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July 26, 2010

VIA HAND DELIVERY

Susan Yocum
Director of Regulatory Review
Pennsylvania Gaming Control Board
303 Walnut Street, Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106

Re: Joint Comments to Temporary Table Game Rulemaking No. 125-123

Dear Ms. Yocum:

Downs Racing, L.P. d/b/a Mohegan Sun at Pocono Downs (“MSPD”), Greenwood Gaming and Entertainment, Inc. d/b/a Parx Casino (“GGE”), Penn National Gaming, Inc. d/b/a Hollywood Casino at Penn National Race Course (“Penn”), Sands Bethworks Gaming d/b/a Sands Casino Resort/Bethlehem (“Sands”), and Washington Trotting Association, Inc. d/b/a The Meadows Racetrack & Casino (“Meadows”) (collectively referred to as the “Operators”) respectfully submit the following Joint Comments in response to the Pennsylvania Gaming Control Board’s (the “Board”) Temporary Table Game Rulemaking No. 125-123 regulating the issuance of credit by operators.¹ Based on their experience in the gaming industry and expertise, the Operators have compiled their concerns and recommendations for consideration by the Board into these Joint Comments.²

INTRODUCTION

These Joint Comments, as in previous instances, are being submitted to the Board for consideration of amendments that promote operator flexibility and implementation of industry standards. The rules in Chapter 526 address, among other things, credit application procedures, the credit verification process, operators’ duty to maintain patron credit files, and the

¹ Joint Comments are not being submitted to Temporary Table Game Rulemaking Nos. 125-124 (Ultimate Texas Hold ‘Em Poker) and 125-125 (Table game taxes and gross table game revenue).

² The Operators reiterate that these Joint Comments are being submitted in order to promote their common regulatory positions before the Board consistent with Board established processes. The submission of Joint Comments does not represent a coordination of the Operators internal business practices or business conduct.

recordkeeping of Counter Checks and personal checks. Operators propose the following changes to Chapter 526.

COMMENTS TO CHAPTER 526. CREDIT.

Section 526.1, where *Credit clerk* is defined, Operators recommend that the Board add flexibility to the definition by broadening its coverage as follows:

Any credit department executive, dual rate credit employee or cage cashier may also function as a credit clerk for any credit application for which they are not exercising the authority to grant credit or credit limit increases.

Operators suggest that the new language be inserted at the end of the definition of *Credit clerk*. This additional language will clarify that supervisors or employees may act as credit clerks for credit applications for which they will not be making the credit decision (even though those employees may have such authority generally). This is common practice in other jurisdictions including New Jersey and provides operators with additional and important staffing flexibility. See N.J.A.C. § 19:45-1.27.

Section 526.3 describes the credit application procedure for patrons and the verification process for operators. It also requires credit clerks to create a confidential credit file for each applicant. Subsection 526.3(c)(4)(iv) requires a credit clerk to verify the average balance of the applicant's personal checking account for the last 12 months. Operators propose an amendment that the applicant's personal checking account balance be verified "if available" since not all banks are willing to or capable of providing a 12 month average balance.³ The proposed amendment would insert "if available or for the longest period provided by the patron's bank" after the phrase "for the last 12 months." Adopting this suggestion will give operators flexibility in the event a 12 month average balance is unavailable, and would not discriminate against patrons who happen to use a bank for which 12 month average bank balances are not available.⁴

In regards to credit limit increases, Operators recommend the Board to allow for a temporary increase known as a "TTO" which stands for "this trip only" in subsection 526.4(c). Temporary increases are the industry standard as they are offered in all gaming jurisdictions. See, e.g.,

³ This too is common practice in other jurisdictions including New Jersey. See N.J.A.C. § 19:45-1.27(c)(4)(iv).

⁴ There is some question whether a requirement to check average bank balances for credit applicants is consistent with the legislative intent. Various versions of table game bills considered prior to the enactment of Act 1 of 2010 included an express requirement that average bank balances be considered in determining a patron's credit-worthiness. However, this provision was deleted through the legislative process and Act 1 includes no such requirement.

N.J.A.C. § 19:45-1.27(h). The procedure for a TTO does not require the patron's credit information to be re-verified.

Under Section 526.5 addressing additional re-verification requirements, Operators propose the option to reinstate a patron's credit privileges under subsection (d) when a return item is outstanding under circumstances where an operator can give a satisfactory explanation, *i.e.*, operator error or bank error. Operators submit that this is common practice in all jurisdictions and thus should be adopted in Pennsylvania. See, e.g., N.J.A.C. § 19:45-1.27(j).

The voluntary credit suspension list described by the Board in Sections 526.9 through 526.11 places a heavy burden on operators to the extent operators are required to maintain the list and administer the addition and removal of individuals to and from the list and more so because operators will have to take steps to make sure their player database corresponds with the list. It is very likely that there will be individuals on the list who are not in an operator's database and will require the creation of a new account in order to track whether the individual attempts to request credit while on the list. Further, individuals can request suspension/reinstatement as often as they wish potentially causing more work for operators. Operators suggest that the Board strongly consider revising these provisions to place some responsibility on the individual and less on operators.

Specifically in Section 526.10, Operators recommend the following new subparagraph (d) be inserted:

The requirements of this subsection (10) shall not apply to an individual who wishes to close his or her credit account at just one Pennsylvania gaming facility without suspending the right to credit at other facilities or the right to engage in gaming at the facility where credit has been previously extended.

This provision clarifies that accounts may be closed voluntarily for purposes unrelated to problem gambling, for example, by those moving from one part of the Commonwealth to another, without triggering the self-exclusion from engaging in gaming or receiving credit at other facilities.

Operators propose an amendment to Section 526.13 that would give patron's the option to consolidate all of their outstanding Counter Checks as is the practice in all other gaming jurisdictions. See, e.g., N.J.A.C. § 19:45-1.26.

Under Section 526.15(b) the Board expressly excepts personal checks substituted for Counter Checks from the \$2500 per day limitation on the *cashing* of personal checks set forth in Section 465a.20(b)(6). Operators request clarification on whether this exception extends to personal checks deposited under Section 465a.23(a). Deposits made under Section 465a.23(a) are held by

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operators in customer deposit accounts and patrons are permitted to wager against those accounts. It is proposed that operators be permitted to accept customer deposits made by personal check without limitation. This practice is similar to the substitution of personal checks for Counter Checks and therefore should be treated the same.

Finally, the maximum allowable time periods for depositing Counter Checks are set forth in Section 526.16. Checks of \$5000 or more may be held for an additional 15 days beyond the date specified by an operator in its internal controls for good cause. 58 Pa. Code § 526.16(c). Operators request that the rule in subsection (c) be extended to checks for less than \$5000 in order to help reduce operators' exposure to returns.

CONCLUSION

The Operators respectfully request that the Board consider the above Joint Comments to Temporary Table Game Rulemaking No. 125-123, and issue amendments to the Temporary Regulation to address our concerns.

Respectfully submitted,



Alan C. Kohler

cc: Robert DeSalvio (Sands)
Robert Green (GGE)
Robert Soper (MSPD)
Mike Bean (MSPD)
Tom Bonner (GGE)
Holly Eicher (Sands)
Rick Robb (Penn)
Lance Young (Meadows)