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October 13, 2011

VIA HAND DELIVERY

Scott R. Schalles
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IRRC
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RE: PLCB Regulation No. 54-67
IRRC # 2912 – Connection with Other Business

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Dear Mr. Schalles:

I am submitting these Joint Comments to the above-referenced Pennsylvania Liquor Control Board (“LCB”) Final-Omitted Rulemaking on behalf of Northeast Concessions, L.P., which holds the liquor license authorizing the provision of liquor service at Mohegan Sun at Pocono Downs (“MSPD”) in Plains Township, Pennsylvania, and Racetrack Food Services, Inc., which holds the liquor license authorizing the provision of liquor service at Parx Casino and Racetrack (“Parx”) in Bensalem, Pennsylvania. Both MSPD and Parx are racinos in that they operate both casinos and horse racing businesses at their respective locations.

The matter at issue is a Final-Omitted Rulemaking, submitted to the Commission on September 7, 2011,¹ which would amend Board regulations at 40 Pa. Code § 3.52 (relating to connection with other businesses) to create a casino exception to the Board’s general rule that a liquor licensee may not permit other persons, including corporate affiliates, to operate another business on the licensed premises. For the reasons outlined below, MSPD and Parx strongly support the casino exception embodied in this Final-Omitted Rulemaking.

As a preliminary matter, it should be noted that MSPD and Parx held a series of discussions on this issue with LCB Staff and proposed language designed to create a casino exception to the general rule without capturing other LCB licensees. The resulting amendment to Section 3.52 being proposed by the Board reads as follows:

(a) A licensee may not permit other persons to operate another business on the licensed premises. This provision shall not preclude a corporate affiliate of a licensee under common control to operate other businesses on the licensed

¹ The LCB regulation was published as an Advanced Notice of Final-Omitted Rulemaking on July 30, 2011 at 41 Pa. B. 4101 and MSPD and Parx submitted supportive comments to the LCB in the Advanced Notice phase.

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premises, if the premises are, in whole or in part, licensed by the Pennsylvania Gaming Control Board. For purposes of this section, a corporate affiliate is a corporation or association, as defined in section 1-102 of the Liquor Code, which directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another specified corporation or association.

Essentially, the amendment would allow casinos or racinos to hold their liquor licenses in a different corporate affiliate than their slot machine license or horse racing license(s).

This casino exception embodied in the Amendment is completely appropriate. Casinos, and, in particular, racinos, are much different than the Board's normal licensee in a variety of respects. Racinos are very large, multi-faceted businesses which operate a racetrack grandstand with associated horse racing operations, a full service casino, restaurants, and bars, all at a single location. These different businesses are associated with different needs in many areas including taxes, liability and employment which dictate the corporate organization of the business. The establishment of multiple corporate affiliates under the common ownership of a parent company is a generally accepted means of organizing a multi-faceted business in an effective manner.

Allowing casinos and racinos to continue operations under a multi-subsidary corporate scheme under common ownership, including different affiliates for the liquor license and gaming licenses, does not impede the LCB's regulation or its underlying public policies. Accordingly, the amendment at issue provides important benefits to casinos and racinos, without any downside.

Based on the foregoing, MSPD and Parx voice strong support for the LCB's initiative to provide flexibility in Section 3.52 to accommodate the uniqueness of casino and racino licensees. Accordingly, MSPD and Parx respectfully request that the Commission approve this Rulemaking at its upcoming October 20, 2011 Public Meeting.

Respectfully submitted,



Alan C. Kohler

ACK/jls
Enclosure