14. The Code is being amended to include the positions Staff Management Auditor, Associate Management Auditor, and Staff Services Management Auditor. These positions did not exist when the Code was drafted in 2001. The auditor positions duties include auditing and distribution of funds held by the Commission in trust for the benefit of Indian tribes.

# ATTACHMENT C
# PART E

**§ 18730. Provisions of Conflict of Interest Codes.**

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies. [1]

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code. [2]

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did

not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Government Code section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to 2 Cal. Code Regs. section 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure.

When an investment or an interest in real property[3] is required to be reported,[4] the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

3. The address or other precise location of the real property;

4. A statement whether the fair market value of the investment or interest in real property equals or exceeds two thousand dollars ($2,000), exceeds ten thousand dollars ($10,000), exceeds one hundred thousand dollars ($100,000), or exceeds one million dollars ($1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported,[5] the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars ($500) or more in value, or fifty dollars ($50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars ($1,000) or less, greater than one thousand dollars ($1,000), greater than ten thousand dollars ($10,000), or greater than one hundred thousand dollars ($100,000);

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,[6] the statement shall contain:

1. The name, address, and a general description of the business activity of the business

entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars ($10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official.
Subdivisions (a), (b), and (c) of Government Code section 89501 shall apply to the prohibitions in this section.

This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Government Code section 89506.

(8.1) Section 8.1 Prohibition on Receipt of Gifts in Excess of $360.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than $360 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part time member of the governing board of any public institution of higher education, unless the member is also an elected official.

Subdivisions (e), (f), and (g) of Government Code section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or

her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed five hundred dollars ($500) at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of five hundred dollars ($500) or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of one hundred dollars ($100) or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than two hundred fifty dollars ($250) during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars ($2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars ($2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars ($500) or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating $360 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value one thousand dollars ($1,000) or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 and 2 Cal. Code Regs. sections 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300 87302, 89501, 89502 and 89503, Government Code.

[1] Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

[2]See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

[3]For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

[4]Investments and interests in real property which have a fair market value of less than $2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

[5]A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

[6]Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

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Note from HB: the footnotes are part of the adopted regulation.

# ATTACHMENT C
# PART F

**Title 2 CCR section 18750.**

**Procedures for the Promulgation and Adoption of Conflict of Interest Codes for State Agencies.**

(a) Unless otherwise modified, the term "agency" as used in this section shall refer to a state agency other than an agency in the judicial branch of government. The term "Commission" as used in this section shall refer to the Fair Political Practices Commission.

(b) An agency proposing a conflict of interest code or an amendment to an existing code, other than a nonsubstantive amendment, shall follow the procedures described in this section. An agency proposing a nonsubstantive amendment shall follow the procedures described in 2 Cal. Code of Regs. section 18752.

(c) Every agency which proposes to adopt a conflict of interest code or to amend its existing code shall:

(1) Conduct a public hearing or establish a written comment period.

(2) Prepare an initial proposed code or an initial proposed amendment.

(3) Prepare a notice of intention to adopt a conflict of interest code, or to amend an existing code. This notice shall:

(A) Describe the proposed code or amendment in general terms and if the proposed action includes amendments to an existing code, include a concise, clear summary of the provisions of the existing code, if any, which will be affected by the proposed amendments, and a summary of how those provisions will be affected by the proposed amendments;

(B) State that copies of the proposed code or amendment are available to interested persons and indicate where the copies may be obtained;

(C) Specify the location where written comments concerning the proposed code or amendments may be submitted;

(D) Specify the date by which comments submitted in writing must be received to present statements, arguments, or contentions in writing relating to the proposed action in order for them to be considered by the agency before it adopts or amends the code;

(E) State the time and place of any public hearing that is scheduled on the proposed code or amendment;

(F) State the name and telephone number of an agency officer to whom inquiries concerning the proposed code or amendment may be directed;

(G) State that the agency has prepared a written explanation of the reasons for the designations and the disclosure responsibilities, or, in the case of an amendment, that the agency has prepared a written explanation of the reasons for the changes and has available all of the information upon which its proposal is based;

(H) If a code is being adopted, include a reference that the authority for the action is Government Code section 87300. If a code is being amended, include a reference that the authority for the action is Government Code section 87306. For both the adoption of and amendments to codes, provide a reference to Government Code sections 87300-87302 and 87306;

(I) If a public hearing on the proposed code or amendment is not scheduled, state that any interested person or his or her representative may request, no later than 15 days prior to the close of the written comment period, a public hearing;

(J) Include a statement that the adoption of the proposed code or amendment will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of the Government Code; will not result in any nondiscretionary cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or businesses including small businesses.

(K) A statement that the adopting agency must determine that no alternative considered by the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

(4) File a copy of the notice with the Office of Administrative Law for publication in the California Notice Register at least 60 days before the public hearing or close of the comment period.

(5) File a copy of the notice (endorsed by the Office of Administrative Law) with the Commission at least 45 days before the public hearing or close of the written comment period.

(6) Provide notice pursuant to the requirements of Government Code section 87311, including providing a copy of the notice to each employee of the agency affected by the proposed code or amendment at least 45 days before the hearing or the close of the comment period by serving the employees individually with a copy of the written notice, by posting the notice on employee bulletin boards, or by publishing the notice in an employee newsletter.

(7) Make the exact terms of the proposed code or amendment available for inspection and copying to interested persons for at least 45 days prior to the public hearing or the close of the comment period.

(8) Accept written comments from interested persons through the conclusion of the public hearing or the close of the comment period.

(9) Conduct a public hearing on the proposed code or amendment, if, at least 15 days prior to the close of the written comment period, an interested party, or his or her duly authorized representative, requests a public hearing. The state agency shall to the extent practicable, provide notice of the time, date and place of the hearing by mailing the notice to every person who submitted written comments, or who requested a hearing, on the proposed code or amendment.

(d) If the procedures set forth in subdivision (c) have been followed, a proposed code or amendment, which has been changed or modified from that which was made available to the public, may, without further notice or hearing, be adopted if:

(1) The change or modification is nonsubstantial or solely grammatical in nature, or

(2) The resulting code or amendment is sufficiently related to the text made available to the public that the public was adequately placed on notice that the code or amendment could result from the original proposal and the full text of the resulting code or amendment has been available to the public for at least 15 days prior to the date on which the agency adopts the code or amendment.

(e) The agency shall submit three copies of the final proposed code or of the existing code with the final proposed amendment in strikeout/underline form to the Commission accompanied by one copy of the following:

(1) A code or amendment shall be accompanied by:

(A) A declaration of the chief executive officer of the agency declaring that the Code specifically enumerates each of the positions within the agency which involve the making or participation in the making of decisions which may foreseeably have a material financial effect on any financial interest and the agency has satisfied the requirements of subdivision (c) preliminary to formulation of the Code;

(B) A summary of any hearing held by the agency with appropriate identification of any areas of controversy and the manner of their resolution.

(C) Copies of all written submissions made to the agency regarding the proposed Code or amendment, unless the person making the written submission requests its omission;

(D) A written explanation of the reasons for the designations and the disclosure responsibilities of officers, employees, members or consultants of the agency. In the case of an amendment, written justification for any changes including all changes in or additions to the designations or disclosure responsibilities;

(E) The names and addresses of all persons who participated in any public hearing of the agency on the proposed code or amendment and all persons who requested notice from the agency of the date of the Commission hearing on the adoption of the code or amendment;

(F) The most current organizational chart of the agency;

(G) Job descriptions for all designated employees or employees newly designated by the amendment.

(2) A new conflict of interest code shall also be accompanied by:

(A) A copy of the statutory authority under which the agency was created with specific citations to the provisions setting forth the duties and responsibilities of the agency.

(B) The identity of the person or body to whom the agency reports;

(C) A copy of the last annual or regular report prepared by the agency or submitted by the agency to the person or body to whom the agency reports or, if there is no report, copies of recent minutes of agency meetings;

(D) A brief description of the duties and the terms of all consultants working for the agency who are not designated employees.

(f) When an agency proposes a new conflict of interest code or an amendment to an existing code, the Executive Director shall either:

(1) Prepare a notice which specifies the establishment of a written comment period; specifies the date by which comments submitted in writing must be received in order for them to be considered; includes a statement that any interested person or his or her duly authorized representative may request, no later than 15 days prior to the close of the written comment period, a public hearing; includes a clear and concise summary of the proposed action; provides the name and telephone number of the agency officer to whom inquiries concerning the proposed administrative action may be directed, and specifies that the text of the proposed code or amendment is available for inspection and copying at the agency and at the Commission offices. This notice shall be sent to the agency and to all persons who have requested notice at least 45 days before the hearing close of the written comment period; or

(2) Return the proposed code or amendments to the agency with written recommendations for revision. Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subdivision (h) of this section.

(g) If no hearing is requested as set forth above, the Executive Director at the end of the 45-day written comment period shall either:

(1) approve the code as submitted; or

(2) return the proposed code or amendment to the agency for revision.

Any agency which objects to the recommendations for revision may request a full hearing by the Commission pursuant to subdivision (h) of this regulation.

(h) If a proposed hearing on this matter has been requested, the Commission shall afford any agency or interested person or his or her duly authorized representative, or both, the opportunity to present statements, arguments or contentions in writing on, or prior to, the date of the hearing. Oral testimony shall be encouraged; however, oral statements may be limited at the discretion of the Chairman. The Commission shall consider all relevant matter presented to it prior to and during the public hearing, or appearing on the record of such hearing prior to taking action on the proposed Code or amendments.

(i) After a full hearing as provided hereinabove, the Commission shall:

(1) Approve the proposed code or amendments as submitted;

(2) Revise the proposed code or amendments and approve it as revised; or

(3) Direct the Executive Director to return the proposed code or amendments to the agency for revision and resubmission within 60 days.

(j) If a code or amendment is approved, the Executive Director shall return a copy of the code or amendment to the agency with notification of Commission approval.

(k) Code or amendments, as approved by the Fair Political Practices Commission, shall be transmitted within 30 days by the agency to the Office of Administrative Law, which shall file the code or amendment promptly with the Secretary of State without further review pursuant to Article 6 (commencing with section 11349) of Chapter 3.5 of Division 1 of Title 2 of the Government Code. When the agency files the code or amendments with the Office of Administrative Law it shall:

(1) Indicate that it is transmitting a conflict of interest code approved by the Commission for filing; and

(2) Request that the Office of Administrative Law publish the code in its entirety, or request that the Office of Administrative Law print an appropriate reference to the agency's code in its title of the California Code of Regulations.

(l) A conflict of interest code or amendment to a code shall become effective on the thirtieth day after the date of filing with the Secretary of State.

(m) Each agency's code shall be maintained in the office of the chief executive officer of

the agency, who shall make the code available for public inspection and reproduction during regular business hours commencing the effective date of the code. No conditions whatsoever shall be imposed upon persons desiring to inspect the conflict of interest code of the agency, nor shall any information or identification be required from such person. Copies shall be provided at a charge not to exceed ten cents ($.10) per page.

(n) The Commission shall maintain copies of each agency's code for public inspection and copying at its offices at 428 J Street, Suite 800, Sacramento, California.