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July 6, 2007

VIA HAND DELIVERY

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
14th Floor, Harrisstown 2
333 Market Street
Harrisburg PA 17101

Re: IRRC No. 2601, Persons Required to be Excluded; Underage Gaming

Dear Mr. Kaufman:

I am submitting these comments to the above-referenced final form regulation on behalf of Downs Racing, L.P. ("Downs Racing"), which holds a Category 1 slot machine license issued by the Pennsylvania Gaming Control Board ("PGCB") and under that license operates the Mohegan Sun at Pocono Downs casino in Plains Township, Pennsylvania.

The primary focus of Downs Racing's comments pertain to Chapter 511a, which generally provides a procedure for excluding persons from a licensed facility and placing such persons on an exclusion list.¹ Specifically, Downs Racing's comments concern Section 511a.8(d), which provides as follows:

¹ Persons excluded from a licensed facility include, but are not limited to, cheats, persons whose gaming privileges have been suspended by the PGCB, persons who prove a threat to the safety of other parties and persons who have been convicted of a gaming or gambling crime. See Section 511a.3.

HAR:74143.1/MOH005-222463

(d) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall:

- (1) Immediately notify BIE agents at the licensed facility.
- (2) Notify the Director of OCPG in writing within 24 hours.

The requirement that Downs Racing or any other licensed facility notify the Director of OCPG (Office of Compulsive and Problem Gambling) in writing within 24 hours that an excluded person has entered or attempted to enter the casino is unduly burdensome, unnecessary and amounts to imposition of regulation without any corresponding public benefit.

Pursuant to the current regulations, the licensed facility already has numerous notification requirements regarding the detection of excluded individuals. Section 465a.11(b)(1)(viii) requires the surveillance department of the licensed facility to immediately notify BIE and the Pennsylvania State Police upon the detection of an excluded person. Similarly, Section 465a.11(b)(5)(vi) and (x) requires the security department of the licensed facility to maintain a log identifying the detection of excluded persons and again provide immediate notice to BIE and the Pennsylvania State Police of such detection.²

The PGCB and the State Police will therefore be notified immediately of the detection of an excluded person by at least two departments of the licensed facility. In addition, such detection must be included in the required security log, which is also regularly made available and reviewed by PGCB personnel. There is therefore ample notification requirements already

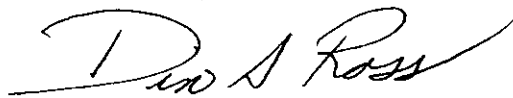
² These sections of the final form regulation were approved by IRRC on 6/21/07 although they have not yet appeared in the Pennsylvania Bulletin in their final form. The current temporary regulations mandate exactly the same notification requirements. See Sections 465.12(b)(1)(vi) and (viii) and 465.12(b)(5)(vi), (vii) and (x).

built into the current regulatory structure. The additional written notice requirement to OCPG is accordingly unnecessary, provides no public benefit and is simply a regulatory burden without any corresponding benefit to the integrity of gaming operations or the regulatory environment.

While Downs Racing is mindful of the importance of a regulatory structure which adequately controls and monitors the exclusion process, the PGCB and Commission should not 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 regulations which is consistent with the Gaming Act and for which the public benefit outweighs the associated cost and burden. Here, the imposition of the additional notification requirement to OCPG is an unnecessary regulatory burden given that the PGCB, BIE and the Pennsylvania State Police will be immediately notified pursuant to the present regulatory structure.

Downs Racing appreciates the opportunity to submit its views regarding the content of the regulations and respectfully suggests that they be considered by the Commission when deciding whether to approve or disapprove Chapter 511a of the regulations.

Sincerely,

A handwritten signature in black ink that reads "Dino A. Ross". The signature is written in a cursive style with a large, sweeping initial "D".

Dino A. Ross

For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

DAR/dsc

cc: Hon. Jane M. Earll, Majority Chair
Hon. Gerald J. LaValle, Minority Chair
Hon. Harold James, Majority Chair
Hon. Paul I. Clymer, Minority Chair
Hon. Arthur Coccodrilli
Hon. Alvin C. Bush
Hon David M. Barasch, Esq.
Hon. David J. DeVries, Esq.
Hon. John F. Mizner, Esq.
Scott Schalles, IRRC
Richard Sandusky
Richard Gmerek, Esq.