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The MICHIGAN GAMING Newsletter



MGCB COMPROMISES ON CHARITABLE GAMING RULES; LIFTS SUPPLIER MORATORIUM

Today, January 10, 2014, the Michigan Gaming Control Board (“MGCB”) issued a press release stating that it had reached a compromise with Michigan House Representative Jeff Farrington (R-Utica) regarding its proposed charity gaming rule changes. In addition, the MGCB has agreed to immediately lift the moratorium on issuing new charitable gaming supplier licenses, which has been in place since January, 2011.

MGCB Executive Director Richard Kalm originally submitted proposed charity gaming rule changes in September that which included several changes to the existing rules for the licensing and operation of casino-style gaming at charitable Millionaire Parties. Rep. Farrington also introduced proposed legislation in September, 2013 that would have prevented several of the proposed rule changes by amending the Traxler-McCauley-Law-Bowman Bingo Act, the statute authorizing such gaming activity.

According to the press release, the compromise includes three major areas of compromise:

- Each charitable gaming location may operate poker up to four nights per week (up to 208 nights annually), as opposed to the proposed 120 nights per year limit;
- The minimum number of workers from the charitable organization that must be present at the event has been reduced from five (5) to three (3); and,
- A general expansion of the locations where charitable games may be played to “nearly any location in the state, including bars, churches, schools, fraternal halls, community centers, or other locations.”

“Gaming has always sought to insure the integrity of these games by making the charities more accountable for their operation, and to make sure only those persons licensed provide equipment or assist charities in running their event. These rules will still accomplish that goal. In addition, when the Rules go into effect charities will have the freedom to hold their events where they choose,” stated Executive Director Kalm in the press release.

The press release notes that the MGCB expects to submit its revised set of charitable gaming rules to the Michigan Joint Committee on Administrative Rules sometime in late January.

The press release, along with other information on the revised charity gaming regulations, can be found at the MGCB’s website at: <http://www.michigan.gov/mgcb>.

SIXTH CIRCUIT REVERSES DISTRICT COURT INJUNCTION IN LANSING CASINO CASE

On Wednesday, December 18, 2013, the United States Court of Appeals for the Sixth Circuit reversed a District Court injunction that prevented the Sault Ste. Marie Tribe of Chippewa Indians’ (“Tribe”) from applying to have certain lands in Lansing taken into trust for the purpose of constructing a casino. The original injunction, issued by the U.S. District Court for the Western District of Michigan on March 5, 2013, effectively froze any further meaningful development in the Tribe’s Lansing casino plans.

The Sault Tribe is proposing to invest \$245 Million in building and operating a 125,000 square foot “Kewadin Lansing Casino,” which would be located at Michigan Avenue and Cedar Street in downtown Lansing on property adjacent to the Lansing Center.

At issue in the litigation is whether the Sault Tribe can apply to have certain parcels of property in Lansing taken into trust by the U.S. Secretary of the Interior before it obtains written revenue sharing agreements with the other federally recognized Indian Tribes in Michigan pursuant to Section 9 of the Sault Tribe’s Tribal-State Gaming Compact with the State of Michigan. Having this

land taken into trust is one of the required steps that a Native American tribe must take in order to open a casino pursuant to the federal Indian Gaming Regulatory Act (“IGRA”). The Tribe has argued, among other things, that its plans are nonetheless allowable under the provisions of 1997 Michigan Indian Lands Claims Settlement Act (“MILCSA”), while the State of Michigan has argued that the injunction issued by the District Court should be upheld.

In its decision, the Sixth Circuit Court held that the preliminary injunction was improper for two reasons: “because the State is not suing to enjoin class III gaming activity, but instead a trust submission under MILCSA, §2710(d)(7)(A)(ii) of IGRA does not abrogate the Tribe’s sovereign immunity, and the district court lacked jurisdiction. The issue of whether class III gaming on the casino property will violate IGRA if the Tribe’s MILCSA trust submission is successful is not ripe for adjudication because it depends on contingent future events that may never occur.”

The District Court had found that the Tribe’s sovereign immunity was subject to a statutory waiver provision within IGRA that allows lawsuits to be brought against tribes in order to prevent Class III gaming activity. In its ruling, the Sixth Circuit held that the mere purchase of land with MILCSA funds was not, in itself, “gaming activity,” and therefore the statutory waiver of sovereign immunity did not apply. Accordingly, the ruling states that the District Court did not have jurisdiction over the Tribe because the Tribe’s sovereign immunity had not been waived in this instance.

While the ruling provides that the other State claims are not barred by sovereign immunity, the case is not ripe for adjudication. Here, the Sixth Circuit held that it is still uncertain whether Class III gaming will actually occur on the property, as the land must first be taken into trust and other procedural steps must be completed. The Court further held that the injunction was improper because “[t]he State will not be harmed because it will have the opportunity to bring this claim against the Tribe at a later time, and will not suffer any immediate consequence as a result of the delay.”

As the District Court's injunction has been reversed, the Tribe may move forward with its application to have the land taken into trust by the Department of the Interior. However, as noted in the Sixth Circuit's ruling, it appears that the State will have the opportunity to bring claims against the Tribe once, and if, these issues become ripe for adjudication.

AGA ANNOUNCES FIVE NEW STAFF MEMBERS

On Monday, January 6, 2014, the American Gaming Association ("AGA") announced the addition of five (5) new staff members as part of the AGA's effort to reorganize with an emphasis on proactive, campaign-style trade association advocacy. The new AGA staff members include:

- **Sara Rayme, senior vice president of public affairs.** Ms. Rayme previously worked with MGM Resorts International, becoming a vice president of government affairs and leading the Maryland lobbying and referendum campaign for casino expansion. She will oversee all the AGA communications, research and campaign-style initiatives.
- **Chaka Burgess, vice president of government relations.** Mr. Burgess brings nearly 20 years of experience in coalition building, lobbying and ally development. He formerly worked as director in the global government affairs division of Amgen Inc., a major biopharmaceutical company, where he built and implemented advocacy and outreach programs. Mr. Burgess joins Whitaker Askew, vice president of government affairs, and the two will work closely with MS. Rayme to lead the AGA's advocacy efforts.
- **Allie Barth, senior director of communications.** Ms. Barth joins the AGA from the U.S. Travel Association, where she developed and managed the organization's internal and external communications and implemented strategic campaign initiatives. She will execute the AGA's communications platform.
- **Elizabeth Cronan, director of gaming policy.** Ms. Cronan previously worked as director of global government relations and public affairs

at International Game Technology (IGT), head of the U.S. legal and research division for Gambling Compliance, and advisor to the board of GeoComply, a geolocation company actively engaged in online gaming expansion. She will lead the AGA's public policy activities, including regulatory reform and anti-money laundering initiatives.

- **Virginia Hurt Johnson, general counsel.** Ms. Johnson brings 30 years of experience in the private and public sectors and has extensive knowledge of the executive and legislative branches. As part-time general counsel, Ms. Johnson will address the AGA's day-to-day legal needs, manage outside counsel and guide the organization as it attracts new members and opportunities.

In a press release, Geoff Freeman, AGA President and CEO, said "[t]hese extremely talented new members of our team will help us build off the success the AGA has enjoyed and pivot to our next generation organization. Through groundbreaking research, aggressive outreach and on-the-ground activities, this group of experts, coupled with our existing team, will position the AGA to champion gaming's value as a driver of innovation and economic growth. I am extremely excited about our burgeoning team—those who have been with the AGA and the critical additions we announce today."

In addition to the new staff members listed above, the AGA is continuing to search for an executive vice president to handle membership services and operations. Additional information about the AGA may be found on its website, www.americangaming.org.

AGEM APPOINTS DIRECTOR OF RESPONSIBLE GAMING

On Thursday, January 9, 2014, the Association of Gaming Equipment Manufacturers ("AGEM") announced that it had appointed Connie Jones as its Director of Responsible Gaming. Jones most recently served as the Director of Responsible Gaming for International Game Technologies ("IGT").

“Appointing Connie to the position of AGEM Director of Responsible Gaming is a natural extension of our organization’s efforts and a reflection of the growing influence of AGEM,” stated Thomas Jingoli, President of AGEM, in a related press release. “She is widely considered the preeminent expert from the supplier side on problem gambling issues and will continue to be at the forefront of an issue our industry is committed to addressing in a smart and thoughtful way.”

Jones has a long and distinguished history addressing problem gaming concerns in the industry. In addition to her prior work with IGT, Jones serves on the Board of the National Council on Problem Gambling, the Nevada Council on Problem Gambling, the Problem Gambling Center, and the Global Gaming Guidance Group. She was appointed by Nevada Governor Jim Gibbons to the Nevada Advisory Committee on Problem Gambling in 2009 and was reappointed to the position in 2013. She also is a member of the International Masters of Gaming Law, where she chairs the Responsible Gaming Committee, and has been honored by *Casino Enterprise Management* magazine as one of the “Great Women in Gaming.”

For more information on Jones and AGEM, please visit AGEM’s website at: <http://www.agem.org>.

IGAMING NORTH AMERICA CONFERENCE TO BE HELD MARCH 19-21, 2014 IN LAS VEGAS

On March 19-21, 2014, iGaming North America will be hosting its fourth industry event at Planet Hollywood in Las Vegas, Nevada. The conference will focus specifically on issues in the iGaming industry and is supported by Reed Exhibitions, the Association of Gaming Equipment Manufacturers, the Canadian Gaming Association, the Gaming Standards Association, the International Masters of Gaming Law, the Remote Gambling Association, and the Interactive Gaming Council.

The conference will include educational seminars presented by industry experts on a variety of iGaming-related topics, including US federal and state policy, the relationship between iGaming and brick-and-mortar operations, presentations by

established European operators, game design, tribal and commercial operations, and other issues. In addition to these educational events, there will be numerous networking and social programs throughout the 3-day event.

For more information on the 2014 iGaming North America conference, or to register for the event, please visit the conference’s website at: <http://www.igamingnorthamerica.com/>

SIGN UP FOR RMC’S DAILY GAMING NEWS FEED

Regulatory Management Counselors, P.C. (RMC Legal), authors of *The Michigan Gaming Newsletter*, would like to extend an invitation to sign up for the complimentary *RMC Daily Gaming News Feed*. The Daily News Feed delivers Michigan and gaming-industry specific news links directly to you each morning.

To sign up to receive the RMC Daily Gaming News Feed, simply visit: <http://rmclegal.com/media-publications> and complete the form.

Should you have any questions, feel free to contact Blaine DeGracia at 517-507-3857 or degracia@rmclegal.com.