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June 2, 2008

Paul Resch
Secretary
Pennsylvania Gaming Control Board
P.O. Box 69060
Harrisburg, PA 17106-9060

Re: Public Comment on Regulation #125-84

Dear Mr. Resch:

On behalf of Sands Casino Resort Bethlehem, a Category 2 License Holder, and its affiliated entities and principals, we submit for your consideration the following comments on the proposed rulemaking #125-84 (the "Proposed Rulemaking") published in the May 3, 2008 *Pennsylvania Bulletin*.

While we believe the intent of the proposed revision is to remove any impediment to the Pennsylvania Gaming Control Board ("Board") from obtaining information that might not otherwise be available to the Board because of limitations under Pennsylvania's Right to Know Laws (65 P.S. §§ 66.1-66.4) ("the "Right to Know Law") and the Freedom of Information Act (5 U.S.C. § 552) (the "FOIA"), the text of the change should make clear that the information received by the Board or its investigating arms remains subject to the Board's confidentiality restrictions, and those confidentiality restrictions of the Right to Know Law and FOIA as respects any request by a third party for the information so obtained. While we do not think from the text of the proposal that the intention is to make any of that confidential information available to third parties, the extreme sensitivity of such information, especially in this age of identity theft, warrants the protection of additional text to rule out that risk of subsequent disclosure.

Under the current gaming regulatory framework, the Pennsylvania Gaming Board (the "Board") may not release confidential information to the public unless either (1) the applicant requests disclosure of the information or (2) the applicant's actions make the information part of the public domain. See 58 Pa. Code 407a.3(b)(2)(i)-(ii). The regulations specifically define several categories of information as confidential, including background information, medical records, tax returns, trade secrets and security plans. See 58 Pa. Code § 407a.3(a)(1)-(7). Moreover, the regulations specifically provide that any request for confidential information must

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first be reviewed by the Board within thirty days upon the receipt of the request. 58 Pa. Code § 407a.1(b)(2) (collectively, the "Board's Confidentiality Regulations").

The Board's Confidentiality Regulations are consistent with Pennsylvania's Right to Know Laws (65 P.S. §§ 66.1-66.4) which also afford special protections for confidential information submitted to an agency. Specifically, the Right to Know Laws prevent public access to "any record, document, material . . . access to which or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security . . ." 65 P.S. § 66.1.

The Freedom of Information Act ("FOIA") similarly exempts confidential information from its public disclosure requirement. Specifically, the FOIA provides several categories of information that are not subject to public disclosure, including privileged or confidential commercial and financial information, personal information that if disclosed would constitute a clearly unwarranted invasion of personal privacy and information exempted by statute. *See* 5 U.S.C § 552(b)(1)-(9).

We feel that it is imperative that language is added to the text of the various sections of the proposal that the information once obtained by the Board or its investigating arms remains subject to those confidentiality provisions. For example, we would like to make explicit that by signing the proposed release an applicant will not be deemed to have "requested" the disclosure of otherwise confidential information and waived his or her right to protect such information under the current gaming regulations. Accordingly, not only the applicable provisions of the proposed amendment but the release form itself should include language that any records obtained will remain subject to the Board's Confidentiality Regulations, the Right to Know Law and the FOIA.

Please contact me with any questions or concerns regarding the above.

Sincerely,



J. Scott Kramer

JSK/SKB/lmb

cc: Arthur Coccodrilli, Chairman, IRRC