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INDEPENDENT REGULATORY
REVIEW COMMISSION APR 07 2008 ¹

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April 7, 2008

VIA HAND DELIVERY

Paul Resch, Secretary
Pennsylvania Gaming Control Board
5th Floor - Strawberry Square
Harrisburg, PA 17101

Attn: Public Comment on Regulation No. 125-79

Re: Downs Racing, L.P.'s Comments to Proposed Rulemaking
Regulation No. 125-79

Dear Mr. Resch:

Enclosed please find Downs Racing, L.P.'s Comments to Proposed Rulemaking with regard to the above-referenced Regulation.

Sincerely,



Alan C. Kohler
For WolfBlock LLP

ACK
Enclosures

HAR:79800.1/MOH005-222463

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**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: Regulation No. 125-79 :
Proposed Rulemaking - - 58 Pa. Code :
Chapters 435a, 441a and 465a :
Sections 435a.6, 441a.19 and :
465a.29 :

DOWN'S RACING, L.P.'S COMMENTS TO PROPOSED RULEMAKING

Downs Racing, L.P. t/d/b/a Mohegan Sun at Pocono Downs ("MSPD") respectfully submits these comments to the Board's proposed regulations published on March 10, 2008 at 38 Pa. B. 1151, regarding Employee Credentials, Key Employee Resignation and Signage for Automated Teller Machines.

Comments:

A. Employee Credentials – proposed § 435a.6(c).

Proposed section 435a.6(c) would remove the exemption currently provided to an "employee of a slot machine licensee" regarding the requirement to display, on his/her person, a Board issued credential while engaged in the performance of his/her job at a licensed facility.¹ As drafted, the proposed section would now require that a full Board issued credential containing personal information, specifically address, date of birth and physical characteristics, be publicly displayed on the person of all employees of a slot machine licensee. Having personal information visible by the general public is intrusive to employees. In addition, requiring that full Board issued credentials be displayed is inefficient and burdensome to employees during the performance of their duties and detracts from a desired refined, professional image, which is a trademark of MSPD's customer service and interaction with guests.

¹ See proposed §435a.6(c).

It is recommended that the New Jersey requirement be implemented whereby each employee, once they have obtained satisfactory credentials, be permitted to simply display a name tag which indicates their name and employee number and carry their official credentials on their person. The complete credentials would be produced when required to do so by an appropriate official. Each employee would then always be in possession of proper credentials and would also present the best appearance to the public.

MSPD's proposal as to credentials accommodates the Board's desire for readily available documentation, while retaining a customer friendly environment for MSPD's guest services.

B. Key Employee Resignation – proposed § 441a.19(d).

Proposed Section 441a.19(d) would, if finally promulgated, require that “[a] slot machine licensee or management company shall notify the Bureau of Licensing within 5 days of the receipt of a registration of any employee who holds a key employee license.” The stated purpose behind such an amendment is to “reflect organizational changes” resulting from changes in a slot licensee’s employment composition.²

MSPD operates, without the use of a management company, as a Category 1 licensed slot machine facility in Plains Township, Pennsylvania. At the slot machine facility, MSPD employs 584 individuals. Although employee satisfaction and loyalty at MSPD are among the highest in the nation when compared with similarly sized organizations, the nature of the gaming business still produces a frequent rate of turnover. MSPD has developed and implemented an internal policy which processes and provides notification to the Board of any key employee resignation within 15 days of receiving notice of such resignation. This policy has been approved by the Board and remains as both an effective and efficient process for addressing the resignation of a key employee

² See Purpose of Proposed Rulemaking

and for providing timely notification to the Board. Indeed, no issues have arisen regarding this policy, and to the best of MSPD's knowledge, the Board's needs have been fully satisfied.

The proposed regulation, Section 441a.19(d), would drastically reduce the reporting timeframe for a licensee to 5 days and would thereby hinder a licensee's ability to remain compliant as processing and providing adequate notification would be very problematic under such an artificially compressed timeframe.³ If the intent of the proposed rulemaking is to ensure that a resigning employee is available for an exit interview by the Board, there is no reason to believe that any such individual will not be as available for an exit interview after 15 days as compared to 5 days.

A 5 day turn-around time for processing and providing notification of a resignation to the Board is an extremely onerous standard, which provides little, if any substantive benefit to the Board, and certainly no benefit to a licensee. There is no additional harm that arises by allowing the 15 day Board notification period to remain in place. A former employer of a key employee, such as MSPD, maintains all contact information for all present and former key employees, which the Board may access at any time following a resignation, should the Board desire to contact the individual. Furthermore, there are additional safeguards in place under the Board's regulations to ensure that there is a system in place to track the status and whereabouts of all present and former key employees. In particular, a licensee is currently required to notify the Board, "as soon as it becomes aware" of, among other things, the hiring or resignation of a key employee.⁴ This requirement is nearly identical to the proposed rulemaking in form, purpose and effect.

³ See proposed § 441a.19(d).

⁴ See 58 Pa. Code §441a.10.

Thus, the proposed implementation of a 5 days notice requirement is unwarranted. There is no factual or empirical evidence to demonstrate that the Board's existing notification requirements fail to accomplish the stated objectives of the Board, i.e. conducting exit interviews of employees who intend to resign, or that the proposed 5 day notification requirement will further the stated objectives. Accordingly, the implementation of the proposed notification period will not provide any practical benefit to the Board; however, it will have a detrimental effect on MSPD as processing and providing notification to the Board in such a compressed timeframe is impractical, and may raise a compliance issue.

C. Signage for Automated teller Machines – proposed § 465a.29(b).

Proposed section 465a.29(b) would require licensees to purchase and place new signage on all Automated Teller Machines ("TRUs") displaying a unique identification criteria in a specific color pattern. Again, the proposed regulation imposes significant cost without any corresponding benefit.

MSPD has existing signage on all TRUs that was approved by the Board and implemented accordingly. Should proposed section 465.29(b) be adopted as a final rulemaking, it would require MSPD to incur a significant expense in the purchase and replacement of all existing signage at each TRU. It does not appear that such a change would further any objective of the Board; however, it would result in a significant increase in the operating expenses of MSPD.

Conclusion

Accordingly, MSPD requests that the Board adopt the forgoing comments of MSPD and modify proposed regulation sections 435a.6, 441a.19 and 465a.29(b) as set forth above.

Respectfully submitted:



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