

**WOODLANDS FAYETTE, LLC
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724-228-3636
724-228-9335 (Facsimile)**

March 27, 2007

Steve Cook, Assistant Chief Counsel
Pennsylvania Gaming Control Board
Strawberry Square, 5th Floor
Harrisburg, PA 17106

Re: Comments to Category 3 License

Dear Mr. Cook:

On behalf of Woodlands Fayette, LLC and Nemacolin Woodlands, Inc. (jointly "Nemacolin"), I am in receipt of Chairman Decker's March 21, 2007 correspondence in which an informational meeting was scheduled by the Board to examine issues pertaining to Category 3 licensure. The March 21, 2007 letter invites interested parties to either participate in the hearing or submit written comments to become part of the public record. Nemacolin respectfully requests that these written comments be accepted into the public record of this proceeding.

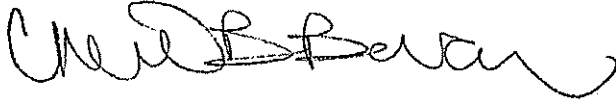
As you are aware, Nemacolin was an applicant in the Board's original Category 3 licensure process. Ultimately, Nemacolin withdrew its application because the Board's rules and requirements pertaining to what constitutes a "patron of the amenities" under 4 Pa. C.S. § 1305 precluded Nemacolin from operating a profitable gaming facility at the Nemacolin resort.

Like any other prudent business, Nemacolin and its affiliates invest available capital where, in its judgment, the funds will generate the most favorable return on investment.

Nemacolin's position regarding the "patron of the amenities" issue has not changed since it withdrew its application. Rather than repeating that position, attached is a letter from counsel which was submitted to Board staff in November of 2006. Please be advised that Nemacolin is not in a position to make any commitment to the Board at this time. However, if the Board proceeds to modify its rules and requirements, Nemacolin will evaluate any new business terms and examine its implications on the success of a category 3 casino.

If you have any questions or concerns regarding this matter, feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cheri Bomar". The signature is fluid and cursive, with the first name "Cheri" written in a larger, more prominent script than the last name "Bomar".

Cheri Bomar

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November 7, 2006

Frank Donaghue, Chief Counsel
Pennsylvania Gaming Control Board
PO Box 6906
Harrisburg PA 17106

RE: Application of Woodlands Fayette, LLC
Docket No. 1366
Request for Additional Board Guidance

Dear Mr. Donaghue:

I am writing on behalf of Woodlands Fayette, LLC and Nemaocolin Woodlands, Inc. (jointly "Nemaocolin") as applicants before the Board seeking a Category 3 slot machine license in the above-referenced proceeding. Nemaocolin respectfully requests further guidance from the Board providing assurance that its eligibility plan pertaining to patrons entering into the licensed facility ("Casino Entry Plan") is compliant with Section 1305(a) of the Pennsylvania Race Horse Development and Gaming Act, 4 Pa. C.S. § 1305(a). Furthermore, for the reasons explained below, Nemaocolin respectfully requests that such guidance be provided by no later than November 13, 2006, so as to enable Nemaocolin to proceed with plans to commence construction at the site of its proposed slot machine facility.

Nemaocolin's current proposed Casino Entry Plan is attached hereto and has been submitted into its pending Application.¹ Under its Casino Entry Plan, Nemaocolin will only permit the following individuals into its slot machine facility: 1) registered overnight guests of the Nemaocolin resort hotel; 2) registered attendees of a convention, meeting, banquet, social, cultural or business event held at the Nemaocolin resort hotel; and 3) an individual who participates in the amenities available to the registered guests at the resort hotel by either (a) holding membership in one of the identified clubs which provides unlimited access to a

¹ See Supplement No. 15 to the Nemaocolin Application.

Nemacolin amenity²; or (b) purchasing \$25 worth of access to a Nemacolin amenity (with the exception of slot machine play) at any time in the year prior to casino entry.

Nemacolin requests additional guidance from the Board indicating that its proposed Casino Entry Plan is compliant with 4 Pa. C.S. § 1305(a) and its underlying definitions. Indeed, the proposed Casino Entry Plan closely tracks the language of Section 1305(a) which restricts casino patronage to individuals who are either “a registered overnight guest” or “a patron of one or more amenities” of the resort hotel. The definitions underlying Section 1305(a) clarify that “amenities” under the eligibility criteria may be participated in by the “transient public.” Furthermore, under the definitions, a “patron of the amenities” includes not only “any individual who is a registered attendee of a convention, meeting or banquet, event or participant in a sport or recreational event, or any other cultural or business event” but also “any individual...who participates in one or more of the amenities” available to guests.

As set forth above, under its proposed Casino Entry Plan, Nemacolin will only permit entry to individuals who are registered guests, event attendees or who are participants in Nemacolin’s amenities through club membership in a specific amenity or through the purchase of at least \$25 worth of access to one or more of Nemacolin’s amenities at any time in the previous year.³ Clearly, a member of an existing club which provides the member with unlimited access to that amenity (e.g., a golf club) qualifies that individual as a “patron of the amenities” for the entire period of membership, since these individuals may participate in the covered Nemacolin amenity for an additional consideration at any time of their choosing.⁴ Finally, individuals who have purchased \$25 worth of access to one or more of Nemacolin’s amenities are also eligible for entry, because they are individuals who “participate[s] in one or more of the amenities...”

Review of the express language of Section 1305(a) reveals that it contains no “daily usage,” “frequency” or “duration” requirements pertaining to participation, but only requires that an individual be an amenities participant as condition of entry eligibility. Nevertheless, Nemacolin’s proposed “Casino Entry Plan”, as now amended, self-imposes a duration restriction of one year and requires that each individual be required to purchase \$25 in Nemacolin amenities

² The existing clubs at Nemacolin which fall into this category are as follows: Golf Club, Shooting Range Club, Spa/Fitness Center and the 400 Club.

³ The definition of “amenities” in 4 Pa. C.S. § 1305 requires that the consideration for participate in the resort’s amenities must be “non-de minimis.” Board regulations at 58 Pa. Code § 443.5 define “non-de minimis consideration” as “a payment of \$25 or more per patron [or \$50 per couple] paid to a slot machine licensee.”

⁴ Each of the membership fees for the clubs is considerably more than \$25 per person.

per year in order to be eligible for entry. Taken together, Nemaacolin's proposed Casino Entry Plan complies with Section 1305(a) and Nemaacolin respectfully requests guidance from the Board to that effect.

In considering this request, it is important for the Board to appreciate the circumstances in which Nemaacolin finds itself. As I know you are aware, at Nemaacolin's October 25, 2006 Suitability Hearing, the legal requirements governing the "Casino Entry" or "Amenities" plan were the subject of lively discussion among the Board members and Nemaacolin representatives. Clearly, Nemaacolin understood the desire of several of the Board members to have Nemaacolin revisit the contents of its plan and kept the evidentiary record open to that end. Since the Suitability Hearing, Nemaacolin has not only revisited its proposal, but has conducted meetings with business advisors and industry experts to determine its flexibility on this issue from a business perspective. Now that these meetings have been conducted and further analysis and very serious consideration completed, it is clearer than ever to the Nemaacolin organization that it can not meet a \$25 per person (\$50 per couple) amenities threshold that imposes and includes a duration of eligibility requirement of less than one year. In fact, it is equally clear that if a duration of eligibility requirement for \$25 per person of less than one year is imposed by the Board, economic considerations will dictate that Nemaacolin can not and will not proceed with development of a Category 3 slot machine facility.

It is important to understand that none of the foregoing means that Nemaacolin is attempting to convert its Application to a Category 2 facility. Section 1305 of the Act imposes and Nemaacolin has complied with many criteria in submitting its Category 3 Application. Section 1305 requires that a Category 3 licensed facility be at a well established resort hotel. Section 1305 requires that the resort hotel have a minimum of 275 guest rooms. Section 1305 requires that the licensed facility be under common ownership with the resort. Section 1305 requires that the resort hotel have substantial year round recreational guest amenities. Section 1305 requires that the resort not be within 15 miles of another Category 3 licensee. And finally, Section 1305 limits the maximum number of slot machines at a Category 3 facility to 500 slot machines. Nemaacolin's Application meets all of these eligibility criteria which are not imposed on Category 2 applicants. As to Section 1305's casino entry restrictions, Nemaacolin believes that the legislative intent of these restrictions was to create a required nexus to the resort hotel for casino patrons; but not such a restrictive nexus that the requirement would adversely impact the economics of a Category 3 facility in a manner which precludes Category 3 gaming projects from being reasonably pursued by otherwise eligible applicants. Consistent with this legislative intent, and as described above, Nemaacolin believes that its Casino Entry Plan meets this eligibility requirement of Section 1305.

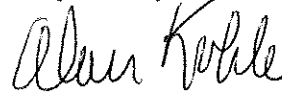
It is important to Nemaacolin and it respectfully requests that the Board provide it with further guidance on this issue as soon as possible and by no later than November 13, 2006. At the time of its Suitability Hearing, Nemaacolin witness Matheu testified that under the plans at that time, Nemaacolin would start construction at the proposed casino site on November 1, 2006.

Frank Donaghue
November 7, 2006
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Given the uncertainty regarding this critical issue, Nemaocolin has now delayed that start date until November 15, 2006. Further delay will be required if further guidance from the Board is not forthcoming as requested - such delay placing additional financial pressure on the casino project. Accordingly, as soon as additional guidance from the Board is received, Nemaocolin can activate its construction plans or adjust accordingly to react to the business consequences of the Board's input.

Thank you for your consideration of this matter of critical importance to Nemaocolin's Application and its future plans for a Category 3 facility. If I can be of assistance or can provide you with additional information or address any questions or concerns, please let me know.

Respectfully submitted,



Alan C. Kohler

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

ACK/sn