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INDEPENDENT REGULATORY
REVIEW COMMISSION

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July 13, 2007

VIA HAND DELIVERY

Richard Sandusky
Regulatory Review
Pennsylvania Gaming Control Board
5th Floor, Strawberry Square
Harrisburg, PA 17101

Re: Greenwood Gaming and Entertainment, Inc.'s Comments
to Proposed Rulemaking In re: Regulation #125-64

Dear Mr. Sandusky:

Enclosed please find Greenwood Gaming and Entertainment, Inc.'s comments to Proposed Rulemaking with regard to the above-referenced Regulation.

Sincerely,



Dino A. Ross
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DAR/dsc

Enclosures

cc: Arthur Coccodrilli (w/encl.)
Scott Schalles (w/encl.)

HAR:73627.1/PHI273-230266

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**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: Regulation #125-64
Proposed Rulemaking - 58 Pa. Code,
Chapters 429a, 433a, 435a, 437a, and 441a

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**GREENWOOD GAMING AND ENTERTAINMENT, INC.'S
COMMENTS TO PROPOSED RULEMAKING**

Greenwood Gaming and Entertainment, Inc. ("GGE") is the holder of a Category 1 slot machine license which authorizes GGE to operate Philadelphia Park Casino in Bensalem, PA. GGE submits these comments to the Board's Proposed Rulemaking, as captioned above, which was published in the *Pennsylvania Bulletin* on June 16, 2007 at 37 Pa.B. 2695.

COMMENTS TO CHAPTER 441a.16

The primary focus of GGE's comments pertain to Chapter 441a.16 of the proposed regulations, which governs the requirements imposed on licensees pursuant to the annual renewal process. GGE has lived through the application process for both a conditional and permanent Category 1 slot machine license including the licensing and permitting of its employees, and is not requesting modification of the regulations applicable to the initial applications. Instead, while the proposed regulations are unclear, GGE strongly opposes any annual renewal process contemplated by the proposed regulations which would amount to a repeat (or anything resembling a repeat) of the original process. Adoption of such a costly and burdensome renewal process would be wasteful of both governmental and private resources with little, if any, public benefit and should be rejected by the Board.

The statutory framework for the renewal process is established through Section 1326 of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1326. Under Section 1326(a), renewal applications must be submitted annually at least 60 days prior to the expiration of the permit or license. Under this provision, "[T]he application for renewal shall include an update of the information contained in the initial and any prior renewal application and the payment of any renewal fee required by this part." Furthermore, if a timely renewal application has been received by the Board, the underlying license will continue in effect "unless and until the Board sends written notification to the holder of the permit or license that the board has denied the renewal of such permit or license."¹ Finally, renewals are only addressed and permitted by Section 1326 for licenses and permits, and are not applicable to registrations or certifications.

Unlike the original application processes in which fundamental suitability of entities or persons are at issue, the renewal process is intended by statute to be a very streamlined and narrow process which is restricted to events in the prior year which are material to continued licensure. What the statutory scheme does not envision is a costly or burdensome process which revisits general issues of suitability outside of the narrow scope of material updates.

Unfortunately, the proposed rulemaking, while addressing renewal issues does not clearly establish a renewal process which is compliant with the statute.² Accordingly, there is nothing in

¹ Or in other words, the statutory renewal process is a "deemed approved" process in which the license continues in effect unless expressly denied and does not require the Board to specifically act on renewal applications unless denial is intended.

² The Board has not posted any renewal forms except for those applicable to manufacturers and suppliers. The manufacturer and supplier renewal forms while unnecessarily voluminous, do focus on updates. However, renewal of manufacturer licenses and supplier licenses, unlike other renewals, are governed by the provisions of Section 1317, not Section 1326, of the Gaming Act -- which section has different requirements and broader renewal scope.

the proposed regulations which establishes the scope, requirements, or disposition of any renewals and the Board should address all of these issues in its final rulemaking order. First, the final regulations should clarify that, compliant with Section 1326, the application will only include and the Board's investigation and review will be restricted to material updates over the previous year. Second, the final regulations should define "material" to include only those updates which could have an effect on a continued finding of suitability.³ Third, since it is not always clear when the prior license was actually issued, final regulations should provide that the Board will not notify each individual and corporate applicant 120 days prior to expiration of a given license or permit so that the renewal application can be prepared and submitted in a timely manner. Fourth, the final regulation should clarify that, consistent with Section 1326, the renewal application will be deemed approved unless expressly denied by the Board. Finally, the final regulations should clarify that, consistent with Section 1326, renewals are only applicable to licenses and permits, and not to registrations, certifications, or any other type of regulatory approval.

The importance of a renewal process that closely tracks the statute and operates in the most efficient, and least costly and burdensome manner possible is extremely important. As the Board is aware, the Gaming Act imposes an extremely high tax rate on the gross revenue of slot machine licenses, which are competing with casinos in other jurisdictions, and, in particular, New Jersey, with a tax rate which constitutes a fraction of the Pennsylvania rate. In order to

³ For example, one of the areas of potential update is an individual investor, officer, director or key employee's net worth statement. Of course, net worth statements change from day to day as investments change in value, bills are paid, and items are purchased. Most of these events are completely immaterial. Accordingly, in the context of net worth statements, the Board should establish a benchmark under which individual charges in the net worth statement are not material unless they affect the renewal applicant's net worth by at least 10%.

prevent this problematic scenario from being exacerbated, it is critical that only necessary regulation, consistent with the Gaming Act, be implemented and exercised by the Board.

The Board cannot lose sight of the fact that regulation imposes costs directly on the regulated industry and causes the Commonwealth and its agencies to incur costs which may then be the subject of recovery from the regulated industry. Accordingly, given the disparate tax rate with competing jurisdictions, the Pennsylvania gaming industry can only remain competitive if continuing and aggressive attempts are made to restrict the imposition of regulation to that which is consistent with the Gaming Act and for which the public benefit outweighs the associated costs.

The renewal process addressed by this proposed rulemaking is a good example of an area in which the Board must be diligent in imposing only necessary regulations in the most efficient manner possible. Such an approach is not only in the best interests of the regulated industry, but also the Commonwealth and the public.

WHEREFORE, for all of the foregoing reasons, GGE respectfully requests the Board to incorporate its comments into its final rulemaking.

Respectfully submitted,



Alan Kohler.
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