

November 17, 2009

Volume 15, Issue 37

For more information on Michigan's gaming industry, please visit www.michigangaming.com

Editor in Chief:

David D. Waddell, Esq.
Phone: 517.507.3859
waddell@rmclegal.com

*Senior Gaming Analyst
& Editor:*

Robert R. Russell, II
Phone: 517.507.3858
russell@rmclegal.com

Reporter

Douglas L. Minke
Phone: 313.221.9380
minke@rmclegal.com

Reporter

Blaine R. DeGracia
Phone: 517.507.3857
degracia@rmclegal.com

Subscription information:
info@michigangaming.com

A publication of
RMC Ventures, LLC

University Place Center
333 Albert Ave, Suite 450
East Lansing, MI 48823
Phone: 517.507.3860
Fax: 517.908.0235
www.rmclegal.com

The MICHIGAN GAMING Newsletter



GLOBAL GAMING EXPO 2009: PART I

THE GLOBAL GAMING EXPO ADVANCED GAMING INSTITUTE KICKS OFF IN LAS VEGAS

In advance of the today's opening of the Global Gaming Expo ("G2E"), the G2E Advanced Gaming Institute was held at the Las Vegas Convention Center on Monday, November 16. The Advanced Gaming Institute is designed as an educational program geared toward gaming professionals, with panel presentations focusing on operations, marketing, finance and gaming technology. In addition to the educational sessions, the Advanced Gaming Institute also included a networking breakfast and a keynote luncheon presentation by Michael D. Johnson, the Dean of the School of Hospitality at Cornell University.

Notable panel discussions at the G2E Advanced Gaming Institute are summarized below.

EXPERT PANEL DISCUSSES IMPACT OF SUPREME COURT DECISION IN *CARCIERI V SALAZAR*

The opening panel discussion at the G2E Advanced Gaming Institute, entitled "Land Into Trust: The Impact of *Carcieri v Salazar*", focused on the 2009 decision of the United States Supreme Court in the *Carcieri* case. The panel included W. Ron Allen, Tribal Chairman and CEO of the Jamestown S'Klallam Tribe, Chris Coppin, Legal Director for the Conference of Western Attorneys General and George Skibine, Acting

(Continued on page 2)

Principal Deputy Assistant Secretary, Indian Affairs and Acting Chairman of the National Indian Gaming Commission. The panel discussion was moderated by gaming attorney Michael Anderson of the legal firm of AndersonTuell, LLP.

Mr. Anderson began the panel by summarizing the *Carcieri* case, in which the Supreme Court limited the authority of the Secretary of the Interior to take land into trust for the benefit of Indian tribes under the Indian Reorganization Act (“IRA”). Specifically, the Supreme Court held that, as a matter of statutory construction, the Secretary of the Interior could only acquire trust lands for tribes that were recognized and under federal jurisdiction as of 1934. Mr. Anderson went on to frame the discussion by pointing out the issues that this decision raises, including potential clouds on the title of land that had previously been acquired for tribes not recognized and under federal jurisdiction as of 1934 and the implications that the decision has on current pending land into trust applications. As a means of providing a potential legislative “fix” to the *Carcieri* decision, Mr. Anderson noted that there were a number of bills that have been introduced in Congress that seek to amend the IRA, including S. 1703 (introduced by Sen. Byron Dorgan, D-ND), H.R. 3697 (introduced by Rep. Tom Cole, R-OK), and H.R. 3742 (introduced by Rep. Dale Kildee, D-MI).

Tribal Chairman Allen began the panel discussion by stating that the *Carcieri* decision has “alarmed” many in Indian Country and they remain concerned about the ripple effect the decision may have. He said that he is pushing his congressmen for a “quick fix” to the issues caused by the decision in the form of legislation. Chairman Allen said that he did not believe it was Congress’s intent to create two classes of Indian tribes when enacting the IRA, i.e. those tribes recognized before 1934 and those recognized after 1934. He also pointed out that these land into trust issues impact more than gaming; they also reach to issues of economic development and cultural/historical land acquisitions.

Mr. Coppin then explained the position of the state attorneys general to the *Carcieri* decision and the pending legislation aimed at amending the

IRA, basically stating that they were “all over the place” with some states supporting the legislation, some states applauding the Supreme Court’s decision, and a majority of the states not vocalizing a position. He said that many states are concerned with the land into trust process, citing the potential loss of tax revenue and zoning rights on trust land and the questions as to legal jurisdiction and law enforcement once the land is taken into trust. Though he noted his opinion that the IRA was probably a good statute in 1934, it is a flawed statute now, and needs to be amended.

Mr. Skibine expressed the opinion of the Department of the Interior (“DOI”) as to the *Carcieri* opinion, noting that the DOI was “disappointed” with the decision and supported the legislative efforts to amend the IRA, especially H.R. 3742, sponsored by Rep. Kildee. He said that through June and July, he met with a number of interested parties from Indian Country and understands that they want a quick legislative fix, which will be retroactively applied, so as to cover any tribes that have had land taken into trust in the interim. Mr. Skibine stated that if no legislative amendment was passed, the issue will likely result in a great deal of litigation. He said that the DOI has given some thought to a “Plan B” in the event that the pending legislation does not pass, including possibly instituting a “regulatory fix” in the form of new regulations which would define what it means to be a tribe under federal jurisdiction as of 1934 - - though he noted that they preferred an amendment to the IRA for clarity’s sake.

PANEL DISCUSSION FOCUSES ON THE STATE OF THE SLOT MACHINE MARKET

The G2E Advanced Gaming Institute also featured a roundtable discussion in which leading slot machine manufacturers discussed the slot market. The panel, which was moderated by Frank Legato, Editor of *Global Gaming Business* magazine, included Orrin Edidin, President of WMS Gaming, Inc., Richard Hadrill, President and CEO of Bally Technologies, Inc., Patti Hart, President and CEO of International Game

(Continued on page 3)

Technology (“IGT”) and Jamie Odell, CEO of Aristocrat Technologies, Inc.

The panelists began by discussing the effect of the current economic downturn on the slot machine market. Mr. Edidin noted that, in difficult economic times, manufacturers must work to innovate their product lines, and also be more creative with the types of business models they offer their clients. He noted for example, that there has been an increase in interest by casino operators for the “participation” model where the operator and manufacturer share in the revenue produced by the machine, as opposed to an outright sale. Ms. Hart expressed the opinion that the participation model is here to stay and manufacturers need to ensure that the participation model will work from an economic perspective for the casino operators. Mr. Haddrill said even though the times are tough, he was starting to see some stability in casino operators’ balance sheets and believed that they would again focus on ways to improve game offerings.

The panelists generally agreed that they do not expect a significant increase in the “replacement cycle” of purchasing new slot machines in 2010, though the signs in the market are encouraging. Mr. Haddrill speculated that things in the market might return to higher levels in 2011.

In response to questions about the proliferation of server-based gaming, Mr. Odell said that he believed the expansion will continue to occur “a bank [of slot machines] at a time.” Despite the new technology and software inherent in server-based games, the panelists agreed that the slot machine cabinets, displays and overall machine hardware will continue to be important. Ms. Hart noted that the slot player’s experience is still driven by touching the buttons on the machine, and that a machine’s cabinet and hardware also serve as important marketing tools for the games.

The panelists also discussed the changing demographics of the slot player, and efforts to reach a younger generation. Mr. Edidin said that manufacturers are trying to appeal to the younger generation by personalizing the game experience to the player. The panelists also discussed the increase in competitive and cooperative play among games as ways to reach a new generation

of player. Mr. Haddrill observed that older slot machine players have also seemed to like these new gaming options once they have been exposed to them. He said that in this way, gaming seems to be following the technological trend that has occurred with various social networking websites, such as Facebook, where initially the younger consumers dominate, but eventually the technology is adopted on a widespread basis.

To conclude the panel discussion, each panelist was asked to describe what they believe the slot machine market will look like in ten years. Mr. Odell said that he sees technological advances making the slot machine experience even more fun for the player, though he cautioned that, as there will continue to be increased competition for the player’s disposable income, manufacturers will need to increase the variety of game options. Mr. Edidin said that he foresees a market which is driven toward personalizing the gaming experience to each individual player. Mr. Haddrill echoed Mr. Edidin’s thoughts, and said that he believes the game experience will be customized using information about the player from the customer marketing database. Ms. Hart concluded by stating she believes the market will involve more communal and competitive games where players can play with and/or against each other. She also believes that the future games will involve richer media and a more interactive experience for the player.

NEWLY RELEASED SURVEY SHOWS INDUSTRY OPTIMISM

Today, the American Gaming Association (“AGA”), which produces the Global Gaming Expo, released the results of a survey which revealed that nearly half of the gaming professionals interviewed believe the state of the gaming industry is beginning to improve. Specifically, 47 percent of those surveyed gave indication of an improvement.

The data was collected during a two-week survey of 260 AGA SmartBrief subscribers, a daily electronic gaming industry news aggregator. “Without a doubt, the gaming industry faces a

(Continued on page 4)

long road to recovery,” said Frank J. Fahrenkopf, Jr., president and CEO of the AGA. “However, I consider these results a sign that there is optimism within our industry that we are turning a corner.”

Although nearly half agree that the industry is improving, nearly one-third of respondents said conditions within the industry remain depressed, while twenty percent think the industry continues to decline.

The survey also revealed that more than two-thirds of respondents believe the industry has been irreversibly altered due to the recent collapse of the economy and the national credit crunch. Yet, twenty-two percent of those surveyed said that the recent changes in the gaming industry are not lasting.

Looking forward, nearly forty-nine percent of respondents believe that the legalization and regulation of Internet gambling will dominate national headlines in 2010.

To obtain a copy of the survey, please visit www.americangaming.org.

AGA SmartBrief is a free daily e-newsletter which keeps the gaming industry up to date on the latest gaming news. Sign up and stay ahead of the curve with updates on products, technologies, amenities, industry happenings and more. You can register to receive the free AGA SmartBrief by visiting www.smartbrief.com/aga/.