

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO**

**34-2020-80003510-CU-WM-GDS: Lucky Chances Inc vs. The State of California  
09/05/2025 Hearing on Motion - Other for Preliminary Approval of Class Action  
Settlement in Department 22**

Tentative Ruling

Plaintiffs Lucky Chances, Inc., V C Cardroom Inc., Halcyon Gaming, LLC, Pacific Gaming Services, LLC, BJ Gaming, LLC, Fortune Players Group, Inc., Gold Gaming Consultants, Inc., Certified Players, Inc., L.E. Gaming, Inc., and Rhino Gaming Inc. (“Plaintiffs”) move for preliminary approval of the Parties’ class action settlement. Plaintiffs’ motion is UNOPPOSED and GRANTED, subject to the Parties’ clarification regarding (1) the scope of the Class Release, (2) a re-mailing extension; and (3) Class Members’ ability to object at the final approval hearing. Accordingly, the Parties’ **APPEARANCE IS REQUIRED.**

Moving counsel’s Notice of Motion does not provide notice of the Court’s tentative ruling system, as required by Local Rule 1.06. Moving counsel is directed to contact opposing counsel and advise them of Local Rule 1.06, the Court’s tentative ruling procedure, and the manner to request a hearing.

Status Conference (Compliance Hearing) is scheduled for 09/19/2025 at 10:30 AM in Department 22 at Gordon D. Schaber Superior Court.

Hearing on Motion for Final Approval of Settlement is scheduled for 04/10/2026 at 9:00 AM in Department 22 at Gordon D. Schaber Superior Court.

The Court has provided specific direction on the information and argument the Court requires to grant a motion for preliminary and final approval of a class action settlement. The Parties shall carefully review the Checklist for Approval of Class Action Settlements and fully comply with each applicable item to ensure a prompt ruling from the Court.

While Plaintiffs’ motion refers to the Court’s checklist, Moving Counsel’s declarations fail to attest that they have reviewed the Court’s checklist and their briefing complies with the checklist, as required by Local Rule 2.99.05. The Court, in its discretion, has nonetheless considered Plaintiffs’ motion. Counsel is admonished that any future failure to include the attestation in counsel’s declaration may result in the denial of the motion without prejudice. (Local Rule 2.99.05(C).) Failure to comply with the checklist may lead to an order to show cause regarding sanctions and/or a reduction in the requested attorneys’ fee award. (*Id.*, 2.99.05(D).)

**Background**

Plaintiffs filed their verified class action complaint (“Complaint”) on or around May 12, 2020. (Hori Decl., ¶ 4, Exh. 2.) Plaintiffs filed a class action petition and complaint for (1) writ of mandate, (2) declaratory and injunctive relief, (3) money had and received, (4) unjust enrichment, (5) violation of the California Constitution, and (6) an accounting. (*Ibid.*) On or

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around December 8, 2020, the California Gambling Control Commission (“Commission”), the Bureau of Gambling Control (“Bureau”), the State of California (“State”) and the California Treasurer (“Treasurer” and together with Commission, Bureau, and State, “Defendants”) filed an Answer to the Complaint. (*Id.*, ¶ 5, Exh. 3.) The Complaint references and relies upon a report from the Auditor of the State of California (“Auditor”) dated May 16, 2019, entitled “Bureau of Gambling Control and California Gambling Control Commission: Their Licensing Processes Are Inefficient and Foster Unequal Treatment of Applicants.” (*Id.*, ¶ 6, Exh. 4.)

Plaintiffs allege claims on behalf of California cardrooms and proposition player providers. (Complaint, ¶ 45.) The Commission and Bureau license and regulate these entities. (*Id.*, ¶¶ 19–20.) They support those activities by collecting fees from licensed businesses, which are deposited in a fund called the Gambling Control Fund. Those fees include licensing fees (“Licensing Fees,”), namely, (1) nonrefundable, flat fees collected with each initial or renewal application for a license or permit needed for the operation of a cardroom business or proposition player provider business (see Bus. & Prof. Code § 19951(a)), and (2) refundable background investigation deposits intended to be “adequate to pay the anticipated costs and charges incurred in the investigation and processing of the application.” (See Bus. & Prof. Code § 19867(a); Complaint ¶ 28.) They also include regulatory fees (“Regulatory Fees”) from licensees for purposes of funding non-licensing regulatory activities, like inspections and investigations. (Complaint, ¶ 29.) Essentially, Plaintiffs allege that the amounts charged as Regulatory Fees exceed the amounts authorized under statute. (Complaint, ¶¶ 32-40.) Plaintiffs allege this rendered the Regulatory Fees an unlawful tax which had not been approved by the required two-thirds Legislative supermajority, and that the Regulatory Fees were beyond the State’s police power, and statutory, and/or regulatory authorizations. (*Id.*, ¶ 40.)

On June 9, 2025, Plaintiffs filed a motion for preliminary approval of the Settlement noticed in Department 32 before the then-assigned Honorable James P. Arguelles. On June 20, 2025, the Court issued an order reassigning the case to this Court (Department 22). On June 25, 2025, the Clerk reset the hearing on this motion in Department 22 and directed the Parties to review the Court’s checklist for approval of class action settlement. Plaintiffs re-filed this amended motion, and Plaintiffs concurrently filed a notice of withdrawal of the June 9 filing. (See Mot., p. 13:13-18.)

Plaintiffs now move for preliminary approval of the Parties’ Class Action Settlement Agreement and Release (“Agreement”). (Hori Decl., ¶ 3, Exh. 1 (“SA”).)<sup>[1]</sup>

### **Legal Standard**

The law favors the settlement of lawsuits, particularly in class actions and other complex cases where substantial resources can be conserved by avoiding the time, expense, and rigors of formal litigation. (See *Neary v. Regents of Univ. of Cal* (1992) 3 Cal.4th 273, 277-281; *Lealao v.*

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*Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 52.) However, a class action may not be dismissed, compromised, or settled without approval of the court, and the decision to approve or reject a proposed settlement is committed to the court's sound discretion. (See Cal. Rules of Court, Rule 3.769; *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-35 (*Wershba*).

In determining whether to approve a class settlement, the court's responsibility is to "prevent fraud, collusion or unfairness to the class" through settlement because the rights of the class members, including the named plaintiffs, "may not have been given due regard by the negotiating parties." (*Consumer Advocacy Group, Inc. v. Kintetsu Enters. of Am.* (2006) 141 Cal.App.4th 46, 60.) The court must independently determine "whether the settlement is in the best interests of those whose claims will be extinguished" and "make an independent assessment of the reasonableness of the terms to which the parties have agreed." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 130, 133.) The burden of establishing the fairness and reasonableness of the settlement is on the proponent. (*Wershba, supra*, 91 Cal.App.4th at p. 245; see also *7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135 1165-66.)

The Court does not rubber stamp these motions, but rather serves as a guardian of absent class members' rights to ensure the settlement is fair. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.) "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.'" (*7-Eleven, supra*, 85 Cal.App.4th at p. 1145.) "A settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable. Compromise is inherent and necessary in the settlement process. Thus, even if "the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated," this is no bar to a class settlement because "the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.'" (*Wershba, supra*, 91 Cal.App.4th at p. 250, citations omitted.) The court's primary objective for preliminary approval is to establish whether to direct notice of the proposed settlement to the class, invite the class's reaction, and schedule a final fairness hearing. (Rubenstein et al., *Newberg on Class Actions* (6th ed. 2025) § 13:10.)

### **Provisional Class Certification**

If the class has not yet been certified, part of the motion for preliminary approval will include a request for provisional certification for purposes of settlement only. (See Cal. Rule of Court, Rule 3.769.) Although the provisional process is less demanding than a traditional motion for class certification, a trial court reviewing an application for preliminary approval of a settlement must still find that the normal class prerequisites have been met. (See *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 625-627 (1997); in accord, *Carter v. City of Los Angeles* (2014) 224 Cal.App.4th 808, 826.)

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Here, Plaintiffs seek provisional certification of the following class: “all persons in California licensed or registered at any time during the Class Period by or through the Commission as Cardrooms<sup>[2]</sup> or Proposition Player Providers<sup>[3]</sup> who paid Regulatory Fees<sup>[4]</sup> as a Cardroom or Proposition Player Provider during the Class Period.” (SA, § I.10.) The Class Period means the period January 1, 2005 until May 12, 2020. (*Id.*, § I.14.)

Plaintiffs argue that provisional certification is appropriate because (1) the Class of licensees is ascertainable through the records of the Bureau and the Commission ; (2) the Class of approximately 174 current and former cardrooms and proposition player providers is sufficiently numerous; (3) common issues predominate because Plaintiffs contend that the class members were all subject to the same “fees,” which Plaintiffs assert ultimately constituted unlawful taxes and that question could be resolved across the entire class; and (4) a class action would bring substantial benefits including the efficient resolution and management of these claims. (Mot., pp. 15:9-18:3.) While Plaintiffs recognize that typicality and adequacy of representation are facts in the community of interest requirement for certification, Plaintiff’s moving papers fail to address these issues. Plaintiffs are admonished for failing to provide a complete analysis. Nonetheless, the Court is persuaded that Plaintiffs’ claims are typical in that they arise from payment of the same regulatory fees, and there is no apparent conflict of interest between Plaintiffs and the Class. Finally, it is clear from the records that Plaintiffs have retained qualified and experienced Counsel. The Court finds Plaintiffs’ arguments persuasive and provisionally certifies the Class for settlement purposes for the reasons set forth above.

**Class Representative and Class Counsel**

Plaintiffs are appointed as Class Representatives. (SA, p. 1.) Steven Goon, Esq., David P. Lanferman, Esq., and Lucas K. Hori, Esq. of Rutan & Tucker, LLP and Jarhett Blonien, Esq. and Danielle Guard, Esq. of J. Blonien, APLC are appointed as Class Counsel. (*Id.*, § I.9.)

**Fair, Adequate, and Reasonable Settlement**

Before approving a class action settlement, the Court must find that the settlement is “fair, adequate, and reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) The Court considers such factors as “the strength of plaintiffs’ case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of class members to the proposed settlement.” (*Ibid.*) “[A] presumption of fairness exists where: (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Id.*, at p. 1802.)

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General Terms

Under the terms of the Agreement, Defendants deny liability, but agree to pay a Settlement Amount of \$43,300,000. (SA, §§ I.34, II.2, II.5.) Defendants shall transfer the Settlement Amount into the Settlement Fund<sup>[5]</sup> on the Funding Date<sup>[6]</sup>. (*Id.*, § XVI.1.) The Settlement Amount, and any interest or growth generated from the Settlement Amount, will first be used to pay in the following order of priority:

1. Administrative Costs, meaning the actual reasonable costs charged by the Administrator for its services<sup>[7]</sup>;
2. Attorneys' Fees in an amount no more than 33.3333% of the Settlement Amount (\$14,433,318.90) and Costs not to exceed the amount of \$25,000;
3. Service Awards not to exceed \$2,500 for each of the Named Plaintiffs, totaling \$25,000; and
4. any other expenses mandated by this Agreement.

(SA, §§ I.1, XVI.2, XVIII.2, XIX.) The Agreement does not appear to mandate any other expenses. Thereafter, the Administrator will use the Net Settlement Amount ("NSA") to pay Valid Claims submitted by Class Members. (*Id.*, § XVI.2.) The NSA is estimated to be at least \$28,723,286.10; however, Plaintiffs expect this figure to be approximately \$32 million. (Mot., p. 14:22-24.)

The Administrator shall pay Valid Claims by mailing checks drawn from the NSA and made payable in the names of the Class Members. (SA, § XVII.4.) Those checks will be sent to Class Members with Valid Claims via first-class mail to the address confirmed by Class Members in the Claim Form, or to any updated address provided on a Claim Form. (*Ibid.*) Such check shall be valid for a period of 180 days from the date appearing on the payment check. (*Ibid.*) If payment checks are returned as undeliverable or have not been cashed within 180 days after the date appearing on the payment check, the funds will escheat back to the Settlement Fund. (*Id.*, § XVII.6.) For any Class Member whose payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member. (*Ibid.*)

Class Notice

Defendants shall provide the Class List to Class Counsel and the Administrator via email prior to the execution of this Agreement. (SA, § V.1.) The Class List includes (i) an identification by name and license number of each Class Member; (ii) the last known mailing and/or email address(es), as well as any prior contact information; and (iii) the total amount of Regulatory Fees paid by each Class Member during the Class Period, taking into account any refunds, credits, or other adjustments. (*Id.*, ¶ § V.2.) The Administrator shall mail the Notice of

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Settlement and a copy of this Agreement to each Class Member in a sealed envelope via first-class mail, return service requested. (*Id.*, § VII.1.) The Administrator shall mail the Notice of Settlement within 30 days of the Court’s issuance of Preliminary Approval and shall deposit the Notice of Settlement into the mail simultaneously for all Class Members. (*Ibid.*) With respect to any Notice of Settlement returned by mail as undeliverable, the Administrator will re-mail the Notice of Settlement to any address provided by the postal service on returned mail pieces for which an automatic forwarding address has been provided, or to any better address that may be found using the National Change of Address Database, skip tracing, or a third-party lookup service. (*Id.*, § VII.5.) If any alternative address is located that the Administrator believes may be a correct address, the Notice of Settlement will be promptly re-mailed, but such re-mailing shall not extend the Initial Opt-Out Deadline or Objection Deadline. (*Ibid.*)

On the same day that the Administrator deposits the Notice of Settlement into the mail to Class Members, the Administrator shall send via email a PDF copy of the Notice of Settlement and a copy of this Agreement to each Class Member. (SA, § VII.2.) On the same day, the Administrator shall also post a copy of the Notice of Settlement on the website relating to the Settlement established by the Administrator. (*Id.*, § VII.3.) Finally, on the same day, the Administrator shall cause a notice to be published within the daily publications of the Sacramento Bee and Los Angeles Times for 14 consecutive days. (*Id.*, § VII.4.)

Claim Process

To participate in the settlement, Class Members must submit a valid claim using the approved Claim Form. (SA, §§ I.6, I.6, I.8, I.37, XIV.2.) The Parties maintain that this “process is intended to balance the following goals: (1) provide relief to Class Members with Valid Claims, (2) take account of the relative amounts of Claims, (3) provide Class Members with a full and fair opportunity to obtain relief in accord with due process, (4) avoid payment of duplicate and overlapping Claims; and (5) provide clear and efficient relief.” (*Id.*, § XIV.1.) While the Court generally prefers a checks-mailed approach, particularly where the Class is readily identifiable and the individual settlement share is determinable on a pro rata basis, the Court is persuaded that a claims-made process is acceptable under the circumstances.

The Claim Form shall include the following:

- i. The Class Members’ name and license number(s);
- ii. total amount of Regulatory Fees paid by each Class Member during the Class Period as stated in the Class List;
- iii. Direction for properly completing the Claim Form, including (1) directions for indicating whether the Claimant agrees or disagrees with the amount of Regulatory Fees stated in the Claim Form, and (2) directions, if the Claimant disagrees with the amount of Regulatory Fees submitted in the Claim Form, for submitting information to the Administrator relating to those Regulatory Fees;

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- iv. Directions for confirming the Class Members' contact information, including name, corporate or other entity title, address for physical mail, entity email address, and phone number;
- v. Directions for the Class Member's authorized representative to attest under oath to the accuracy of information provided by Claimant in the Claim Form, and to attest to the authorized representative's authority and agreement to handle the distribution of Settlement proceeds in a fiduciary capacity to ensure proceeds are delivered to those entities and persons entitled to receive proceeds pursuant to law or agreement;
- vi. Directions that any Claim Form being submitted by a former owner or operator of a Class Member must be accompanied by records establishing the existence and extent of the interest currently held by the former owner or operator in the Class Member's business or otherwise establishing the existence and extent of the former owner or operator's legal right to participate in the Claim;
- vii. Directions that Class Members that are dissolved or inactive entities according to the records of the California Secretary of State must submit their plans of dissolution demonstrating how proceeds are to be distributed or follow the revivor process required by the jurisdiction(s) governing the existence of the entity during the Class Period;
- viii. Notice that by returning the Claim Form, Class Members will be bound by the releases contained in this Agreement;
- ix. Directions for returning the Claim Form to the Administrator with a completed and executed IRS Form W-9, which will be used for tax reporting purposes, including, but not limited to, issuance of an IRS Form 1099;
- x. Notice of the Claims Deadline; and
- xi. A warning that a Claim Form that is untimely or incomplete will not be considered by the Administrator.

(SA, §§ XII.1.) The Administrator shall mail the Claim Form to each Class Member in a sealed envelope via first-class mail, return service requested, and may be mailed in the same sealed envelope as the Notice of Settlement. (*Id.*, § XIII.1.) The Administrator shall mail the Claim Form on the same date as the Notice of Settlement and shall deposit the Claim Form into the mail simultaneously for all Class Members. (*Ibid.*) On the same day that the Administrator deposits the Claim Form into the mail to Class Members, the Administrator shall send via email a PDF copy of the Claim Form to each Class Member. (*Id.*, § XIII.2.) The Claim Form may be emailed in the same message as the Notice of Settlement. (*Ibid.*) With respect to any Claim Form returned by mail as undeliverable, the Administrator will re-mail the Claim Form to any address provided by the postal service on returned mail pieces for which an automatic forwarding address has been provided, or to any better address that may be found using the National Change of Address Database, skip tracing, or a third-party lookup service. (*Id.*, § XIII.3.) If any alternative address is located that the Administrator believes may be a correct address, the Claim Form will be promptly re-mailed, but such re-mailing shall not extend the Claims Deadline.

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(Ibid.) Regarding both the Notice and the Claim form, the Court generally prefers any re-mailing to extend any applicable deadlines by 14 days. The Parties shall be prepared to address whether they agree to provide a re-mailing extension.

In order to be eligible for payment under the Settlement, Class Members must timely return a Claim Form signed under penalty of perjury by a valid representative of the Class Member. (SA, § XIV.2.) The Claim Form must be submitted by email or postmarked on or before the Claims Deadline, which means 60 days following the Notice Date. (*Id.*, §§ I.7, XIV.2.) If a Class Member timely returns a Claim Form that is signed under penalty of perjury by a valid representative but is otherwise incomplete or illegible, that Class Member will not be barred from receiving proceeds in the Settlement, provided that the Administrator shall request that the Class Member provide any information omitted from the Claim Form and the Class Member shall provide information reasonably requested to make determinations concerning the Claim Form. (*Id.*, § XIV.2.) Notwithstanding the terms of this Section, if a Class Member fails to return an IRS Form W-9 by the deadline for the Administrator in Section XV.4 to submit the calculated payment amount for all Valid Claims (meaning 45 days after the Final Opt-out Deadline), that Class Member will not be entitled to receive proceeds in the Settlement. (*Id.*, § XIV.2.)

If any entity that is dissolved or inactive according to the records of the California Secretary of State submits a Claim Form, it must submit its plan of dissolution concurrently with its Claim Form or follow the revivor process required by the jurisdiction(s) governing the existence of the entity during the Class Period before submitting its Claim Form. (SA, § XIV.3.) A dissolved or inactive Class Member that fails to submit its plan of dissolution demonstrating how proceeds are to be distributed with its Claim Form or fails to complete the revivor process before submitting its Claim Form will not be eligible for payment in the Settlement. (*Ibid.*)

The Administrator will compare information in the Claim Forms against the information in the Class List. (SA, § XIV.4.) The Administrator will review and verify the following for each Claimant: (i) The Class Members' name, license number(s), and mailing address, including any updated mailing address listed on the Claim Form; (ii) The execution of the Claim Form under penalty of perjury by a valid representative of the Class Member; (iii) The amount of Regulatory Fees paid by the Claimant as stated in the Class List; and (iv) The amount of Regulatory Fees claimed by the Class Member in the Claim Form. (*Ibid.*) The Administrator shall determine whether a timely, signed Claim shall be treated as a Valid Claim as follows:

- i. The Administrator shall treat the total amount of Regulatory Fees paid by the Class Member as stated in the Class List (and as printed on the issued Claim Form) as the presumptively accurate amount.
- ii. If a Claimant indicates on a Claim Form that it agrees with the stated amount of Regulatory Fees paid by the Claimant and otherwise completes the Claim Form and returns the necessary documents, it shall be deemed a Valid Claim, subject to adjustment for duplicate or overlapping Claims submitted on behalf of the same Class

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- Member. The amount of the Claim will be the stated amount, subject to any adjustment for duplicative or overlapping claims.
- iii. If a Claimant indicates on a Claim Form that it actually paid an amount of Regulatory Fees that is *less than* the stated amount of Regulatory Fees paid by the Claimant and otherwise completes the Claim Form and returns the necessary documents, it shall be deemed a Valid Claim, subject to adjustment for duplicate or overlapping Claims. The amount of the Claim will be the lesser amount of Regulatory Fees that the Claimant asserts it actually paid, subject to any adjustment for duplicate or overlapping Claims.
- iv. If a Claimant indicates on a Claim Form that it actually paid an amount of Regulatory Fees *greater than* the stated amount of Regulatory Fees paid by the Claimant, the Claimant must submit with the Claim Form conclusive documentary evidence<sup>[8]</sup> that the Claimant paid the amount of Regulatory Fees asserted in the Claim Form. If such evidence is not submitted with the Claim Form, then the Administrator shall request that the Claimant provide such evidence within 30 days of the Administrator's receipt of the Claim Form. If the Claimant timely submits conclusive documentary evidence supporting the amount of Regulatory Fees claimed, then the Administrator shall deem the Claim a Valid Claim in the amount the Claimant asserts it actually paid. If the Class Member fails to timely respond or fails to timely provide conclusive evidence of having paid the amount of Regulatory Fees claimed by the Claimant, then Administrator shall deem the Claim a Valid Claim, but the Claimant will be deemed to have paid the amount as stated in the Class List.
- v. If a Claimant timely submits a signed Claim Form, it shall be deemed a Valid Claim even if the information provided by the Claimant is incomplete or illegible, and even if the Claimant fails to timely provide the Administrator any necessary information omitted from the Claim Form. The amount of the Claim will be the stated amount of Regulatory Fees paid by the Claimant, subject to any adjustment for duplicate or overlapping claims presented on behalf of the same Class Member, and also subject to any adjustment based on the entity's status with the California Secretary of State. Notwithstanding the terms of this Section, if a Class Member fails to return an IRS Form W-9 by the deadline for the Administrator in Section XV.4 to submit the calculated payment amount for all Valid Claims, that Class Member will not be entitled to receive proceeds in the Settlement.

(SA, §§ XIV.7.i-v.) Any Claim Forms relating to any Claimant that did not pay Regulatory Fees during the Class Period will not be deemed a Valid Claim. (*Id.*, § XIV.5.) In addition, any duplicative or overlapping claims will not be deemed Valid Claims without adjustment to avoid payment for duplicative or overlapping amounts. (*Id.*, § XIV.6.) The Administrator's determination of the validity and amount of a Claim is final and will not be subject to review by Named Plaintiffs, Class Counsel, Defendants, or Defendants' Counsel. (*Id.*, § XIV.8.)

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*Requests for Exclusion and Objections*

Any Class Member who wishes to be excluded from the Class must email or mail a signed written request for exclusion to the Administrator at the email address or mailing address provided in the Notice of Settlement specifying that they want to be excluded from the Class. (SA, § VIII.1.) To be timely and valid, a request for exclusion from the Class must be submitted by email or postmarked on or before the Initial Opt-out Deadline. (*Id.*, § VIII.2.) The Initial Opt-out Deadline means 60 days following the Notice Date. (*Id.*, § I.23.) Not later than 5 days after the Initial Opt-out Deadline, the Administrator shall send via email to Class Counsel and Defendants' Counsel a complete list of Class Members who submitted requests to exclude themselves from the Class by the Initial Opt-out Deadline. (*Id.*, § VIII.6.) For a period of 14 days after the Administrator sends its initial list of Class Members who submitted exclusion requests, any Class Member who has timely submitted a request for exclusion on or before the Initial Opt-out Deadline may, independently or following voluntarily dialogue with Class Counsel or Defendants' Counsel, withdraw that request for exclusion and submit a Claim Form signed under penalty of perjury by a valid representative of the Class Member no later than 14 days after the Initial Opt-out Deadline. (*Ibid.*) This date is referred to as the Final Opt-out Deadline. (*Id.*, § I.21.) A Class Member who timely withdraws a request for exclusion and submits a Claim Form pursuant to this Section will be deemed a member of the Settlement Class. (*Id.*, § VIII.6.) Not later than 5 days after the Final Opt-out Deadline, the Administrator shall send via email to Class Counsel and Defendants' Counsel a complete and final list of Class Members who submitted requests to exclude themselves from the Class. (*Id.*, § VIII.7.) If Class Members with claims cumulatively in excess of \$1,000,000 timely opt out of the Settlement and have not withdrawn their request for exclusion by the Final Opt-out Deadline, the Bureau, on behalf of itself and the Commission, will have the sole and absolute discretion to withdraw from this Agreement within 30 days after Defendants receive the Administrator's email described in Section VIII.7 containing a complete and final list of Class Members who submitted requests to exclude themselves from the Class. (*Id.*, § VIII.8.)

Any Class Member or person legally entitled to act on a Class Member's behalf may object to the fairness, reasonableness, or adequacy of the Settlement, and/or Class Counsels' proposed methodology for calculating Attorneys' Fees and Costs. (SA, § IX.1.) The Agreement provides that "[a]ny Class Member who wishes to object must email or mail a signed written objection to Administrator at the email address or mailing address provided in the Notice of Settlement. Any objection must include the following: (i) the objector's name, address, and telephone number; (ii) the name, address, and telephone number of any person claiming to be legally entitled to object on behalf of a Class Member and the basis of such legal entitlement; (iii) all grounds for the objection; and (iv) whether the objector is represented by counsel and, if so, the identity of such counsel. An objection submitted by one or more representatives of a Class Member will constitute an objection on behalf of all others who claim to represent that same Class Member." (*Id.*, § IX.2.) To be timely and valid, the objection must be submitted by email or postmarked on

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or before the Objection Deadline, which means 60 days following the Notice Date. (*Id.*, §§ I.27, IX.3.) The Agreement also asserts that “[a]ny Class Member who submits a timely written objection may appear at the Final Approval Hearing, either in person or through personal counsel hired at the Class Members’ own personal expense and also may be subject to discovery, subject to Court approval.” (*Id.*, § IX.6.) Not later than 5 days after the Objection Deadline, the Administrator shall send via email to Class Counsel and Defendants’ Counsel all objections submitted by Class Members. (*Id.*, § IX.7.) Not later than 15 days after the Objection Deadline, Class Counsel shall file with the Court any and all objections to the Settlement. (*Id.*, § IX.8.) Notwithstanding the language of the Agreement, the Parties are advised that the Court will generally hear from any Class Members who attend the final approval hearing and ask to speak regarding their objections, regardless of whether they have submitted written objections in advance. The Parties shall be prepared to address this issue.

Calculation of Valid Claims and Payment

The Administrator will calculate the amount to be paid for each Valid Claim as follows: (i) Following the expiration of the Final Opt-out Deadline and after determining the amount and validity of each Claim, the Administrator shall adjust each Claim with respect to any duplicate or overlapping claims presented on behalf of the same Class Member; (ii) The Administrator shall then sum the total amount of all Valid Claims presented on behalf of each Class Member; (iii) Each Class Member with one or more Valid Claims shall be entitled to a pro rata portion of the NSA. (SA, § XV.1.) That pro rata portion shall be calculated by dividing the total amount of the Class Member’s Valid Claims by the sum total of all other Valid Claims. (*Id.*, § XV.1.iii.) The amount of payment to each Class Member with a Valid Claim shall be capped at the amount of the Regulatory Fees actually paid by that Class Member during the Class Period, as determined through the claims review process. (*Id.*, § XV.3.) No later than 45 days after the Final Opt-out Deadline, the Administrator shall create and provide via email to Class Counsel and Defendants’ Counsel a complete and final list of all Class Members that includes each Class Members’ name, whether the Class Member submitted a Claim Form, opted-out, or objected, whether multiple claim forms were submitted by the Class Member and how those claims were adjusted, whether the Class Members’ Claim was approved, and the calculated payment amount for all Valid Claims. (*Id.*, § XV.4.)

Release

“As of the deposit of the Settlement Amount in the Settlement Fund, and except as set forth by this Agreement, all members of the Settlement Class shall be deemed to have released and forever discharged Defendants from any and all existing liability, demands, causes of action, suits, reimbursements or responsibility of any kind, ***whether known or unknown***, related to or arising from the claims asserted in the Action, including but not limited to any claims relating to the validity and lawfulness of the imposition, calculation, collection, accounting, and use of

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Regulatory Fees, license application fees, and license application background deposits paid during the Class Period.” (SA, § XX.1.ii.) In addition, as of the deposit of the Settlement Amount, “Defendants shall be deemed to have released and forever discharged all members of the Settlement Class from any and all existing liability, demands, causes of action, suits, reimbursements or responsibility of any kind, whether known or unknown, for return or payment of Regulatory Fees incurred during the Class Period.” (*Id.*, § XX.2.)

The Court is concerned by the inclusion of the claims “whether known or unknown” in the Class Release. The Court does not understand the necessity or propriety of including language that essentially effectuates a general release and a section 1542 waiver as to absent Class Members. In the Court’s experience, a comprehensive description of released claims as those alleged in the complaint(s) and those claims that reasonably could have been alleged based on the factual allegations in the complaint(s) generally provides an adequate level of protection against future claims. Accordingly, the Court is inclined to conclude that this language should be removed. The Parties shall be prepared to address this language and whether they agree to its removal.

*Discovery and Settlement*

Counsel propounded extensive written discovery and received over 80,000 pages of records from the Commission and the Bureau. (Hori Decl., ¶ 7.) Counsel also issued third-party document demands to the Auditor and the California Legislature to obtain relevant materials. (*Ibid.*) In September and October 2022, Counsel deposed persons most knowledgeable, including the Commission’s Executive Director and the Bureau’s Director. (*Ibid.*) In addition, the Parties engaged in ongoing informal exchanges relating to settlement, including with respect to fees paid and the Gambling Control Fund’s reserve. (*Id.*, ¶ 9.) Defendants provided an initial written settlement offer on August 8, 2022. (*Id.*, ¶ 10.) Thereafter, the parties engaged in arm’s-length settlement negotiations for months. (*Id.*, ¶¶ 9-10.) The Settlement Amount was negotiated by considering all available funds in the Gambling Control Fund, which Counsel understands was the repository for the allegedly unlawful fees. (*Id.*, ¶ 9.) The negotiations focused on reaching a settlement amount that would (1) pay out from the Gambling Control Fund the maximum available amount based on Plaintiffs’ position that the reserve money in the Fund had been wrongfully collected, while (2) leaving the Fund with an operational reserve acceptable to the Bureau and Commission for going-forward operations. (*Id.*, ¶ 10.) The Settlement Amount was reached through arm’s-length negotiations that were professional, adversarial, and non-collusive in nature. (*Id.*, ¶ 11.)

Through their Complaint, Plaintiffs assert that, by mid-2020, the Gambling Control Fund’s balance was in excess of \$90,000,000. (Complaint ¶ 36.) Plaintiffs’ argue that “[t]his allegation is supported by publicly available Fund Condition Statements—budgetary statements reflect the fund had a balance of at least \$95,912,000 by 2020.” (Mot., p. 24:22-25, citing Hori Decl., ¶ 12, Exh. 6.) However, Class Counsel believes that a reasonable exposure estimate is the current

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balance of the Gambling Control Funds (approximately \$48,988,000) less a reasonable reserve for the Commission and Bureau's actual costs and operations. (Hori Decl., ¶ 13.) Counsel describes the risks of continued litigation, including Defendants' defenses, the strengths and weaknesses of the Parties' positions, and the condition of the Gambling Control Fund. (*Id.*, ¶¶ 11-13, Exhs. 6-10.)

Counsel attests to their extensive experience in similar cases. (Hori Decl., ¶¶ 17-23, Exhs. 11-13; Blonien Decl., ¶¶ 5-8.) Counsel attests to their belief that the settlement is fair, reasonable, and adequate. (Hori Decl., ¶ 11; Blonien Decl., ¶ 12.) Based on the foregoing, the Court preliminarily finds, subject to the final fairness hearing, that the Settlement is within the ballpark of reasonableness and is entitled to a presumption of fairness and that all relevant factors support preliminary approval.

**Proposed Class Notice**

The notice to Class Members must fairly apprise the prospective members of the terms of the settlement without expressing an opinion on the merits of the settlement. (*7-Eleven Owners for Fair Franchising v. Southland Corp.* (2000) 85 Cal.App.4th 1135, 1164; see also Cal. Rules of Court, Rule 3.769.) "Whether a claimant would want to accept or reject the proposed settlement is a decision to be made by him independently and without influence or pressure from those competing parties who either favor or oppose the settlement." (*Phila. Hous. Auth. v. Am. Radiator & Std. Sanitary Corp.* (E.D. Pa. 1970) 323 F.Supp. 364, 378.)

In general, the Notice fairly describes the settlement. (SA, Exh. 1 ("Notice").) However, the following issues must be addressed:

- The Notice must be corrected to indicate that the final approval hearing will be heard in Department 22 before the Honorable Lauri A. Damrell. (Notice, pp. 3, 14.)
- The Notice includes the following language: "Named Plaintiffs and Class Counsel believe the Settlement is fair and reasonable." (Notice, p. 4.) The Court finds this language is unnecessary and may improperly discourage class members from objecting to the settlement. Accordingly, it must be removed. In addition, the word "also" should be deleted from the sentence immediately following. (*Ibid.* ["The Court must also review..."].)
- If the Parties accept the Court's proposed revision to the Class Release, the Notice must be revised accordingly. (Notice, p. 9.)
- The Notice should inform Participating Class Members that if they desire to appear remotely at the final approval hearing, they can join via the Department's Zoom link or phone number and provide the following access information for the appropriate Department in the Notice: To join by Zoom link: <https://saccourt-ca-gov.zoomgov.com/my/sscdept22>; To join by phone: (833) 568-8864 / ID: 16184738886. (See Notice, p. 14.)

With these modifications, the Notice is approved. The Court has also reviewed and approves the

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Claim Form and Notice for Publication.

**Class Counsel Fees and Costs**

The Agreement provides for an award of attorneys' fees of no more than 33.3333% of the Settlement Amount (\$14,433,319). Class Counsel will also apply to the Court for an award of actual costs incurred by Class Counsel (excluding any costs for Administrator) not to exceed the amount of \$25,000.00. (SA, § XVIII.2.) However, Plaintiffs argue that Class Counsel intends to seek a fees award of approximately 25.5% of the Settlement Amount net of costs, which will be in the range of \$11,000,000. (Mot., p. 31:27-28; Hori Decl., ¶ 26.) Plaintiffs argue that the requested fee award is reasonable as a percentage of the common fund and consistent with awards routinely approved by California courts. (Mot., pp. 32:6-33:1.) Plaintiffs assert that the requested fees "are commensurate with: (1) the risk Class Counsel took in bringing and litigating the case on a contingency fee basis; (2) the extensive time, effort and expense Class Counsel dedicated to the case; (3) the skill Class Counsel has shown and results that Class Counsel has achieved throughout the litigation; and (4) the value of the Settlement that Class Counsel has achieved for the class members." (*Id.*, p. 33:2-7.)

The requested award is preliminarily approved. In moving for final approval, the Court expects Counsel to support their arguments with respect to this amount, including by providing information necessary to perform a lodestar analysis. (See *In re Activision Sec. Litigation* (N.D. Cal. 1989) 723 F.Supp. 1373, 1379; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557-58 & fn. 13.; *Martin v. Ameripride Servs.* (S.D. Cal. June 9, 2011), 2011 WL 2313604 at \*22 (collecting cases); *Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal 2010) 266 F.R.D. 482, 491 (same); see also *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 & n.11.)

Counsel does not address how the requested fee award will be divided between their firms. In moving for final approval, Counsel must provide information regarding the fee-splitting agreement and whether Plaintiffs have given written approval of the fee-splitting agreement. (*Mark v. Spencer* (2008) 166 Cal.App.4th 219, RPC Rule 1.5.1; CRC Rule 3.769.)

The Court also preliminarily approves the Agreement's costs allocation with the expectation that Counsel will provide a declaration, in moving for final approval, that shows actual costs. Counsel's preliminary costs report includes several line items for travel. (Hori Decl., ¶ 26, Exh. 14.) At final approval, Counsel should explain why these costs are appropriate and recoverable.

**Settlement Administrator**

Plaintiffs seek to engage Epiq as Administrator pursuant to the Agreement. (SA, § IV.1.) All fees and expenses associated with the performance of Administrator's duties shall be paid out of the Settlement Amount. (*Id.*, § IV.3.) Epiq estimates its costs to be \$93,395. (Malakouti Decl., ¶ 8,

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Exh. 17.)

Epiq is appointed as Settlement Administrator, and the allocation is reasonable and preliminarily approved.

**Class Representative Service Awards**

The Agreement provides for the payment of service awards to each of the Named Plaintiffs in an amount not to exceed \$2,500. (SA, § I.32.) Based upon the Plaintiff's respective participation, a service award is currently requested for only two named Plaintiffs, specifically (1) Lucky Chances, Inc., and (2) Fortune Players Group, Inc. (Mot., pp. 33:24-34:1.) These Plaintiffs provide supporting declarations describing their efforts and estimating the amount of time they spent on the broader issue of the regulatory fees and this litigation directly. (Castellanos Decl., ¶ 4 [125 hours total; 70 of those on litigation]; Medina Decl., ¶ 4 [100 hours total; 75 of those on litigation].)

The requested service awards are preliminarily approved.

**Compliance Hearing**

The Court sets a Compliance Hearing for September 19, 2025 at 10:30 a.m. No later than September 12, 2025, Plaintiffs shall file a revised class Notice and redline copy for the Court's review. If the Parties agree with the Court's proposed revisions to the Agreement (re-mailing extension and class release), the Parties shall provide proof of the Agreement's amendment. Finally, Plaintiffs shall separately file a revised Proposed Order consistent with the above and correcting: (1) the Department references in paragraph 12, (2) adding the final approval hearing date set below, and (3) correcting the signature block.

If Plaintiffs adequately address the Court's concerns, the Court will sign the revised Proposed Order, and no appearance will be required.

**Final Approval Hearing**

The Agreement provides that "for purposes of efficiently implementing this Agreement, Named Plaintiffs may seek Final Approval after the Final Opt-Out Deadline and Objection Deadline, but while Administrator may be determining whether Claims shall be determined Valid Claims and/or calculating the amount of Valid Claims." (SA, § X.5.) However, the Court's preference is for the Parties to seek final approval once the claims process review has been completed.

The Court will again review and consider the terms of this settlement at the time of the final approval hearing. The Court sets a Final Approval Hearing for **April 10, 2026 at 9:00 a.m.** If

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either party is unavailable on that date, the parties shall meet and confer to identify three other Fridays at 9:00 a.m. that work for the parties to schedule the hearing. They shall then submit those dates to the Court via email at [Dept22@saccourt.ca.gov](mailto:Dept22@saccourt.ca.gov), and the Court will reschedule the hearing accordingly.

The briefing shall be filed in conformity with Code of Civil Procedure section 1005.

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<sup>[1]</sup> The settlement is between Plaintiffs and the Commission and the Bureau, which are referred to as Defendants for purposes of the Agreement. (SA, p. 1.) The Agreement contemplates the dismissal of the State and the Treasurer. (*Id.*, § XXV.)

<sup>[2]</sup> Cardrooms means “non-tribal cardroom gambling establishments in the State of California licensed by or registered with the Commission.” (SA, § I.4.)

<sup>[3]</sup> Proposition Player Providers means “third party providers of proposition player services to Cardrooms in the State of California licensed by or registered with the Commission.” (SA, § I.29.)

<sup>[4]</sup> Regulatory Fees means “the regulatory fees that are the subject of the Action, namely the annual fees that Class Members were required to pay during the Class Period pursuant to Business and Professions Code section 19951, subdivisions (c) and (d) (as to Cardrooms), or pursuant to Business and Professions Code section 19984, subdivision (c) (as to Proposition Player Providers) as those statutes were in effect during the Class Period.” (SA, § I.31.)

<sup>[5]</sup> The Settlement Fund “means a fund that will be established by Administrator under 26 U.S.C. § 468B for the purpose of receiving and distributing the Settlement Amount.” (SA, § I.36.)

<sup>[6]</sup> The Funding Date means the day which is 10 days after the Effective Date, which shall be the later of the following (i) the Court’s entry of final approval and judgment if no objection has been filed or all objections have been withdrawn; (ii) the date on which the time of appeal has expired if an objection to this settlement or a motion to intervene has been filed and not withdrawn, but no appeal has been filed; or (iii) the Court’s entry of a final order and judgment following the resolution of any appeal. (SA, §§ I.17, I.22, XI.1.)

<sup>[7]</sup> Epiq estimates its costs to be \$93,395. (Malakouti Decl., ¶ 8, Exh. 17.)

<sup>[8]</sup> “Conclusive documentary evidence” requires conclusive evidence as to the amount of the payment, the purpose of the payment, and the entity on whose behalf the payment was made. (SA, § XIV.7.iv.)

*To request oral argument on this matter, you must call Department 22 at (916) 874-5762 by 4:00 p.m., the court day before this hearing and notification of oral argument must be made to the opposing party/counsel. If no call is made, the tentative ruling becomes the order of the court. (Local Rule 1.06.)*

*Parties requesting services of a court reporter may arrange for private court reporter services at*

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*their own expense, pursuant to Government code §68086 and California Rules of Court, Rule 2.956. Requirements for requesting a court reporter are listed in the Policy for Official Reporter Pro Tempore available on the Sacramento Superior Court website at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-6a.pdf>. The list of Court Approved Official Reporters Pro Tempore is available at <https://www.saccourt.ca.gov/court-reporters/docs/crtrp-13.Pdf>.*

*If you are not using a reporter from the Court's Approved Official Reporter Pro Tempore list, a Stipulation and Appointment of Official Reporter Pro Tempore (CV/E-206) must be signed by each party, the private court reporter, and the Judge. The signed form must be filed with the clerk prior to the hearing.*

*If a litigant has been granted a fee waiver and requests a court reporter, the party must submit a Request for Court Reporter by a Party with a Fee Waiver (CV/E-211). The form must be filed with the clerk at least 10 days prior to the hearing or at the time the hearing is scheduled if less than 10 days away. Once approved, the clerk will forward the form to the Court Reporter's Office and an official reporter will be provided.*

***If oral argument is requested, the Parties are encouraged to appear via Zoom with the links below:***

*To join by Zoom link - <https://saccourt-ca-gov.zoomgov.com/my/sscdept22>  
To join by phone dial (833) 568-8864 ID 16184738886*

**Counsel for Plaintiffs is directed to notice all parties of this order.**

***Please note that the Complex Civil Case Department now provides information to assist you in managing your complex case on the Court website at <https://www.saccourt.ca.gov/civil/complex-civil-cases.aspx>. The Court strongly encourages parties to review this website regularly to stay abreast of the most recent complex civil case procedures. Please refer to the website before directly contacting the Court Clerk for information.***