

FOX ♦ ROTHSCHILD<sub>LLP</sub>

ATTORNEYS AT LAW

DANIEL S. OJSERKIS  
OFFICE MANAGING PARTNER

PGCB GMS-21

RECEIVED

MAY 16 2005

Marie Jiapello Jones

File No. 24146-00001

May 11, 2005

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

Re: Modern Gaming East  
Comments to Proposed Regulations

Dear Chair and Board Members:

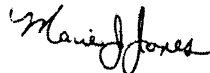
Please be advised that we represent Modern Gaming East ("Modern Gaming"), a supplier of slot machines, with offices at

On behalf of Modern Gaming, we submit the following comments to the proposed temporary regulations, Title 58. Recreation, Pennsylvania Gaming Control Board (the "Board") and the proposed regional supplier amendments.

Thank you for considering the comments of Modern Gaming to the proposed temporary regulations and the draft proposal regarding regional suppliers.

Respectfully submitted,

FOX ROTHSCHILD LLP



Marie Jiapello Jones

MJJ/db

cc: Jason deGrandmaison  
Nicholas Casiello, Jr., Esquire

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 401. Preliminary Provisions.

§ 401.4. Definitions.

- Institutional Investor. Page 14. The definition of an institutional investor mirrors the provision of the Pennsylvania Gaming Act. However, the proposal does not tie this definition into an exemption from any licensure requirement. We would suggest utilizing a waiver requirement similar to that found in the New Jersey Casino Control Commission (“NJCCC”) regulations. Please see N.J.A.C. 19:51-1.14, attached hereto and incorporated herein by reference.

- Key Employee Qualifier. Page 16. The definition includes individuals who hold a management or supervisory position or who control the operations of a manufacturer or supplier and includes officers, directors, persons who directly or indirectly hold any beneficial interest in or ownership of the securities of a licensee, and lenders (other than banks). This is a key provision regarding which individuals associated with a manufacturer and supplier must be licensed and we think it is too broad. We suggest that the Board limit the ownership interest to voting securities, thus eliminating debt securities and options and warrants (see definition of “Securities” in Pennsylvania Act). This would eliminate the need for filing for someone who does not hold a current voting interest in the entity. We also suggest that the Board have the authority to determine that someone listed in this definition does not have to be licensed if the licensee demonstrates that the person does not have the ability to control the licensee, similar to NJCCC regulations. Please see N.J.A.C. 19:51-1.14, attached

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).  
Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

- i. The applicant or licensee;
- ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;
- iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.
- iv. Each inside director of the applicant or licensee;
- v. Each officer of the applicant or licensee;
- vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;
- vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation; and
- iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation;
- iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;
- iv. His or her ownership interest; and
- v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

- i. The number of shares held and percent of ownership;
- ii. A copy of the most recent notice filed with the Securities and Exchange Commission;
- iii. A list of any direct or indirect owners;
- iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and
- v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

GMS-21.4

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

**19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form-2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form-Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

hereto and incorporated herein by reference. Many large entities have numerous divisions and officers that would not have any involvement in the gaming business of the company. A provision similar to New Jersey would permit the Board discretion in who has to file.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 407. Public Access to Board Records.

- 407.1. Case Files. Pages 25 – 26. This provision provides that the Board shall place records into confidential and non-confidential files and that the Board will determine if confidential information can be released to someone requesting same. The Board should provide notice and the opportunity to be heard to the person who filed the confidential information before confidential information is released.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 431. Supplier Licenses.

431.2. Supplier licensing standards and application.

- An exception from the qualification of institutional investors should be added to this section. Also, we would recommend adding waiver provisions for certain officers and directors similar to the NJCCC regulatory provisions. Please see N.J.A.C. 19:51-1.14 attached hereto and incorporated herein by reference.

- (a)(3). Page 45. This section requires a plan of the diversity goals in ownership, participation and operation of licensed entities (includes manufacturer/supplier licenses.). A plan of diversity goals in ownership is not possible in some situations. For example, a publicly traded company cannot place such restrictions and goals on its ownership and such goals and restrictions would be illegal under securities law. Further, the New Jersey Casino Control Act and regulations promulgated thereunder had requirements for diversity plans and goals. The United States District Court for the District of New Jersey found that the regulations of the NJCCC governing diversity goals and plans violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and permanently enjoined the NJCCC from enforcing a licensee's Equal Employment and Business Opportunity Plan. Rudolph v. Adamar of New Jersey, Inc., et al., 2001 WL 1335031 (D.NJ. 2001).

In addition, a supplier with a small market share may have very few employees and a diversity plan may not be feasible.



2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:
  - i. The applicant or licensee;
  - ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
  - iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
  - iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
  - v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
  - vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
  - vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
  - viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

i. The applicant or licensee;

ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;

iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.

iv. Each inside director of the applicant or licensee;

v. Each officer of the applicant or licensee;

vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;

vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation; and

iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation;

iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;

iv. His or her ownership interest; and

v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

i. The number of shares held and percent of ownership;

ii. A copy of the most recent notice filed with the Securities and Exchange Commission;

iii. A list of any direct or indirect owners;

iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and

v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

**19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form-2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form-Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

- (a)(4)(i) and (ii). Pages 45 – 46. This section requires that key employee qualifiers must file multi-jurisdictional personal history disclosure forms and pay a non-refundable deposit of \$5,000 and additional charges based on actual expenses incurred by the Board, in addition to the manufacturer's license application fee of \$50,000. We believe the \$5,000 deposit is excessive and unnecessary. The Board pursuant to the Act must require a non-refundable deposit, but as the applicant must pay the cost of investigation, a lower deposit is appropriate.

- (a)(7). Pages 46-47. This provision provides that a supplier may not hold a direct or indirect ownership interest in a manufacturer or slot machine licensee. A supplier may have an ownership interest in a manufacturer by the holding of stock in a publicly traded entity. We would recommend that this provision indicate that a supplier cannot own a controlling interest in a manufacturer.

- (b)(4)(ii) and (iii). Page 48. This section requires that the applicant provide a tax clearance certificates from Department of Revenue and Unemployment Compensation Department. This requirement is unnecessary and will delay the filing of the applications. Many applicants are not required to pay taxes in Pennsylvania or do not have employees within the Commonwealth. Further, these certificates can take up to six months to obtain from the departments. The Board during the investigation would have the ability to obtain this information, if necessary.

- (d). Page 48. This section provides that neither the applicant, nor a person directly related, may be a party in an ongoing civil proceeding to overturn or

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

otherwise challenge a decision or order of the Board or Commissions pertaining to approval, denial or conditioning of license to conduct thoroughbred pari-mutual wagering or operate slot machines. Basically, this eliminates the right to appeal contained in section 12 of the Pennsylvania Gaming Act, and therefore, is beyond the powers authorized by the Act and likely unconstitutional.

431.3. Supplier requirements and prohibitions.

- (b). Page 49. May only employ technicians who have been approved by a licensed manufacturer. Pursuant to the PA Gaming Act, the supplier's are to be independent of the manufacturer's and should be responsible for the hiring of its own technicians. This provision contradicts the mandate for independence of the suppliers.

- (e). Page 50. Upon request, a supplier must submit the agreement with a licensed manufacturer or gaming entity and a detailed business plan. The Board's review may include review of the business experience of the supplier and financial independence. This provision is more acceptable than the provision in the proposed regional supplier regulations. This allows for the manufacturers and suppliers to determine the agreement that best fits their business situation and still permits the Board to review same to ensure that the Board has no issue with the agreement.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 435. Employees.

435.2. Key Employee Qualifier License.

- (b). Page 55. This section lists the contents of the application form and includes items contained in the multi-jurisdictional form. However, § 431.241 states that the individual must file the multi-jurisdictional form. This section should be clarified to indicate if the information in § 435.2 is for a supplemental form or is part of the multi-jurisdictional form.

- (b) (14). Page 56. Requires a photograph from the Commonwealth Photo Imaging Network. We are unclear as to why it is necessary for this to be from the Commonwealth Photo Imaging Network. Many of the individuals who will file on behalf of manufacturers and suppliers as key employee qualifiers reside outside the Commonwealth of Pennsylvania, if not out of the country. If the Board would like to have electronic access to the photographs, that could be provided via a digital photograph.

435.3. Key Employee License.

- (a). Page 58. Includes manufacturer and supplier employees. This provision includes an individual employed by a manufacturer or a supplier as a key employee as defined by the Pennsylvania Act. The definition of a key employee in the Act is an individual who is employed as a director or departmental head and is empowered to make discretionary decisions to regulate machine operations. This is

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

directed to the slot operators and not to the manufacturers and suppliers. Individuals who have the capacity to make decisions at the manufacturer/supplier level would be key employee qualifiers. It is unclear as to who else, if any one, this would include from the manufacturers or suppliers and anyone that should qualify in connection with a manufacturer's or supplier's license would file as a key employee qualifier.

- (c). Pages 59 – 60. The Board may require letters of reference from law enforcement agencies. This requirement exists in other gaming jurisdictions, but is not followed because most law enforcement agencies will not provide a reference. As this is difficult or impossible to obtain, this provision should be eliminated.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 471. Filings Fees.

471.3. Schedule of Fees for Manufacturers and Suppliers.

- (a)(1). Page 67. Manufacturers and suppliers initial application fee is \$2,500, plus the \$5,000 non-refundable key employee. The license issuance fee is \$50,000 for the manufacturer and \$25,000 for the supplier. The annual renewals are \$25,00 and \$10,000 respectively, except for the non-refundable deposit for the key employee qualifiers, these are the fees set forth in the statute. See comments Section 431.2(a)(4)(i) and (ii).



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

Chapter 481. Minority and Women Owned Businesses.

481.2. Definitions.

- Participation Plan. Pages 69 – 70. This section defines participation plan as a plan developed by a licensed entity, including manufacturers and suppliers, that requires the utilization of a minority or women owned business enterprise for a specific minimum percentage of the value of the contract. See comments to section 431.2(a)(3).

481.4. Establishment of diversity plan required.

- Pages 70 – 71. This section requires that all licensed entities or applicants establish a diversity plan. See comments to section 431.2(a)(3).

481.5. Report of Participation.

- Pages 71 – 73. Each licensee must file a report with the Board during its renewal concerning the performance of its diversity plan. See comments to section 431.2(a)(3).

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

**Proposed Regional Supplier Amendments**

Addition to § 431.3(e)(1). Pages 1 - 2. Supplier Licensing Standards. Under (h), the Board could establish five supplier regions. Under (i), each region would have to have at least five suppliers, but no more than ten. Under (k), a supplier could only operate within its region. The requirement of regional suppliers does not benefit the Commonwealth of Pennsylvania, nor the slot machine operators, manufacturers or suppliers. By permitting a supplier to sell for a manufacturer throughout the Commonwealth, it provides the supplier with the ability to grow a significant business in Pennsylvania and utilize more resources within the Commonwealth. By having multiple suppliers, there would be smaller entities that would not have the necessary expertise regarding the equipment, nor, as they would by smaller businesses, the necessity to utilize other services within the Commonwealth. Further, the license application fee for a supplier who will only be able to sell only in a certain region would be cost prohibitive, and there may not be sufficient suppliers per region.

By limiting the number of licenses per region, there is a restraint of free trade. If a supplier enters into an agreement with a manufacturer and meets the licensing standard, they should not be prohibited from supplying machines to the operators.

Addition § 431.3(m)(i). Page 2. Requires that agreements entered into prior to Board approval of the manufacturer and supplier not be recognized by the Board. This provision has no benefit. If the Board has the ability to approve the agreements, it can

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
MODERN GAMING EAST**

review agreements that were entered prior to and in anticipation of the issuance of licenses. If the Board deems revisions necessary, it can make the appropriate ruling.

Addition § 431.3(m)(ii). Page 3. This provision provides that the agreement between a supplier and a manufacturer shall not extend the one year license term. This provision has no benefit to the Commonwealth or the suppliers and/or manufacturers. By requiring only a one year agreement, it does not permit the manufacturer and supplier to develop a long term relationship and for the supplier to understand the manufacturers product. Agreements for distribution in Pennsylvania should be permitted for as long as the parties deem appropriate, and would be invalidate if the supplier or manufacturer was not licensed by the Board.

FOX ♦ ROTHSCHILD<sup>LLP</sup>

ATTORNEYS AT LAW

DANIEL S. OJSERKIS  
OFFICE MANAGING PARTNER

PGCB GMS-22  
RECEIVED

MAY 16 2005

Marie Jiacobello Jones

File No. 44735-00014

May 11, 2005

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

Re: Konami Gaming, Inc. - Comments to Proposed Regulations

Dear Chair and Board Members:

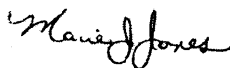
Please be advised that we represent Konami Gaming, Inc. ("Konami"), a manufacturer of slot machines, with offices at

On behalf of Konami, we submit the following comments to the proposed temporary regulations, Title 58. Recreation, Pennsylvania Gaming Control Board (the "Board") and the proposed regional supplier amendments.

Thank you for considering the comments of Konami to the proposed temporary regulations and the draft proposal regarding regional suppliers.

Respectfully submitted,

FOX ROTHSCHILD LLP



Marie Jiacobello Jones

MJJ/db

Enc.

cc: Thomas A. Jingoli, Director of Compliance  
Nicholas Casiello, Jr., Esquire

GMS22.1

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 401. Preliminary Provisions.

§ 401.4. Definitions.

- Institutional Investor. Page 14. The definition of an institutional investor mirrors the provision of the Pennsylvania Gaming Act. However, the proposal does not tie this definition into an exemption from any licensure requirement. We would suggest utilizing a waiver requirement similar to that found in the New Jersey Casino Control Commission (“NJCCC”) regulations. Please see N.J.A.C. 19:51-1.14, attached hereto and incorporated herein by reference.
  
- Key Employee Qualifier. Page 16. The definition includes individuals who hold a management or supervisory position or who control the operations of a manufacturer or supplier and includes officers, directors, persons who directly or indirectly hold any beneficial interest in or ownership of the securities of a licensee, and lenders (other than banks). This is a key provision regarding which individuals associated with a manufacturer and supplier must be licensed and we think it is too broad. We suggest that the Board limit the ownership interest to voting securities, thus eliminating debt securities and options and warrants (see definition of “Securities” in Pennsylvania Act). This would eliminate the need for filing for someone who does not hold a current voting interest in the entity. We also suggest that the Board have the authority to determine that someone listed in this definition does not have to be licensed if the licensee demonstrates that the person does not have the ability to control the licensee, similar to NJCCC regulations. Please see N.J.A.C. 19:51-1.14, attached

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

- i. The applicant or licensee;
- ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;
- iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.
- iv. Each inside director of the applicant or licensee;
- v. Each officer of the applicant or licensee;
- vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;
- vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation; and
- iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation;
- iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;
- iv. His or her ownership interest; and
- v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

- i. The number of shares held and percent of ownership;
- ii. A copy of the most recent notice filed with the Securities and Exchange Commission;
- iii. A list of any direct or indirect owners;
- iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and
- v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

#### **19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form—2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form—Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

hereto and incorporated herein by reference. Many large entities have numerous divisions and officers that would not have any involvement in the gaming business of the company. A provision similar to New Jersey would permit the Board discretion in who has to file.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 407. Public Access to Board Records.

- 407.1. Case Files. Pages 25 – 26. This provision provides that the Board shall place records into confidential and non-confidential files and that the Board will determine if confidential information can be released to someone requesting same. The Board should provide notice and the opportunity to be heard to the person who filed the confidential information before confidential information is released.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 423. Applications.

423.1. General Requirements.

- (i). Page 32. This section requires that an applicant who submits documents in a language other than English provide an English translation and include information regarding the translator and a verification from the translator of the truth and accuracy of the translation. Many manufacturers are either foreign based entities or transact business in foreign countries. The requirement that all documents not in English be translated and include certified translations is unnecessary and burdensome for the applicant. We would recommend that the Board adopt a more flexible standard, similar to the NJCCC regulations, that allows the Board to request translated copies of documents they deem necessary and permits summaries of same. Please see N.J.A.C. 19:41-7.14, attached hereto and incorporated herein by reference.

**19:41-7.14 Duty to submit English translation of documents in foreign language**

Any registrant, applicant, qualifier or licensee that submits a document which is in a language other than English to the Commission or the Division with an application or in response to a Commission or Division request for information shall, at the request of the Commissioner or Division, also submit an English translation of the non-English language document, except that the Commission or Division may permit the submission of an English summary in lieu of a complete translation. The translation or summary shall be printed or typed and shall include the signature, printed or typed name, address and telephone number of the person performing the translation or summary.

Amended by R.1978 d.175, effective May 25, 1978.

See: 10 N.J.R. 210(b), 10 N.J.R. 306(a).

Amended by R.1982 d.190, effective June 21, 1982.

See: 14 N.J.R. 380(b), 14 N.J.R. 664(b).

Deleted Personal History Disclosure Form 2 and replaced with new Form 2A.

Amended by R.1984 d.369, effective August 20, 1984 (operative January 1, 1985).

See: 16 N.J.R. 1336(a), 16 N.J.R. 2302(c).

Added new Personal History Disclosure Form 4A to replace Form 4. Amended by R.1985 d.50, effective February 19, 1985 (operative May 1, 1985).

See: 16 N.J.R. 3302(a), 17 N.J.R. 480(b).

Vendor Registration Form amended.

Repealed by R.1993 d.429, effective September 7, 1993.

See: 25 N.J.R. 2655(a), 25 N.J.R. 4120(a).

Section was "Form of application".

New Rule, R.2001 d.400, effective November 5, 2001.

See: 33 N.J.R. 2257(b), 33 N.J.R. 3760(a).

**Case Notes**

Amendment to former application form sought on constitutional grounds. In re: Martin, 90 N.J. 295 (1982).

Disclosure of sealed juvenile adjudications. State v. W.J.A., 173 N.J.Super. 19 (Law.Div.1980).

**19:41-7.15 Format of papers**

All application papers submitted to the Commission or Division shall be on paper approximately 8½ by 11 inches in size of customary weight and quality and bound on the left margin or upper left corner in volumes not to exceed 150 sheets. Where larger sheets are required for exhibits, they shall be folded substantially to the size indicated. All such papers, unless printed, shall be typed in a type size of pica or larger and double-spaced with margins of at least one inch. Copies may be reproduced by any method capable of providing plainly legible copies.

**19:41-7.16 Number of copies**

(a) Unless otherwise specified by Commission rules, an applicant for any license or registration required by the Act shall file an original and one copy of each application and all papers submitted as a part thereof.

(b) Additional conformed copies of any such papers shall be supplied upon request of the Chairman or Division.

As amended, R.1979 d.357, effective September 11, 1979.

See: 11 N.J.R. 418(c), 11 N.J.R. 530(e).

Amended by R.1998 d.112, effective March 2, 1998.

See: 29 N.J.R. 4079(a), 30 N.J.R. 866(a).

Rewrote (a).

**SUBCHAPTER 8. APPLICATION****19:41-8.1 Receipt**

All application papers, unless otherwise directed by the Chair, shall initially be submitted to and received by the Chair, or such members of the Commission staff as the Chair may designate, who shall cause to be endorsed thereon the date of such receipt.

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Referenced members designated by Chair.

**19:41-8.2 Filing**

(a) The Chair, or such members of the Commission staff as the Chair may designate, shall determine the date of filing as to each application received and shall cause to be endorsed thereon the date of such filing. No application shall be deemed filed until the applicant shall satisfy the Chair or his or her designee:

1. That all papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification and copies;
2. That all appropriate application, registration, business enterprise disclosure and personal history disclosure forms have been properly completed and presented;
3. That all required consents, waivers, fingerprint impressions, photographs and handwriting exemplars have been properly presented;
4. That all other information, documentation, assurances and other materials required or requested at that preliminary stage pertaining to qualifications have been properly presented; and
5. That all required fees have been properly paid and all required bonds have been properly furnished.

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Reference to members designated by Chair added.

**Case Notes**

Rejection of application challenged on grounds of constitutionality of Casino Control Act and forms generated therefrom. In re: Martin, 90 N.J. 295 (1982).

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 427. Manufacturer Licenses.

427.2. Manufacturer licensing standards and application.

- An exception from the qualification of institutional investors should be added to this section. Also, we would recommend adding waiver provisions for certain officers and directors similar to the NJCCC regulatory provisions. Please see N.J.A.C. 19:51-1.14 attached hereto and incorporated herein by reference.
  
- (a)(3). Page 38. This section requires a plan of the diversity goals in ownership, participation and operation of licensed entities including manufacturer/supplier licensees. A plan of diversity goals in ownership is not possible in some situations. For example, a publicly traded company cannot place such restrictions and goals on its ownership and such goals and restrictions would be illegal under securities law. Further, the New Jersey Casino Control Act and regulations promulgated thereunder had requirements for diversity plans and goals. The United States District Court for the District of New Jersey found that the regulations of the NJCCC governing diversity goals and plans violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and permanently enjoined the NJCCC from enforcing a licensee's Equal Employment and Business Opportunity Plan. Rudolph v. Adamar of New Jersey, Inc., et al., 2001 WL 1335031 (D.N.J. 2001). In addition, manufacturers and suppliers are not subject to similar requirements in most other jurisdictions.

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

- i. The applicant or licensee;
- ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;
- iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.
- iv. Each inside director of the applicant or licensee;
- v. Each officer of the applicant or licensee;
- vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;
- vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation; and
- iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation;
- iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;
- iv. His or her ownership interest; and
- v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

- i. The number of shares held and percent of ownership;
- ii. A copy of the most recent notice filed with the Securities and Exchange Commission;
- iii. A list of any direct or indirect owners;
- iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and
- v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

**19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form—2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form—Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

- (a)(4)(i) and (ii). Pages 38 – 39. Key employee qualifiers must file multi-jurisdictional personal history disclosure forms and pay a non-refundable deposit of \$5,000 and additional charges based on actual expenses incurred by the Board, in addition to the manufacturer's license application fee of \$50,000. We believe the \$5,000 deposit is excessive and unnecessary. The Board pursuant to the Act must require a non-refundable deposit, but as the applicant must pay the cost of investigation, a lower deposit is appropriate.

(iii). Page 40. This section requires the applicant to prove the integrity of all financial backers, investors, mortgagees, bond holders and holders of indentures, notes or other indebtedness, either in effect or proposed, which bears any relationship to the applicant. This provision should reference an exclusion for institutional investors and banks exempt under the definition of Key Employee Qualifier.

(b)(4)(ii) and (iii). Page 41. This section requires the applicant to provide tax clearance certificates from Department of Revenue and Unemployment Compensation Department. This requirement is unnecessary and will delay the filing of the applications. Many applicants are not required to pay taxes in Pennsylvania or do not have employees within the Commonwealth. Further, these certificates can take up to six months to obtain from the departments. The Board during the investigation would have the ability to obtain this information, if necessary.

- (d). Page 41. This section provides that neither the applicant, nor a person directly related, may be a party in an ongoing civil proceeding to overturn or

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

otherwise challenge a decision or order of the Board or Commissions pertaining to approval, denial or conditioning of license to conduct thoroughbred pari-mutual wagering or operate slot machines. Basically, this eliminates the right to appeal contained in section 12 of the Pennsylvania Gaming Act, and therefore, is beyond the powers authorized by the Act and likely unconstitutional.

Section 427.3. Alternative Manufacturers Licensing Standards.

- (a) (1). Page 42. The Board has to determine that the licensing standard of another jurisdiction is similar for the alternative licensing process. As the Board during the best practices analysis reviewed the licensing requirements of a number of jurisdictions, the Board has likely determined that certain licensing standards are similar. The regulation should state that licenses issued by Nevada, New Jersey, Mississippi and licenses or approvals from the Department of Revenue in connection with services to be provided pursuant to the Act are similar, as well as other licenses as determined by the Board.

- (a) (5) and (6). Page 42. This section provides that no administrative or enforcement actions and no investigations of possible material violations be pending in another jurisdiction. The Board should limit administrative or enforcement actions to those that are "material" as well.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 431. Supplier Licenses.

- As the provisions for supplier licenses is similar to those of manufacturers, we have the same comments as referenced above.

431.3. Supplier requirements and prohibitions.

- (e). Page 50. Upon request of the Board, a supplier must submit the agreement with a licensed manufacturer or gaming entity and a detailed business plan. The Board's review may include review of the business experience of the supplier and financial independence. This provision is more acceptable than the provision in the proposed regional supplier regulations. This allows for the manufacturers and suppliers to determine the agreement that best fits their business situation and still permits the Board to review same to ensure that the Board has no issue with the agreement.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 435. Employees.

435.1. General Provisions.

- (f). Page 53. An individual cannot be employed by a slot machine manufacturer or supplier in any capacity unless a citizen of the United States or is the holder of a current valid work authorization and is not restricted from working in the capacity for which employment is sought or held. For foreign manufacturers, or companies that have foreign parent or holding companies, the officers, directors and/or certain employees are often not United States citizens, nor are they individuals who are legally required to hold a valid work authorization or resident card. These are individuals who work outside of the United States, but either certain of the company's products are supplied to the United States or they have oversight with respect to United States operations. We suggest that language be added limiting this requirement to persons employed in the United States or that if the individual is not a United States citizen, that they provide documentation of compliance with United States laws regarding immigration, if applicable.

435.2. Key Employee Qualifier License.

- (b). Page 55. This section lists the contents of the application form and includes items contained in the multi-jurisdictional form. However, § 431.241 states that the individual must file the multi-jurisdictional form. This section should be clarified to

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

indicate if the information in § 435.2 is for a supplemental form or is part of the multi-jurisdictional form.

- (b) (14). Page 56. Requires a photograph from the Commonwealth Photo Imaging Network. We are unclear as to why it is necessary for this to be from the Commonwealth Photo Imaging Network. Many of the individuals who will file on behalf of manufacturers and suppliers as key employee qualifiers reside outside the Commonwealth of Pennsylvania, if not out of the country. If the Board would like to have electronic access to the photographs, that could be provided via a digital photograph.

435.3. Key Employee License.

- (a). Page 58. Includes manufacturer and supplier employees. This provision includes an individual employed by a manufacturer or a supplier as a key employee as defined by the Pennsylvania Act. The definition of a key employee in the Act is an individual who is employed as a director or departmental head and is empowered to make discretionary decisions to regulate machine operations. This is directed to the slot operators and not to the manufacturers and suppliers. Individuals who have the capacity to make decisions at the manufacturer/supplier level would be key employee qualifiers. It is unclear as to who else, if any one, this would include from the manufacturers or suppliers and anyone that should file for qualification in connection with a manufacturer's or supplier's license would be a key employee qualifier.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

- (c). Pages 59 – 60. The Board may require letters of reference from law enforcement agencies. This requirement exists in other gaming jurisdictions, but is not followed because most law enforcement agencies will not provide a reference. As this is difficult or impossible to obtain, this provision should be eliminated.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 461. Slot Machine Testing and Certification Requirements.

461.2. Testing and Certification.

- (c)(1). Page 64. The Board may accept slot machine approvals from other gaming jurisdictions. We suggest that the regulations indicate that the acceptable jurisdictions include, but not be limited to, Nevada, New Jersey and Mississippi.
  
- (c)(2). Pages 64 – 65. This section provides that the Board may utilize the services of a slot machine testing and certification facility. The proposal does not state which testing labs will be acceptable or establish a procedure for making that determination and implies that only one will be used. We suggest the regulations be amended to permit the Board to utilize the services of more than one slot machine testing and certification facility. This permits the Board to insure the quick testing of machines and prevent a backlog from using only one facility. With the number of slot machines anticipated, having the ability to utilize more than one testing labs is essential.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 471. Filings Fees.

471.3. Schedule of Fees for Manufacturers and Suppliers.

- (a)(1). Page 67. Manufacturers and suppliers initial application fee is \$2,500, plus the \$5,000 non-refundable key employee. The license issuance fee is \$50,000 for the manufacturer and \$25,000 for the supplier. The annual renewals are \$25,00 and \$10,000 respectively, except for the non-refundable deposit for the key employee qualifiers, these are the fees set forth in the statute. See comments Section 427.2(a)(4)(i) and (ii).



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

Chapter 481. Minority and Women Owned Businesses.

481.2. Definitions.

- Participation Plan. Pages 69 – 70. This section defines participation plan as a plan developed by a licensed entity, including manufacturers and suppliers, that requires the utilization of a minority or women owned business enterprise for a specific minimum percentage of the value of the contract. See comments to section 427.2(a)(3).

481.4. Establishment of diversity plan required.

- Pages 70 – 71. This section requires that all licensed entities or applicants establish a diversity plan. See comments to section 427.2(a)(3).

481.5. Report of Participation.

- Pages 71 – 73. Each licensee must file a report with the Board during its renewal concerning the performance of its diversity plan. See comments to section 427.2(a)(3).

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

**Proposed Regional Supplier Amendments**

Addition to § 427.2. Page 1. This revision adds a preference for applicants for a manufacturer's license who demonstrate that they will establish a "bona fide place of business" in Pennsylvania within sixty days after issuance of the license. As the Act requires manufacturers of slot machines to utilize suppliers who must have offices in Pennsylvania, it would be inappropriate to add an additional preference for manufacturers who establish a Pennsylvania office. Pursuant to the requirements of the Act, the manufacturers are delegating authority for sales and distribution to the suppliers and would generally not need a Pennsylvania office. Further, it is unclear how the preference would assist the manufacturers and if it is constitutional.

Addition to § 431.3(e)(1). Pages 1 - 2. Supplier Licensing Standards. Under (h), the Board could establish five supplier regions. Under (i), each region would have to have at least five suppliers, but no more than ten. Under (k), a supplier could only operate within its region. The requirement of regional suppliers does not benefit the Commonwealth of Pennsylvania, nor the slot machine operators, manufacturers or suppliers. By permitting a supplier to sell for a manufacturer throughout the Commonwealth, it provides the supplier with the ability to grow a significant business in Pennsylvania and utilize more resources within the Commonwealth. By having multiple suppliers, there would be smaller entities that would not have the necessary expertise regarding the equipment, nor, as they would by smaller businesses, the necessity to

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
KONAMI GAMING, INC.**

utilize other services within the Commonwealth. Further, the license application fee for a supplier who will only be able to sell only in a certain region would be cost prohibitive, and there may not be sufficient suppliers per region.

By limiting the number of licenses per region, there is a restraint of free trade. If a supplier enters into an agreement with a manufacturer and meets the licensing standard, they should not be prohibited from supplying machines to the operators.

Addition § 431.3(m). Page 2. Requires that agreements entered into prior to Board approval of the manufacturer and supplier not be recognized by the Board. This provision has no benefit. If the Board has the ability to approve the agreements, it can review agreements that were entered prior to and in anticipation of the issuance of licenses. If the Board deems revisions necessary, it can make the appropriate ruling.



May 13, 2005

VIA US MAIL

RECEIVED

Pennsylvania Gaming Control Board  
PO Box 69060  
Harrisburg, PA 17106-9060  
ATTN: Public Comments

MAY 16 2005

RE: Proposed Draft Rules and Regulations – Pennsylvania Gaming Control Board  
Proposed Regional Supplier Amendments

WMS Gaming Inc.

To Whom It May Concern:

In accordance with the requirements of the Public Comment Period, enclosed are remarks pertaining to the captioned items, for consideration by the PGCB.

Respectfully submitted,

William T. Bartholomay  
Director – New Market Development

Enclosures – Eight Copies

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/28/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 407. Public Access To Board Records	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60045
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

This section should specifically prohibit public access to the personal information of Key Employees and/or Key Employee Qualifiers of any licensee in order to ensure and protect the privacy and security of these individuals. An example of this prohibition may be found by reviewing the final requirements for PENN's application regarding the issuance of the gaming license for its Bangor racino.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/28/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 407.2 - Public Meetings / Annual Report	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

COMMENTS

Publish the minutes of public meetings and annual reports to the Internet concurrently with their publication in the Pennsylvania Bulletin, for ease of access and broader dissemination of this information to interested parties. This is standard procedure for domestic gaming jurisdictions. The PGCB should consider posting monthly data to the Internet, as this is usual and customary in other domestic gaming jurisdictions.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/28/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 403.2 - Meetings	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

Publish meeting locations and agendas to the Internet concurrently with their publication in the Pennsylvania Bulletin, so that a broader dissemination of this information is available to interested parties pursuant to relevant provisions relating to the Sunshine Act.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/28/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 421.2(a)(4&5) - Licensed Entities	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

The definitions of Key Employee and Key Employee Qualifier are sufficiently broad in the regulations to ensure that the pool of required licensees across all categories will initially overwhelm the resources of the PGCB, and associated agencies, tasked with licensing these individuals. Other gaming jurisdictions have addressed this problem by issuing temporary licenses (e.g., 6 months) to Key individuals that are licensed, and in good standing, in another gaming jurisdiction (e.g., New Jersey). This level-loads the Key employee licensure approval process. Following the initial licensure of Key personnel, other gaming jurisdictions mitigate the crush of annual license renewals by issuing Key Employee licenses with either staggered expiration dates or multi-year terms.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment



# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/28/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 423.3(a)(1) - License Issuance	ADDRESS 2	
FIRST NAME	William	CITY	Chicago
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

Pursuant to the provisions of ACT 71, WMS is artificially prohibited from being a direct employer within the Commonwealth, due to the mandatory supplier requirement' engrossed in § 1317 of the ACT. As such, the requirements in § 423.3(a)(1) are neither applicable nor enforceable upon WMS, or any other manufacturer, seeking licensure from the PGCB. As direct employers within the Commonwealth, only Slot Machine and Supplier applicants should be subject to the provisions § 423.3(a)(1). By utilizing an approved Supplier Licensee, selling to authorized Slot Machine licensees, WMS is, de facto, in compliance with the provisions of § 423.3(a)(1).

### WMS OVERVIEW:

WMS Gaming Inc., a subsidiary of WMS Industries Inc. (NYSE:WMS), is a leader in the creation, design and manufacture of video and reel-spinning slot machines and video lottery terminals. WMS conducts business in over 300 gaming jurisdictions worldwide, and is licensed in 242 jurisdictions.

### WMS CORPORATE POLICY:

WMS recruits and hires employees based in accordance with equal employment opportunity and affirmative action laws and regulations. WMS prohibits unlawful discrimination based on race, color, gender, religion, age, national origin or ancestry, physical or mental disability, marital status, sexual orientation or any other consideration made unlawful by federal, state or local laws. WMS complies with all applicable laws providing equal employment opportunities, and this commitment applies to all persons/entities involved in the operations of WMS. WMS is also dedicated to complying with all applicable provisions of the Americans With Disabilities Act ("ADA"). It is the Company's policy not to discriminate against any qualified employee.

WMS selects vendors based upon the careful evaluation of multiple criteria including: operating history and performance; financial fitness; references; pricing, and other specific metrics, which meet WMS' rigorous quality and technical manufacturing standards. WMS does not discriminate in the selection of these vendors.

WMS employs Local #134 IBEW union labor in the manufacture and assembly of its video and mechanical reel products.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 431.3(d) – Supplier / Prohibitions	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

Any prohibition barring manufacturers and operators from providing financial assistance to suppliers will negatively impact the number and composition of supplier applicants within the Commonwealth. The Board's specific duties and powers set forth in § 1202 of the ACT are quite specific. § 1202 of the ACT does not limit supplier access from any legal capital source, including Slot Machine Licensees and Manufacturers, which have industry specific experience. WMS believes that the provisions of § 431.2(7) address the intent and scope of ACT 71 regarding the manufacturer/supplier prohibition, and that § 431.3(d) should be stricken from:

RULES AND REGULATIONS  
TITLE 58. RECREATION  
PENNSYLVANIA GAMING CONTROL BOARD

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 461.1 – Protocol Requirements	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

§ 461.1 does not address a substantive protocol requirement engrossed in § 1323(A)(2) of the ACT, which mandates...

"THE EMPLOYMENT OF A WIDELY ACCEPTED GAMING INDUSTRY PROTOCOL TO FACILITATE SLOT MACHINE MANUFACTURERS' ABILITY TO COMMUNICATE WITH THE STATEWIDE SYSTEM"

...by the Department of Revenue.

This requirement should be added to § 461.1 of the:

RULES AND REGULATIONS  
TITLE 58. RECREATION  
PENNSYLVANIA GAMING AND CONTROL BOARD

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 461.2(c)(1 & 2) - Testing and Certification	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

## COMMENTS

Modify § 461.2(c)(1 & 2) by adding "or both" after "either in Line 1 of Part (c), in order to give the Board greater latitude in game certification. For example, Gaming Labs International ("GLI") utilizes a standard set of certification criteria across jurisdictions, such as, GLI-11 Gaming Devices in Casinos, GLI-12 Progressive Gaming Devices in Casinos or GLI-13 On-Line Monitoring and Control Systems (MCS) and Validation Systems in Casinos. This change will preserve the PGCB's right to test additional criteria, at the Board's discretion.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 471.3(b) – Schedule of Fees	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

COMMENTS

§ 471.3(b) does not address the disposition of surplus amounts should the cost of a manufacturer's or supplier's Key Employee or Key Employee Qualifier background investigations be less than the \$5,000 per person non-refundable fee. WMS recommends that any § 471.3(b) surplus be credited back to the specific manufacturer or supplier license applicant, to be applied against the costs of future background investigations.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="04/29/2005"/>	ADDRESS 1	<input type="text" value="800 S. Northpoint Boulevard"/>
SECTION # OR SUBJECT	<input type="text" value="§ 481.1 - § 481.5 (Inclusive) - MBE/WBE"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="William"/>	CITY	<input type="text" value="Waukegan"/>
LAST NAME	<input type="text" value="Bartholomay"/>	STATE	<input type="text" value="IL"/>
ORGANIZATION NAME	<input type="text" value="WMS Gaming Inc."/>	ZIP CODE	<input type="text" value="60085"/>
EMAIL ADDRESS	<input type="text" value="bbartholomay@wmsgaming.com"/>	COUNTY	<input type="text" value="Lake"/>
		TELEPHONE	<input type="text" value="(847) 785-3000"/>

COMMENTS

As a manufacturer, and non-direct employer within the Commonwealth, the requirements of § 481.1 - § 481.5 (Inclusive) are not applicable or enforceable upon WMS or any other manufacturer domiciled outside of the Commonwealth. These provisions are applicable to Slot machine Licensees and Supplier Licensees. Refer to comments regarding § 423.3(a)(1).

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	§ 497.4(a) – Effective Date / Board Orders	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

COMMENTS

All Board orders promulgating regulations should be published on the Internet concurrently with their publication in the Pennsylvania Bulletin.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	04/29/2005	ADDRESS 1	800 S. Northpoint Boulevard
SECTION # OR SUBJECT	Proposed Regional Supplier Amendments	ADDRESS 2	
FIRST NAME	William	CITY	Waukegan
LAST NAME	Bartholomay	STATE	IL
ORGANIZATION NAME	WMS Gaming Inc.	ZIP CODE	60085
EMAIL ADDRESS	bbartholomay@wmsgaming.com	COUNTY	Lake
		TELEPHONE	(847) 785-3000

COMMENTS

See Attached.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment





Direct Dial: 847.785.3866  
Facsimile: 847.785.3975  
E-Mail: bbartholomay@wmsgaming.com

April 29, 2005

**VIA US MAIL**

Pennsylvania Gaming Control Board  
PO Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

**RE: Proposed Regional Supplier Amendments**

(§ 427.2 – Addition / § 431.2(a) – Additions / § 431.3(a) - Addition / § 431.3(e) – Replacement & Additions)

WMS Gaming Inc., a subsidiary of WMS Industries Inc. (NYSE: "WMS"), is a leader in the creation, design and manufacture of video and reel-spinning slot machines and video lottery terminals. WMS conducts business in over 300 gaming jurisdictions worldwide, and is licensed in 242 jurisdictions.

WMS Gaming Inc.

Worldwide Corporate Headquarters

800 S. Northpoint Blvd.

Waukegan, IL 60085

(tel) 847.785.3000

(fax) 847.785.3058

WMS is an ardent opponent to § 1317 of ACT 71, which mandates the use of suppliers by Manufacturer Licensees within the Commonwealth, and was a leading proponent of SB 1209, as amended, which eliminated the mandatory distributorship requirement in ACT 71. SB 1209 passed the Legislature, but was vetoed by Governor Rendell, reportedly for reasons other than distributorships.

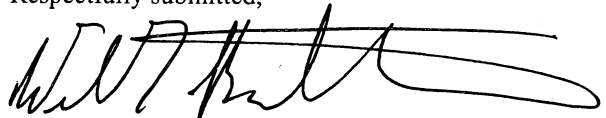
WMS will comply fully with the final regulations promulgated by the Pennsylvania Gaming Control Board ("PGCB") pursuant to ACT 71. However, WMS remains adamantly opposed to the mandatory distributorship requirements in ACT 71, and WMS considers Commissioner Coy's Proposed Regional Supplier Amendments, as a mechanism, which will only serve to exponentially exacerbate the challenges of the jurisdictionally unique and questionable business model mandated by § 1317 the ACT.

WMS' position is based upon the following factors:

1. The direct relationship between a manufacturer and operator is the most efficient process for providing quality gaming equipment to the operator's floor in the timely manner necessary to optimize performance, increase revenues and maintain strong levels of competition with other states and jurisdictions. Distributors serve only to disrupt this relationship, and add additional expense to the supply chain. Both gaming equipment manufacturers and their customers inherently find most distributorship relationship objectionable.
2. Distributorships are optional in all active US gaming jurisdictions. WMS is neither required to nor elects to utilize distributorships for the sale and service of its gaming devices in any domestic gaming jurisdiction. The NJ distributorship "model" that formed the basis for the inclusion of § 1317 the ACT does **not** exist.
3. The establishment of five distinct supplier regions within the Commonwealth pursuant to Commissioner Coy's Proposed Regional Supplier Amendments appears to go well beyond the specific duties and responsibilities of the PGCB, detailed in §1202 of Act 71.
4. The Proposed Regional Supplier Amendments go well beyond the legislative intent of the supplier requirement mandated in § 1317 of the ACT, and would substantially alter the complexity of the gaming framework set forth in ACT 71.

5. The provisions of § 1317 of ACT 71 mandating a manufacturer's use of suppliers, as a condition of operating within the Commonwealth are, in all probability, a violation of the Commerce Clause.
6. Suppliers potentially put the integrity of the gaming environment at risk, given inherent limitations embodied in any due diligence process. Integrity may be further compromised to the extent the awarding of distributorships is politicized (e.g., qualified majority provision).
7. From a practical perspective, it is unlikely that the PGCB will be able to qualify and license the 25 – 50 distributorships required per the provisions of the Proposed Regional Supplier Amendments. Based upon specific experience, after months of evaluating supplier candidates, WMS has found just two suppliers domiciled in PA that are potentially qualified to fulfill the supplier mandate under the ACT. As the PGCB is responsible for vetting and licensing suppliers, the Proposed Amendments serve to create potential exposure to the PGCB, as the Board is tasked with establishing the distributorship pool, from which all manufacturers must choose.
8. Any modification to § 431.1(d) of the proposed Rules and Regulations, which accurately reflects the legislative intent of § 1317(A) in the ACT, will further dilute the pool of qualified supplier applicants.
9. As, suppliers generate increased costs to jurisdictions through additional oversight, increasing the number of distributorships to the level suggested by the Proposed Amendments will only serve to unnecessarily aggravate this issue.
10. Suppliers typically fail to meet the promise of substantive job creation. While the promise of 1,000 jobs has been made, as the windfall accruing from the supplier requirement, WMS' internal analysis concluded that potential job creation falls within the probable range of sixty to one hundred fifty jobs statewide, with a majority of these jobs not being incremental to the Commonwealth's employment base, but rather a repositioning of existing employees.
11. The Proposed Regional Supplier Amendments will serve to further delay the implementation of ACT 71.

Respectfully submitted,



William T. Bartholomay  
Director – New Market Development

*Dianne M. Berlin*

Lancaster County

RECEIVED

MAY 16 2005

PGCB  
P.O. Box 69060,  
Harrisburg, PA  
17106-9060  
Attn: Public Comment.  
May 14, 2005

Members of the PA Gaming Control Board,

Thank you for the opportunity to offer comments and suggestions re draft regulations covering manufacturers and suppliers of gaming equipment. (Section 1317)

I submit the following recommendations:

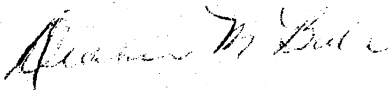
**Before being selected as a licensed slots manufacturer, that company should demonstrate that the slots are not cheating the gambler.**

**Any manufacturer under consideration should be able to DEMONSTRATE the way the machine works so that an ordinary person could understand its workings.**

**The manufacturer should be able to provide a slot machine which would give a receipt at the completion of each transaction just as one would get at a store, theater, gas station, etc. Under current federal law, gamblers are allowed to deduct their losses from any winnings but they must provide documentation of their losses for proof to the IRS.**

Thank you again for this opportunity.

Sincerely,



Dianne M. Berlin

AMERICA WORKS BEST  
WHEN WE SAY . . .



# PENNSYLVANIA AFL-CIO

WILLIAM M. GEORGE  
*President*

RICHARD W. BLOOMINGDALE  
*Secretary-Treasurer*

PGCB GMS-25

RECEIVED

MAY 16 2005

May 11, 2005

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

To the Control Board Members:

Section 431.3 of the proposed amendment to the proposed Rules and Regulations posted by the Pennsylvania Gaming Commission would have the Commission establish a system for suppliers to be licensed in five regions of the Commonwealth, and allows for licensing at least five but not more than ten suppliers in each region.

This proposed regional system is consistent with the clear legislative intent of Act 71, in that it would insure the creation of a viable industry in Pennsylvania, and make it much more likely that this new industry would be based on real Pennsylvania companies employing Pennsylvanians. The proposed regional system will create good jobs.

Additionally, this set up allows for greater Board oversight in a critical part of the gaming industry, and affords the opportunity for diversity and economic development that will be spread across the state. This is a good proposal for Pennsylvania and I suggest you adopt it.

Sincerely,

A handwritten signature in cursive script that reads "William M. George".

William M. George,  
President

WMG/djs

GMS-25.1



Pennsylvania Gaming Control Board  
Office of Communications  
P.O. Box 69060  
Harrisburg, Pa. 17106-9060

PGCB GMS-26

RECEIVED

MAY 17 2005

Re: Proposed Gaming Regulations

To Whom It May Concern:

My name is Robert Nix and I am President of KGM Gaming LLC ("KGM"). Please accept this letter as KGM's comments regarding the proposed amendments to the Gaming Regulations as discussed at the Board's April Board Meeting.

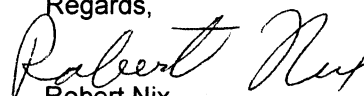
My partners, Howard Weiss, David Hyman and Farah Jiminez and I have combined our individual talents in an effort to pursue the opportunity of being a supplier of slot machines. In seeking this goal, we have created a business model that creates a majority minority owned entity that will provide sales, service and parts for slot machines produced by Aristocrat Technologies Incorporated ("Aristocrat"). We are operating under a Letter of Intent that includes language that any agreement that we might reach is contingent on approval by the Gaming Control Board.

In reviewing the proposed amendments, the possibility of regionalizing the suppliers, in our opinions will negatively impact on the legislative intent of the Supplier Provision. In our model, we anticipate hiring one salesman and one technician to oversee our entire operation in the state. Sales of machines will be handled by a single salesperson who will be trained by Aristocrat. This training will entail a six week intensive training schedule. This salesperson will then train local account managers who will be located in a close proximity to each of the regions that will eventually hold a license to operate slot machines. Each of these individuals will be hired from that community and become an integral part to our sales and service team. Such an approach would not be likely were we limited to a single region in which to supply our products. The revenues would not support anything greater than a sales office and some limited service, nothing to the level that we anticipate putting in place.

In addition, my partners and I spent a good amount of our time and resources creating our business model and introducing ourselves to the slot machine manufacturing community and our ideas on how the supplier should provide both sales and service. We met with in addition to Aristocrat, International Gaming Technologies, Williams Gaming and G-TECH. Each company understood that any supplier would be more than just selling machines and was interested in KGM's ability to service the machines after the completion of a sale. We have created a business team that will clearly meet the legislative intent of the Gaming Bill and create opportunities for Pennsylvanians throughout the state.

Thank you for your continued efforts to make this newest of industries to Pennsylvania, one that benefits local business.

Regards,

  
Robert Nix  
President



May 11, 2005

PGCB GMS-27

COMMONWEALTH OF PENNSYLVANIA  
Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060

RECEIVED

MAY 17 2005

Re: Draft Regulations for Manufacturers and Suppliers

Dear Chairman Decker:

On behalf of International Game Technology (IGT) and its subsidiaries we would like to thank you for the opportunity to comment in writing on the Pennsylvania Gaming Control Board's draft regulations covering manufacturers and suppliers of gaming equipment.

We have reviewed the draft regulations and commend the Board's efforts to remain consistent with industry wide accepted standards while endeavoring to meet those unique requirements set out in the legislation for the Commonwealth. Our response to the draft regulations focuses on obtaining clarification from the Board on several critical items to ensure our understanding and full compliance once these regulations become final. As requested, our comments are attached on the form(s) prescribed by the Board.

Thank you, again, for the opportunity to comment. Please feel free to contact me by telephone at

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Carletta", is written over a faint, illegible typed name.

Susan Carletta  
Regulatory Compliance Manager

**International Game Technology**

GMS-27.1

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	§ 401.4.	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

§ 401.4. Definitions. "Confidential Information."

IGT commends the Pennsylvania Gaming Control Board for including assurances in the regulations to protect certain personal and business information contained in license application materials and obtained through background investigation activities. IGT interprets this section to apply to all applicants; manufacturer, suppliers, and slot machine applicants. It is important from a business perspective that proprietary information, trade secrets, and customer-related data remain protected from disclosure to prevent any occurrence of competitive disadvantage between vendors. Further, IGT commends the Board's position that personal, private information not routinely disclosed to the public be held in the strictest confidence. If this interpretation is incorrect, IGT strongly encourages the Board to include manufacturer and supplier applicants for the reasons stated above and suggests that the definition be revised to include the following bolded language:

"(i) Background investigation information, including all information provided under section 1310(a) and 1317 (relating to Slot Machine License Application Character Requirements and Supplier and Manufacturer Licenses Application), submitted in connection with an application required for the issuance of a license or permit under this part . . . "

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	§ 401.4. and § 431.1	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

§ 401.4. Definitions - "Gaming Employee" and § 431.1. Supplier Licenses - "Requirements."

This definition appears to require that all technicians who repair or service machines and associated equipment be employees of licensed Suppliers. While it may be acceptable to have local supplier employees handle some routine service of gaming machines, it is not reasonable, from an operational perspective, to have this workforce conduct initial installations or service associated equipment such as the types of equipment listed in subsection 431.1 (d) of these draft regulations. Such a requirement could easily lead to significant unnecessary regulatory workload for the Board and delays in the implementation of the program.

It has been IGT's experience that initial installations and other large installations require significant manpower frontloading. IGT believes that most manufacturers have the manpower and experience to conduct such installations. It would not be feasible for Suppliers to hire and train a workforce of such significant size for these types of installations. Suppliers would be faced with laying off technicians after the initial placement or large installation, as it will only require a small number of individuals to maintain machines and attend to ongoing service calls. IGT recommends the Board add language to this requirement that allows manufacturers to conduct installations using their own trained employees. Following is recommended language:

" . . . (ii) The term includes employees of a person holding a supplier's or manufacturer's license whose duties are directly involved with the repair, or distribution of slot machines and associated equipment sold or provided to the licensed facility within this Commonwealth as determined by the Board. . . "

[continued on next page]

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment



# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	§ 401.4. and § 431.1	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

[continued]

§ 401.4 Gaming Employee and § 431.1. Supplier Licenses - "Requirements."

In addition due to the large number of individuals involved in an initial installation, IGT recommends that the Board consider either waiving the need for each individual to obtain licensure or an occupational permit or adopting some type of abbreviated process for individuals who will only travel to a location in Pennsylvania for a one-time installation project.

Finally, it is our understanding from section 431.1(d) that manufacturers are permitted to employ technicians for the purpose of servicing the equipment listed under the "exclusions" paragraph of that same section. Please clarify if IGT's understanding is correct so that we may ensure that IGT employees can provide install and on-going maintenance on system-related products.

May we recommend language be added to section 427, Manufacturer Licenses, or section 431, Supplier Licenses, that allows for manufacturer's employees to perform installations as follows:

"Manufacturers may employ individuals to provide technical installation services at lincensed slot machine locations. Only employees who are permanently assigned to perform technician services at licensed slot machine locations are required to obtain licensure under the occupational permit requirements contained in this chapter."

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="5/11/05"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="§ 401.4"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Susan"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Carletta"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="International Game Technology"/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text" value="Clark"/>
		TELEPHONE	<input type="text"/>

COMMENTS

§ 401.4 Definitions, - "Key Employee" and "Key Employee Qualifier"

It is unclear whether the term "Key Employee" applies to individuals employed by manufacturers and suppliers as the definition appears to limit the use of the term to individuals involved in "slot machine operations." However, the definition of "Key Employee Qualifier" is applicable to individuals employed by manufacturer and supplier licenses. Please note that, in addition to requiring a finding of suitability of officers and directors, certain key executives are also required to be found suitable in various jurisdictions. The term "key executive" or "key person" as used in other jurisdictions does not include department directors or department heads as that term is used under the proposed definition of "key employee." Instead, the term is often defined as follows:

"An officer, director, or a person with a controlling interest in the licensee, a person who controls the function of principal or chief executive officer, principal or chief operating officer, principal or chief financial officer, or any other type of equivalent principal or officer."

IGT recommends that the Board adopt similar language.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	§423.1	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

§ 423.1. Applications - General Requirements

Paragraph (e) of this section provides that "If there is any change in the information provided to the Board, the applicant must promptly file a written amendment in a form prescribed by the Board." IGT believes that minor changes to application information such as a change of address should be identified in the application renewal process instead of requiring a prompt written amendment. IGT recommends that the Board revise this section to read similarly to § 427.1(b)(1) under which licensees have a continuing duty to report only "material" changes in information.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="5/11/05"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="§ 431.3"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Susan"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Carletta"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="International Game Technology"/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text" value="Clark"/>
		TELEPHONE	<input type="text"/>

COMMENTS

§ 431.3. Supplier requirements and prohibitions.

Paragraph (b) of this section states the supplier may "only employee technicians that have been approved by a licensed manufacturer." It is unclear from the proposed regulations how approval by a manufacturer is to occur from both a procedural and a scope of responsibility standpoint. While manufacturers can offer training with regard to their products, it is unclear how a manufacturer would "approve" the employees of an unrelated third party entity. IGT seeks clarification on the scope of this requirement in terms of training or certification.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	§435.2	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

§ 435.2. Key employee qualifier license and § 435.3. Key employee license.

Both of these sections require "a photograph from the Commonwealth Photo Imaging Network." Please provide detail on this requirement as IGT is not familiar with the Commonwealth Photo Imaging Network and whether an applicant must be physically present at a location in the Commonwealth in order to meet this requirement. IGT respectfully requests that the Board not require key employees such as the CEO, CFO, Presidents, and Vice Presidents (for example) to travel to the Commonwealth for the sole purpose of obtaining a photograph. As you know, IGT holds licenses in more than 250 jurisdictions throughout the world and many gaming regulatory agencies require photographs of key employees. If the Board is seeking to ensure that individuals identified in a photograph are, in fact, the individuals submitting applications, the Board may want to consider adding a requirement that photographs must be signed by the individual. This will allow the Board to verify the photograph signature with the corresponding application signature.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="5/11/05"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="§ 435.4"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Susan"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Carletta"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="International Game Technology"/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text" value="Clark"/>
		TELEPHONE	<input type="text"/>

COMMENTS

§ 435.4. Occupational permit.

This section describes a requirement for individuals ("gaming employees") employed by a slot machine licensee or a supplier licensee to obtain an occupational permit; however, as interpreted in the comments above, a "gaming employee" may also be employed by a manufacturer or other entity for the purpose of servicing systems and associated equipment. IGT would prefer that individuals who are permanently assigned to the Pennsylvania market and who physically enter Pennsylvania slot machine license locations be required to obtain an occupational permit.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="5/11/05"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="Chapter 499"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Susan"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Carletta"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="International Game Technology"/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text" value="Clark"/>
		TELEPHONE	<input type="text"/>

COMMENTS

Chapter 499. Representation Before the Board

This chapter indicates that corporations appearing before the Pennsylvania Gaming Control Board may be represented in a proceeding by an attorney admitted to practice before the Supreme Court of Pennsylvania. This section further provides that attorneys admitted in other jurisdictions may appear before the Board with permission of the Board. In addition, language in this paragraph indicates that a request for licensure is considered an adversarial proceeding for which representation by an attorney may occur.

It is unclear whether these sections strictly require legal representation for appearances before the Board or whether other individuals may appear before the Board, especially in connection with requests for licensure. It should be noted that most jurisdictions require appearance of an "applicant" and legal representation is not generally required by regulation but may be utilized if the applicant believes it is appropriate. For example, in many instances an appropriate compliance representative appears before the regulatory agency for many matters including requests for licensure.

It should also be noted that vendors from other jurisdictions may not have local Pennsylvania legal representatives who have been intricately involved in all activities of the entity. As such, IGT seeks clarification of this provision and, if legal representation is required, IGT respectfully requests that the Board reconsider its position and allow for applicants to determine who the appropriate individual is to represent the company before the Board. Following is suggested language for this section:

"A member of a partnership, an officer of a corporation, or an authorized employee of an individual, partnership, corporation, or other business entity may appear in any matter relating to such individual or business entity."

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	5/11/05	ADDRESS 1	
SECTION # OR SUBJECT	Proposed Regional Supplier Amendment	ADDRESS 2	
FIRST NAME	Susan	CITY	
LAST NAME	Carletta	STATE	
ORGANIZATION NAME	International Game Technology	ZIP CODE	
EMAIL ADDRESS		COUNTY	Clark
		TELEPHONE	

## COMMENTS

Proposed Regional Supplier Amendment.

It is IGT's understanding that this Proposed Regional Supplier Amendment would require manufacturers to use multiple suppliers on a regional basis within the State. In the event that a supplier seeks to provide product in the State of Pennsylvania, that supplier will need to get five separate licenses, one for each region within the State.

IGT believes that all of the "Proposed Regional Supplier Amendments" as proposed are unnecessary and inappropriate. They are unnecessary as the proposed regulations they seek to amend are currently well written and effectively implement, in a consistent manner, the gaming statutes as adopted by the Pennsylvania State Legislature. The proposed amendments are inappropriate as they seek to set business policy, standards and requirements (mostly unworkable) that clearly go beyond the statutory requirements of the Gaming Act. These amendments, if adopted, will only serve to create problems for the state's gaming machine program from both a business and regulatory perspective.

IGT respectfully requests that the Board remove this Amendment from consideration. IGT believes that this Amendment will have an adverse impact on the gaming market in Pennsylvania and will create undue burden and ongoing risk from a regulatory standpoint.

It should be noted that the Pennsylvania Race Horse Development and Gaming Act does not require the use of regional suppliers within the State. As such, it is believed that this provision extends beyond the scope of the intent of the legislation as originally enacted. Instead, the Act only requires that the placement of products occur through an unrelated third party supplier and in no way attempts to regionalize the activity.

[continued on next page]

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment



# DRAFT REGULATIONS COMMENT FORM

Please complete all of the fields below before printing:

DATE	<input type="text" value="5/11/05"/>	ADDRESS 1	<input type="text"/>
SECTION # OR SUBJECT	<input type="text" value="Proposed Regional Supplier Amendment"/>	ADDRESS 2	<input type="text"/>
FIRST NAME	<input type="text" value="Susan"/>	CITY	<input type="text"/>
LAST NAME	<input type="text" value="Carletta"/>	STATE	<input type="text"/>
ORGANIZATION NAME	<input type="text" value="International Game Technology"/>	ZIP CODE	<input type="text"/>
EMAIL ADDRESS	<input type="text"/>	COUNTY	<input type="text" value="Clark"/>
		TELEPHONE	<input type="text"/>

COMMENTS

[continued]

This type of provision would more than likely result in a large number of suppliers licensed throughout the State competing to place products manufactured by a small number of manufacturers. In addition, there would be increased costs of gaming products as a result of the necessity to utilize suppliers.

In addition, suppliers would need to obtain separate licenses throughout the State in order to act as a distributor for one manufacturer. In the event that a supplier chooses not to seek licensure in one or more regions, manufacturers would be required to conduct business through different suppliers. This would be problematic as the scope of the manufacturer and supplier relationship often encompasses proprietary and confidential information, particularly as it relates to the technical aspects of the products, and distribution of this information would result in the release of information beyond more than one entity.

Lastly, under the proposed regulations, manufacturers are responsible for training supplier technicians and ensuring that technicians have a detailed understanding of the products. Please note that IGT is providing extensive comments on this requirement in response to other applicable sections of the proposed regulations. However, this requirement becomes even more burdensome if manufacturers are required to provide training to different suppliers in different regions of the State. This can be costly and overly burdensome for both the suppliers and the manufacturers, as well as, result in decreased service levels to the operators.

Comments may be submitted to the Board by U.S. Mail at the following address:

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

FOX ♦ ROTHSCCHILD<sub>LLP</sub>  
ATTORNEYS AT LAW

DANIEL S. OJSERKIS  
OFFICE MANAGING PARTNER

PGCB\_GMS-28  
RECEIVED

MAY 17 2005

Marie Jiacopello Jones

File No. 23928-00002

May 13, 2005

Pennsylvania Gaming Control Board  
P.O. Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment

Re: Spielo Manufacturing ULC  
Comments to Proposed Regulations

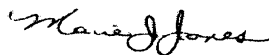
Dear Chair and Board Members:

Please be advised that we represent Spielo Manufacturing ULC ("Spielo"), a manufacturer of slot machines, with offices at

On behalf of Spielo, we submit the following comments to the proposed temporary regulations, Title 58. Recreation, Pennsylvania Gaming Control Board (the "Board") and the proposed regional supplier amendments.

Thank you for considering the comments of Spielo to the proposed temporary regulations and the draft proposal regarding regional suppliers.

Respectfully submitted,  
FOX ROTHSCCHILD LLP



Marie Jiacopello Jones

MJJ/db  
Enc.

cc: Robert Arena, Assistant General Counsel  
Nicholas Casiello, Jr., Esquire

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 401. Preliminary Provisions.

§ 401.4. Definitions.

- Institutional Investor. Page 14. The definition of an institutional investor mirrors the provision of the Pennsylvania Gaming Act. However, the proposal does not tie this definition into an exemption from any licensure requirement. We would suggest utilizing a waiver requirement similar to that found in the New Jersey Casino Control Commission (“NJCCC”) regulations. Please see N.J.A.C. 19:51-1.14, attached hereto and incorporated herein by reference.

- Key Employee Qualifier. Page 16. The definition includes individuals who hold a management or supervisory position or who control the operations of a manufacturer or supplier and includes officers, directors, persons who directly or indirectly hold any beneficial interest in or ownership of the securities of a licensee, and lenders (other than banks). This is a key provision regarding which individuals associated with a manufacturer and supplier must be licensed and we think it is too broad. We suggest that the Board limit the ownership interest to voting securities, thus eliminating debt securities and options and warrants (see definition of “Securities” in Pennsylvania Act). This would eliminate the need for filing for someone who does not hold a current voting interest in the entity. We also suggest that the Board have the authority to determine that someone listed in this definition does not have to be licensed if the licensee demonstrates that the person does not have the ability to control the

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

- i. The applicant or licensee;
- ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;
- iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.
- iv. Each inside director of the applicant or licensee;
- v. Each officer of the applicant or licensee;
- vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;
- vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

- i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;
- ii. The terms of his or her compensation; and
- iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation;

iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;

iv. His or her ownership interest; and

v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

i. The number of shares held and percent of ownership;

ii. A copy of the most recent notice filed with the Securities and Exchange Commission;

iii. A list of any direct or indirect owners;

iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and

v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

**19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form-2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form-Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

licensee, similar to NJCCC regulations. Please see N.J.A.C. 19:51-1.14, attached hereto and incorporated herein by reference. Many large entities have numerous divisions and officers that would not have any involvement in the gaming business of the company. A provision similar to New Jersey would permit the Board discretion in who has to file.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 407. Public Access to Board Records.

- 407.1. Case Files. Pages 25 – 26. This provision provides that the Board shall place records into confidential and non-confidential files and that the Board will determine if confidential information can be released to someone requesting same. The Board should provide notice and the opportunity to be heard to the person who filed the confidential information before confidential information is released.



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 423. Applications.

423.1. General Requirements.

- (i). Page 32. This section requires that an applicant who submits documents in a language other than English provide an English translation and include information regarding the translator and a verification from the translator of the truth and accuracy of the translation. Many manufacturers are either foreign based entities or transact business in foreign countries. The requirement that all documents not in English be translated and include certified translations is unnecessary and burdensome for the applicant. We would recommend that the Board adopt a more flexible standard, similar to the NJCCC regulations, that allows the Board to request translated copies of documents they deem necessary and permits summaries of same. Please see N.J.A.C. 19:41-7.14, attached hereto and incorporated herein by reference.

**19:41-7.14 Duty to submit English translation of documents in foreign language**

Any registrant, applicant, qualifier or licensee that submits a document which is in a language other than English to the Commission or the Division with an application or in response to a Commission or Division request for information shall, at the request of the Commissioner or Division, also submit an English translation of the non-English language document, except that the Commission or Division may permit the submission of an English summary in lieu of a complete translation. The translation or summary shall be printed or typed and shall include the signature, printed or typed name, address and telephone number of the person performing the translation or summary.

Amended by R.1978 d.175, effective May 25, 1978.

See: 10 N.J.R. 210(b), 10 N.J.R. 306(a).

Amended by R.1982 d.190, effective June 21, 1982.

See: 14 N.J.R. 380(b), 14 N.J.R. 664(b).

Deleted Personal History Disclosure Form 2 and replaced with new Form 2A.

Amended by R.1984 d.369, effective August 20, 1984 (operative January 1, 1985).

See: 16 N.J.R. 1336(a), 16 N.J.R. 2302(c).

Added new Personal History Disclosure Form 4A to replace Form 4. Amended by R.1985 d.50, effective February 19, 1985 (operative May 1, 1985).

See: 16 N.J.R. 3302(a), 17 N.J.R. 480(b).

Vendor Registration Form amended.

Repealed by R.1993 d.429, effective September 7, 1993.

See: 25 N.J.R. 2655(a), 25 N.J.R. 4120(a).

Section was "Form of application".

New Rule. R.2001 d.400, effective November 5, 2001.

See: 33 N.J.R. 2257(b), 33 N.J.R. 3760(a).

**Case Notes**

Amendment to former application form sought on constitutional grounds. In re: Martin, 90 N.J. 295 (1982).

Disclosure of sealed juvenile adjudications. State v. W.J.A., 173 N.J.Super. 19 (Law.Div.1980).

**19:41-7.15 Format of papers**

All application papers submitted to the Commission or Division shall be on paper approximately 8½ by 11 inches in size of customary weight and quality and bound on the left margin or upper left corner in volumes not to exceed 150 sheets. Where larger sheets are required for exhibits, they shall be folded substantially to the size indicated. All such papers, unless printed, shall be typed in a type size of pica or larger and double-spaced with margins of at least one inch. Copies may be reproduced by any method capable of providing plainly legible copies.

**19:41-7.16 Number of copies**

(a) Unless otherwise specified by Commission rules, an applicant for any license or registration required by the Act shall file an original and one copy of each application and all papers submitted as a part thereof.

(b) Additional conformed copies of any such papers shall be supplied upon request of the Chairman or Division.

As amended, R.1979 d.357, effective September 11, 1979.

See: 11 N.J.R. 418(c), 11 N.J.R. 530(e).

Amended by R.1998 d.112, effective March 2, 1998.

See: 29 N.J.R. 4079(a), 30 N.J.R. 866(a).

Rewrote (a).

**SUBCHAPTER 8. APPLICATION****19:41-8.1 Receipt**

All application papers, unless otherwise directed by the Chair, shall initially be submitted to and received by the Chair, or such members of the Commission staff as the Chair may designate, who shall cause to be endorsed thereon the date of such receipt.

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Referenced members designated by Chair.

**19:41-8.2 Filing**

(a) The Chair, or such members of the Commission staff as the Chair may designate, shall determine the date of filing as to each application received and shall cause to be endorsed thereon the date of such filing. No application shall be deemed filed until the applicant shall satisfy the Chair or his or her designee:

1. That all papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification and copies;
2. That all appropriate application, registration, business enterprise disclosure and personal history disclosure forms have been properly completed and presented;
3. That all required consents, waivers, fingerprint impressions, photographs and handwriting exemplars have been properly presented;
4. That all other information, documentation, assurances and other materials required or requested at that preliminary stage pertaining to qualifications have been properly presented; and
5. That all required fees have been properly paid and all required bonds have been properly furnished.

Amended by R.1989 d.495, effective September 18, 1989.

See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Reference to members designated by Chair added.

**Case Notes**

Rejection of application challenged on grounds of constitutionality of Casino Control Act and forms generated therefrom. In re: Martin, 90 N.J. 295 (1982).

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 427. Manufacturer Licenses.

427.2. Manufacturer licensing standards and application.

- An exception from the qualification of institutional investors should be added to this section. Also, we would recommend adding waiver provisions for certain officers and directors similar to the NJCCC regulatory provisions. Please see N.J.A.C. 19:51-1.14 attached hereto and incorporated herein by reference.

- (a)(3). Page 38. This section requires a plan of the diversity goals in ownership, participation and operation of licensed entities including manufacturer/supplier licensees. A plan of diversity goals in ownership is not possible in some situations. For example, a publicly traded company cannot place such restrictions and goals on its ownership and such goals and restrictions would be potentially illegal under securities law. Further, the New Jersey Casino Control Act and regulations promulgated thereunder had requirements for diversity plans and goals. The United States District Court for the District of New Jersey found that the regulations of the NJCCC governing diversity goals and plans violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and permanently enjoined the NJCCC from enforcing a licensee's Equal Employment and Business Opportunity Plan. Rudolph v. Adamar of New Jersey, Inc., et al., 2001 WL 1335031 (D.NJ. 2001).

- (a)(4)(i) and (ii). Pages 38 – 39. Key employee qualifiers must file multi-jurisdictional personal history disclosure forms and pay a non-refundable deposit of \$5,000 and additional charges based on actual expenses incurred by the Board, in

2. All correspondence concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility;
3. Copies of all promotional material and advertising;
4. A personnel file on each employee of the licensee, including sales representatives;
5. Financial records of all transactions concerning the realty, construction, maintenance, or business of a proposed or existing casino hotel or related facility.

(b) The records listed in (a) above shall be held for at least five years.

Amended by R.1989 d.281, effective June 5, 1989.  
See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Reduction of recordkeeping to transactions directly related to the casino hotel or related facility. Requirement deleted for maintenance of personnel file beyond five years and submission of files to Commission upon closing.

#### 19:51-1.10 Causes for suspension, failure to renew or revocation of a license

(a) Any of the following shall be cause for suspension, refusal to renew or revocation of a casino service industry license, although suspension, refusal to renew or revocation may be made for sufficient cause other than those listed:

1. Violation of any provision of the Casino Control Act or these rules and regulations;
2. Conduct which would disqualify the applicant, or any other person required to be qualified, if such person were applying for original licensure;
3. Failure to comply with all applicable Federal, State and local statutes, ordinances and regulations;
4. A material departure from any representation made in the application for licensure.

#### 19:51-1.11 Equal employment opportunity

The rules relating to equal employment opportunity and affirmative action program requirements for casino service industry enterprises are set forth in N.J.A.C. 19:53-1.3, 1.5, 1.6 and 1.7.

#### 19:51-1.12 Fees

The general rules relating to the fees for the issuance and renewal of casino service industry and junket enterprise licenses are set forth in N.J.A.C. 19:41-9.8.

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added.

Amended by R.1997 d.1, effective January 6, 1997.  
See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended N.J.A.C. references and deleted reference to additional rules.

#### 19:51-1.13 Exemption

(a) The general rules relating to exemption of persons or fields of commerce from licensure as casino service industries are set forth in N.J.S.A. 5:12-92(c).

(b) The Commission may, upon the written request of any person, or upon its own initiative, exempt any person or field of commerce, other than a junket enterprise, from the casino service industry licensure requirements of sections 92c and d of the Act, pursuant to the standards contained in N.J.S.A. 5:12-92(c).

Amended by R.1992 d.412, effective October 19, 1992.  
See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Exemption not allowed for junket enterprise.

#### 19:51-1.14 Persons required to be qualified

(a) Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no casino service industry license shall be issued or renewed unless the individual qualifications of each of the following persons shall have first been established in accordance with all provisions, including those cited, of the Act and the rules of the Commission. The Commission shall apply the following provisions to both corporate and non-corporate applicants or licensees or, if that is not possible, the Commission will in its discretion apply comparable standards to non-corporate applicants and licensees.

1. In the case of casino service industry licenses issued in accordance with subsections 92a and b of the Act:

- i. The applicant or licensee;
- ii. If the applicant or licensee is, or if it is to become a subsidiary, each holding company and each intermediary company;
- iii. Each natural person who directly or indirectly holds any beneficial or ownership interest of five percent or more of the applicant or licensee;
- iv. Each person who directly or indirectly holds any beneficial or ownership interest of five percent or more of a holding company or intermediary company of the applicant or licensee;
- v. Each director of the applicant or licensee or of a holding or intermediary company thereof;
- vi. Each officer of the applicant or licensee or of a holding or intermediary company thereof;
- vii. The management employee supervising the regional or local office which employs the sales representative who will solicit business or deal directly with a casino licensee;
- viii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees.

2. In the case of casino service industry or junket enterprise licenses issued in accordance with subsections 92c and d or section 102 of the Act:

i. The applicant or licensee;

ii. Each natural person who directly holds any beneficial or ownership interest of five percent or more or who indirectly holds any beneficial or ownership interest of 10 percent or more of the applicant or licensee;

iii. Each holding company that directly holds any beneficial or ownership interest of five percent or more of the applicant or licensee.

iv. Each inside director of the applicant or licensee;

v. Each officer of the applicant or licensee;

vi. The management employee supervising the regional or local office which employs the sales representative or junket representative soliciting business or dealing directly with a casino licensee;

vii. Each employee who will act as a sales representative or otherwise regularly engage in the solicitation of business from casino licensees and each junket representative who will deal directly with casino licensees or their employees.

(b) Notwithstanding (a) above, any of the following persons may request in writing that the Commission waive their obligation to qualify as part of a casino service industry license issuance or renewal by making the appropriate showing required in (b)1 through 4 below:

1. If the person is required to qualify as an officer, the person shall be required to demonstrate that he or she is not significantly involved in and has no authority over the conduct of business with a casino licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation; and

iii. A certification by the officer or, if the applicant or licensee is governed by N.J.S.A. 5:12-92c and d, by counsel for the applicant or licensee, stating that the officer is not significantly involved in and has no authority over the conduct of business with any casino licensee or applicant.

2. If the person is required to qualify as an outside director of a holding company of an applicant or licensee governed by N.J.S.A. 5:12-92a, the person shall be required to demonstrate that he or she is not significantly involved in the management or ownership of the applicant or licensee. Such request shall include, at a minimum, the following:

i. A description of his or her title, duties and responsibilities with the applicant, licensee or with any affiliate thereof;

ii. The terms of his or her compensation;

iii. Any board committee memberships, including a description of the functions and responsibilities of any such committee;

iv. His or her ownership interest; and

v. A certification by the director stating that the director is not significantly involved in the management or ownership of the applicant or licensee.

3. If the person is required to qualify as an owner of the applicant or licensee or a holding or intermediary company thereof and requests a waiver as an institutional investor, the person shall be required to demonstrate compliance with the standards for institutional investor status set forth in N.J.S.A. 5:12-27.1 as well as the standards for waiver set forth in N.J.S.A. 5:12-85f, as applied to the casino service industry applicant or licensee, regardless of whether such applicant or licensee is publicly traded or privately held. Such request shall include, at a minimum, the following:

i. The number of shares held and percent of ownership;

ii. A copy of the most recent notice filed with the Securities and Exchange Commission;

iii. A list of any direct or indirect owners;

iv. An explanation as to why such investor should be considered an institutional investor pursuant to N.J.S.A. 5:12-27.1; and

v. A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any holding or intermediary company thereof and will give the Commission 30 days notice if the investor determines to become involved in or influence such activities in the future.

4. If the person is required to qualify as an owner of the applicant or licensee or of a holding or intermediary company of the applicant or licensee, the person shall be required to demonstrate their inability to control such applicant, licensee or holding or intermediary company. For a publicly traded corporation, any person who owns or beneficially holds five percent or more of the equity securities of such corporation shall be presumed to have the ability to control such corporation, unless such presumption is rebutted by clear and convincing evidence.

(c) Notwithstanding (a) and (b) above, the Commission may require a casino service industry applicant or licensee to establish the qualifications of any person if the Commission determines that the qualification of such person would further the policies of the Act. In making such determination, the Commission shall consider, without limitation, the following:

1. Title, duties and responsibilities;
2. Terms of compensation;
3. Ownership interest;
4. Prior status as a qualifier;
5. Ability to appoint a member of the board of directors;
6. Commonality of interest with other owners of the applicant or licensee, or holding or intermediary company thereof;
7. Business relationship with the applicant or licensee;
8. Criminal conduct or associations; and
9. The recommendations of the Division.

(d) In addition to the persons required to qualify pursuant to (a) above, each applicant for a junket enterprise license may be required, upon directive from the Commission, to establish the qualifications of any junket representative employed by that junket enterprise, regardless of whether such junket representative deals directly with a casino licensee.

1. The Division may request the Commission to require a junket representative employed by a junket enterprise licensee or applicant to establish his or her qualifications at any time.

2. Any junket enterprise required to establish the qualifications of a junket representative pursuant to this subsection may be required, subject to the provisions of N.J.A.C. 19:41-8.6, to pursue a determination as to the qualifications of the junket representative regardless of whether the employment relationship with the junket representative has been terminated.

3. Any person required to establish his or her qualifications as a junket representative pursuant to this subsection may be required to pursue a determination as to his or her qualifications as a junket representative regardless of whether the employment relationship with the junket enterprise has been terminated.

R.1979 d.376, effective September 26, 1979.

See: 11 N.J.R. 265(a), 11 N.J.R. 599(b).

Amended by R.1989 d.281, effective June 5, 1989.

See: 21 N.J.R. 705(a), 21 N.J.R. 1525(a).

Technical changes.

Amended by R.1992 d.412, effective October 19, 1992.

See: 24 N.J.R. 2695(b), 24 N.J.R. 3738(a).

Junket enterprise added; open to review at any time.

Amended by R.1993 d.37, effective January 19, 1993.

See: 24 N.J.R. 3695(a), 25 N.J.R. 348(b).

Stylistic changes.

Amended by R.1997 d.1, effective January 6, 1997.

See: 28 N.J.R. 4570(a), 29 N.J.R. 157(a).

Amended section name.

Amended by R.1998 d.475, effective September 21, 1998.

See: 30 N.J.R. 2370(b), 30 N.J.R. 3515(a).

Rewrote (a); and added new (b) and (c).

Amended by R.2001 d.94, effective March 19, 2001.

See: 32 N.J.R. 3757(a), 33 N.J.R. 1019(b).

Rewrote section.

Amended by R.2001 d.359, effective October 1, 2001.

See: 33 N.J.R. 2258(a), 33 N.J.R. 3454(b).

In (a)2iv, inserted "inside" preceding "director"; rewrote (b)2 and (b)2v.

Amended by R.2002 d.78, effective March 18, 2002.

See: 33 N.J.R. 3723(a), 34 N.J.R. 1273(b).

In (a), substituted "Except as otherwise provided in (b) below and N.J.A.C. 19:51-1.14B, no" for "No" at the beginning of the introductory paragraph.

**19:51-1.14A Notification of changes in qualifiers of gaming-related casino service industry licensees or applicants and holding companies**

(a) Each casino service industry licensee or applicant required to be licensed in accordance with N.J.S.A. 5:12-92a and N.J.A.C. 19:51-1.2 shall notify the Commission and the Division, in writing, within five business days, of the following:

1. The appointment, nomination, election, resignation, termination, incapacitation or death of any natural person required to qualify pursuant to N.J.A.C. 19:51-1.14(a)1 or (c);

2. The identity of any person required to be qualified pursuant to N.J.A.C. 19:51-1.14(a)1iii or iv on the basis of a newly acquired ownership interest; or

3. The identity of any person whose obligation to qualify was waived pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 if that person subsequently attains an ownership interest that is:

i. At least five percent greater than the interest held at the time the most recent waiver was granted; and

ii. At least 10 percent or more of the applicant, licensee or holding or intermediary company thereof.

(b) For each new qualifier identified pursuant to (a)1 or 2 above, the following forms, as applicable, shall be filed with the Commission within 30 days of the mailing of the required notice; provided, however, that the Commission may, upon written request from the licensee or applicant and for good cause shown, grant an additional 30 days within which to file the required forms:

1. A complete application for qualification as set forth in N.J.A.C. 19:41-7.1A for each new natural person qualifier, except that an outside director of a holding or intermediary company shall be permitted to file a Personal History Disclosure Form-2A (PHD-2A) as set forth in N.J.A.C. 19:41-5.4; or

2. A complete Business Entity Disclosure Form-Gaming (BED-Gaming) as set forth in N.J.A.C. 19:41-5.15 for each new entity qualifier.

(c) For each person identified pursuant to (a)3 above, a new petition for a waiver of qualification pursuant to N.J.A.C. 19:51-1.14(b)3 or 4 shall be filed with the Commission within 30 days of the mailing of the required notice.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

addition to the manufacturer's license application fee of \$50,000. We believe the \$5,000 deposit is excessive and unnecessary. The Board pursuant to the Act must require a non-refundable deposit, but as the applicant must pay the cost of investigation, a lower deposit is appropriate.

- (iii). Page 40. This section requires the applicant to prove the integrity of all financial backers, investors, mortgagees, bond holders and holders of indentures, notes or other indebtedness, either in effect or proposed, which bears any relationship to the applicant. This provision should reference an exclusion for institutional investors and banks exempt under the definition of Key Employee Qualifier.

- (b)(4)(ii) and (iii). Page 41. This section requires the applicant to provide tax clearance certificates from Department of Revenue and Unemployment Compensation Department. This requirement is unnecessary and will delay the filing of the applications. Many applicants are not required to pay taxes in Pennsylvania or do not have employees within the Commonwealth. Further, these certificates can take up to six months to obtain from the departments. The Board during the investigation would have the ability to obtain this information, if necessary.

- (c). Page 41. This section prohibits applicants and licensees, affiliates, officers, directors and key employees from making political contributions to candidates for nomination or election to a public office within the Commonwealth. While we recognize that this provision mirrors Section 1513 of the Pennsylvania Act, we request that the Board clarify whether it is permissible to make political contributions to a

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

national political organization who may in turn make contributions to candidates for nomination or election to a public office in the Commonwealth or to a political committee of State party.

- (d). Page 41. This section provides that neither the applicant, nor a person directly related, may be a party in an ongoing civil proceeding to overturn or otherwise challenge a decision or order of the Board or Commissions pertaining to approval, denial or conditioning of license to conduct thoroughbred pari-mutual wagering or operate slot machines. Basically, this eliminates the right to appeal contained in section 12 of the Pennsylvania Gaming Act, and therefore, is beyond the powers authorized by the Act and likely unconstitutional.



**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Section 427.3. Alternative Manufacturers Licensing Standards.

- (a) (1). Page 42. The Board has to determine that the licensing standard of another jurisdiction is similar for the alternative licensing process. As the Board during the best practices analysis reviewed the licensing requirements of a number of jurisdictions, the Board has likely determined that certain licensing standards are similar. The regulation should state that licenses issued by Nevada, New Jersey, Mississippi and licenses or approvals from the Department of Revenue in connection with services to be provided by the applicant or a controlling affiliate pursuant to the Act are similar, as well as other licenses as determined by the Board.

- (a) (5) and (6). Page 42. This section provides that no administrative or enforcement actions and no investigations of possible material violations be pending in another jurisdiction. The Board should limit administrative or enforcement actions to those that are “material” as well.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 431. Supplier Licenses.

431.3. Supplier requirements and prohibitions.

- (e). Page 50. Upon request of the Board, a supplier must submit the agreement with a licensed manufacturer or gaming entity and a detailed business plan. The Board's review may include review of the business experience of the supplier and financial independence. This provision is more acceptable than the provision in the proposed regional supplier regulations. This allows for the manufacturers and suppliers to determine the agreement that best fits their business situation and still permits the Board to review same to ensure that the Board has no issue with the agreement.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 435. Employees.

435.1. General Provisions.

- (f). Page 53. An individual cannot be employed by a slot machine manufacturer or supplier in any capacity unless a citizen of the United States or is the holder of a current valid work authorization and is not restricted from working in the capacity for which employment is sought or held. For foreign manufacturers, or companies that have foreign parent or holding companies, the officers, directors and/or certain employees are often not United States citizens, nor are they individuals who are legally required to hold a valid work authorization or resident card. These are individuals who work outside of the United States, but either certain of the company's products are supplied to the United States or they have oversight with respect to United States operations. We suggest that language be added limiting this requirement to persons employed in the United States or that if the individual is not a United States citizen, that they provide documentation of compliance with United States laws regarding immigration, if applicable.

435.2. Key Employee Qualifier License.

- (b). Page 55. This section lists the contents of the application form and includes items contained in the multi-jurisdictional form. However, § 431.241 states that the individual must file the multi-jurisdictional form. This section should be clarified to

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

indicate if the information in § 435.2 is for a supplemental form or is part of the multi-jurisdictional form.

- (b) (14). Page 56. Requires a photograph from the Commonwealth Photo Imaging Network. We are unclear as to why it is necessary for this to be from the Commonwealth Photo Imaging Network. Many of the individuals who will file on behalf of manufacturers and suppliers as key employee qualifiers reside outside the Commonwealth of Pennsylvania, if not out of the country. If the Board would like to have electronic access to the photographs, that could be provided via a digital photograph.

435.3. Key Employee License.

- (a). Page 58. Includes manufacturer and supplier employees. This provision includes an individual employed by a manufacturer or a supplier as a key employee as defined by the Pennsylvania Act. The definition of a key employee in the Act is an individual who is employed as a director or departmental head and is empowered to make discretionary decisions to regulate machine operations. This is directed to the slot operators and not to the manufacturers and suppliers. Individuals who have the capacity to make decisions at the manufacturer/supplier level would be key employee qualifiers. It is unclear as to who else, if any one, this would include from the manufacturers or suppliers and anyone that should file for qualification in connection with a manufacturer's or supplier's license would be a key employee qualifier.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

- (c). Pages 59 – 60. The Board may require letters of reference from law enforcement agencies. This requirement exists in other gaming jurisdictions, but is not followed because most law enforcement agencies will not provide a reference. As this requirement is difficult or impossible to satisfy, this provision should be eliminated.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 461. Slot Machine Testing and Certification Requirements.

461.2. Testing and Certification.

- (c)(1). Page 64. The Board may accept slot machine approvals from other gaming jurisdictions. We suggest that the regulations indicate that the acceptable jurisdictions include, but not be limited to, Nevada, New Jersey and Mississippi.
  
- (c)(2). Pages 64 – 65. This section provides that the Board may utilize the services of a slot machine testing and certification facility. The proposal does not state which testing labs will be acceptable or establish a procedure for making that determination and implies that only one will be used. We suggest the regulations be amended to permit the Board to utilize the services of more than one slot machine testing and certification facility. This permits the Board to insure the quick testing of machines and prevent a backlog from using only one facility. With the number of slot machines anticipated, having the ability to utilize more than one testing labs is essential.

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 471. Filings Fees.

471.3. Schedule of Fees for Manufacturers and Suppliers.

- (a)(1). Page 67. Manufacturers and suppliers initial application fee is \$2,500, plus the \$5,000 non-refundable key employee application fee. The license issuance fee is \$50,000 for the manufacturer and \$25,000 for the supplier. The annual renewals are \$25,00 and \$10,000 respectively, except for the non-refundable deposit for the key employee qualifiers, these are the fees set forth in the statute. See comments to Section 427.2(a)(4)(i) and (ii).

**COMMENTS OF FOX ROTHSCHILD LLP  
ON BEHALF OF  
SPIELO MANUFACTURING ULC**

Chapter 481. Minority and Women Owned Businesses.

481.2. Definitions.

- Participation Plan. Pages 69 – 70. This section defines participation plan as a plan developed by a licensed entity, including manufacturers and suppliers, that requires the utilization of a minority or women owned business enterprise for a specific minimum percentage of the value of the contract. See comments to Section 427.2(a)(3).

481.4. Establishment of diversity plan required.

- Pages 70 – 71. This section requires that all licensed entities or applicants establish a diversity plan. See comments to Section 427.2(a)(3).

481.5. Report of Participation.

- Pages 71 – 73. Each licensee must file a report with the Board during its renewal concerning the performance of its diversity plan. See comments to Section 427.2(a)(3).





May 13, 2005

**COMMONWEALTH OF PENNSYLVANIA**

Pennsylvania Gaming Control Board  
PO Box 69060  
Harrisburg, PA 17106-9060  
Attn: Public Comment  
Contact: Mr. Nick Hays

PGCB GMS-29  
**RECEIVED**

MAY 17 2005

**Re: Comments to Pennsylvania Gaming Control Board ("Board")  
Proposed Manufacturer & Supplier Regulations**

Required Information Per Website:

1. Name: Joe Bailo, CEO Atronic America, LLC
2. Organization Represented: Atronic Americas, LLC,  
Gaming Manufacturer/Distributor
3. Mailing Address:
4. Telephone Number:
5. E-mail Address:
6. County, State: Maricopa County, Arizona
7. Section Number/Topic Discussed: Referenced Below

Dear Mr. Hays:

At the outset, it is important to briefly describe our company, Atronic Americas, LLC ("Atronic") so that you can better understand the context of our comments. Atronic is licensed as a manufacturer and supplier of gaming devices in 83 countries and holds 196 gaming licenses worldwide. In the United States, Atronic conducts business in 20 states and holds licenses with 138 Native American tribes. Atronic operates as both a manufacturer and supplier in order to maximize the quality and efficiency of operations, ensure optimal satisfaction of customers, and to assume all related regulatory accountability for products and operations. G Tech, a large manufacturer based in Rhode Island, is presently in negotiations with Atronic to purchase a controlling share of Atronic.

Our analysis of the newly proposed regional supplier amendments is as follows:

1. Section 431.2(a)(11) requires an applicant to submit "a notarized statement, attesting that the applicant is qualified to be issued a comparable license in any jurisdiction in the United States that licenses gaming and gaming related activities." While Atronic is confident that it is so qualified, there are many jurisdictions in the United States where many manufacturers or suppliers may not have applied for licensure. Until a license is granted in every jurisdiction, it would be conjecture for such

jurisdiction. Additionally, other jurisdictions may impose qualifications which the Board does not deem necessary or appropriate in Pennsylvania. Accordingly, we recommend changing the mandatory disqualification to a permissive qualification. This change would simply give the Board more discretion.

We recommend the Board adopt the following language in lieu of Section 431.2(a)(11)(additions are underlined; deletions are [bracketed]):

(11) a notarized statement, attesting that the applicant [is] knows of no reason why it would not be qualified to be issued a comparable license in any jurisdiction in the United States that licenses gaming and gaming related activities. The statement shall be subject to review, investigation and verification by the Board. Inability to meet the qualifications for issuance of a comparable license in any jurisdiction in the United States may [shall] disqualify the applicant from receiving a supplier license.

2. Proposed Regulations 431.3(e), (f) and (g)

Regulations 431.3(e), (f) and (g), read in conjunction, essentially provide that manufacturers may only use an independent “supplier” for the sale or other provision of gaming devices in Pennsylvania. In other words, a manufacturer cannot co-exist as a supplier and cannot contract directly with a slot machine facility. While we understand that Pennsylvania law adopted this requirement in Section 1317 of the Act, Atronic urges the Board to re-evaluate these concepts in the regulations with the sincere hope that this requirement will be amended or entirely repealed by the Pennsylvania legislature in the near future. In the meantime, Atronic recommends that regulations relating to the distinction between manufacturers and suppliers remain general and minimal in nature so that they can be easily amended or repealed without affecting other aspects of the adopted regulations.

Atronic believes that the proposed regulations further distinguishing manufacturers and suppliers would further undermine quality, efficiency and regulatory accountability of the gaming industry in Pennsylvania. The following analysis serves as a backdrop for the argument that the creation of five separate regions for independent suppliers will only make matters worse, not better, for manufacturers, slot machine facilities and the Board:

a. Stand Alone Jurisdiction. To Atronic’s knowledge, no other jurisdiction requires the use of “independent suppliers” to sell or otherwise provide gaming devices to slot machine facilities. To follow this approach in a single jurisdiction destroys significant economies of scale and business models already established in all other jurisdictions. Furthermore, as issues arise regarding this legislation, the Board will not be able to turn to an established body of law to assist in resolving the issues.

b. **Price Increase.** The cost of the gaming device, spare parts and service in the state will increase. Outside of Pennsylvania, the price of a gaming device covers such items as product development, manufacturing, sales administration, shipping and product servicing. By requiring an independent supplier, increases will result because: (i) fixed costs such as rent, equipment expenses, core salaries, etc... must be born by at least two entities instead of one; (ii) variable costs such as client development, product training, contract preparation and negotiation, product shipping, etc... must be born by at least two entities instead of one; (iii) sales price for gaming devices must account for uncertainties in supplier performance involving compliance with due diligence inquiries, contract terms, proper shipping/placement of products, quality of service, etc...

c. **Potential Of Lower Quality Service And Support.** An independent supplier will not have equal ability or incentive to provide quality service and support. Atronic presently has every reason to provide the highest quality service and support. Most importantly, Atronic and its employees know its product. If there is an issue regarding the product, Atronic has the all the necessary information at its fingertips to immediately resolve said issue to the satisfaction of the client. If Atronic fails to provide the highest quality service and support, it runs the risk of losing substantial sales. If Atronic succeeds in providing the highest quality service and support, it stands not only to maintain its market share but increase the same. On the other hand, by requiring an independent supplier, the independent supplier may not respond to issues in a timely fashion. Quality of service and support from an independent supplier is especially questionable where the number of independent suppliers may be limited to 5 per region, thereby creating less than competitive market forces. Even if the independent supplier does respond in a timely fashion, the independent supplier might fail to determine the reason behind the issue or try to resolve the issue in an incorrect or inefficient manner. Furthermore, while the independent supplier may have some incentive to keep the gaming devices on the floor, it does not share to the same extent the drive to encourage the slot machine facility to buy more product by a particular manufacturer. Perhaps most importantly, if an independent supplier does not do well financially and "closes shop", it will require the manufacturer to find a new independent supplier and repeat the process. These issues are particularly troubling in light of proposed Section 431.3(m)(ii), which only allows a supplier contract to remain in place for a single year. This will cause significant issues in establishing relationships because the parties will be constantly renegotiating such agreements. Because Atronic will not compromise the quality of service or support for its products, the independent supplier requirement will place a very heavy burden on Atronic to ensure that its suppliers are performing.

d. **Undermines Regulatory Accountability, Increases Regulatory Risk and Increases Regulatory Workload; Delays For Licensees.** Manufacturers and Suppliers will have reduced regulatory accountability. In jurisdictions where Atronic is responsible for the manufacturing and supplying of its gaming devices, only a single entity is responsible if regulatory problems arise relating to the gaming devices – Atronic. However, in Pennsylvania where Atronic is required to contract with an independent

supplier, regulatory accountability becomes a far more complex issue. Additionally, by requiring a manufacturer to contract with a supplier which is less familiar with its product, the manufacturer assumes additional regulatory risk. Due to the close relationship between a manufacturer and its independent supplier, the Board may seek to impute regulatory violations of the independent supplier upon the manufacturer. And, if an independent supplier loses its license or is found unsuitable, the manufacturer must sever its ties with the supplier and initiate the supplier relationship process all over again. Furthermore, by requiring independent suppliers, the time, expense and effort required by the Board will increase significantly. The delay in license approvals will also cost manufacturers and slot machine facilities time and money.

3. Proposed Regulations 431.3(h) through (l)

Regulations 431.3(h) through (l), read in conjunction, essentially provide that manufacturers and slot machine facilities must do business with certain licensed suppliers in each region. Between 5 and 10 independent suppliers must be licensed in each of the 5 regions. In essence, this means that manufacturers may have to do business with as many as 50 different independent suppliers throughout the state. If Pennsylvania adopts the proposed legislation, the already substantial increases in cost, potential decreases in quality of service and undermining of regulatory accountability caused by the "independent supplier" regulations detailed above will be magnified up to 50 times. We urge you not to adopt this legislation. It is also important to understand that while a manufacturer may have the ability to contract with independent suppliers of its choosing in an effort to limit increased costs and decreases in quality of service, the reality of the situation is that the slot machine facilities will likely require the manufacturer to use suppliers of the slot machine facilities' choosing (after all, the slot machine facility will be manufacturer's ultimate client). So the manufacturer will have less ability to choose independent suppliers than might appear.

4. Proposed Regulations 431.3(m) and (n)

Proposed Regulation 431.3(m) provides that "[a]ll agreements between a licensed manufacturer and a licensed supplier shall be subject to review and approval of the Board." While Atronic is not opposed to the Board conducting post-execution audits of agreements between manufacturers and suppliers, it would be extremely time consuming and expensive to obtain Board approval for each such agreement. If there are specific areas of concern regarding the agreements, Atronic recommends that the regulation include specific requirements and/or prohibitions rather than require a lengthy and expensive formal approval process. In the event the Board is intent on approving each of these agreements, Atronic suggests that the regulation allow for administrative approval which would not require formal Board action. Under an administrative approval process, a staff member would be charged with reviewing and approving the agreements in short order. The same issue exists with respect to Regulation 431.3(n).

Proposed Regulation 431.3(m) provides that “[t]he Board will not recognize nor approve any agreement between a manufacturer and a supplier entered into prior to Board approval of the manufacturer and supplier for licensure under the act and this subpart.” While Atronic is not adverse to Board approving licenses before an agreement between prospective licensees are “binding and effective”, it is impractical to require the licensing entities to become licensed prior to negotiating and executing any agreement. Rather, the Board should allow prospective licensees to negotiate and execute any agreement prior to licensure, so long as the agreement contains a “condition precedent” delaying the binding and effective nature of the agreement until the parties obtaining proper gaming licenses and approvals. Practically speaking, the full execution of a strong conditional contract is very desirable before a business can justify an expensive licensing process. By executing a conditional agreement before proceeding with licensure, it is more probable that the time, effort and expense of the licensing process will prove financially beneficial. In other words, it allows the parties to establish a contractual expectation prior to incurring the substantial expense associated with licensure.

Additionally, 431.3(m)(ii) prohibits an agreement between a manufacturer and supplier from exceeding 1 year in duration. As stated in Section 2(c) of this comment letter, we believe that the 1 year period is far too restrictive. We believe that so long as both the manufacturer and supplier continue to carry all necessary licenses, the agreement should not have a limited duration. If the Board believes that a limited duration is necessary, Atronic requests that the limitation be increased to 5 years, which would allow a solid relationship to be established.

We would recommend that the Board adopt the following language in Regulation 431.3(m) (additions are underlined; deletions are [bracketed]):

All agreements between a licensed manufacturer and a licensed supplier shall be provided to [subject to review and approval of] the Board for audit purposes within 30 days after: (A) full execution; or (B) the date the last license or approval is obtained to enter into the agreement, whichever occurs later. [The Board will not recognize nor approve] Any agreement between a manufacturer and a supplier entered into prior to Board approval of the manufacturer and supplier for licensure under the act and this subpart shall be void, unless the agreement contains a condition precedent providing that no part of the agreement is binding or effective until the relevant persons and entities have received all necessary licenses and approvals. Review of any agreement between a licensed manufacturer and a licensed supplier shall include, but not be limited to, all financing arrangements, inventory requirements, warehouse space requirements and technical training requirements. Such agreements:

(i) may or may not prohibit the licensed supplier from selling or leasing slot machines or slot machine replacement parts of other licensed manufacturers; provided, however, that a licensed supplier may not be the exclusive supplier for more than one licensed manufacturer.

(ii) shall not extend beyond the term of the supplier license in effect on the date the agreement is entered into [or one year, whichever is longer].

(iii) INSERT OTHER REASONABLE REQUIREMENTS OR PROHIBITIONS TO AVOID REQUIRING PRIOR APPROVAL OF EACH AGREEMENT.

5. Additional Issues

Additional issues stemming from the proposed legislation are as follows:

a. Stand Alone Jurisdiction. Again, there is no other jurisdiction which requires that supplier licenses be issued within multiple regions.

b. Constitutional Issues. There may be constitutional issues implicated by limiting the number licenses within a region. Constitutional issues could include the Dormant Commerce Clause, Privileges and Immunities Clause and Equal Protection Clause. Because we are not aware of the reasons behind the license limitations, we cannot further discuss such constitutional issues.

Atronic requests the Board to hold one or more public hearing on the proposed regulations and to invite live public testimony. Discussion of the issues set forth in this letter may further identify potential problems with the proposed legislation and improve the gaming industry in Pennsylvania. Atronic would be happy to meet with any representative of the Board at its convenience or respond to any questions any Board representative may have with respect to this letter or the proposed regulations generally.

Thank you for this opportunity to comment on the proposed regulations.

Sincerely,



Joe Bailo  
Chief Executive Officer



12<sup>th</sup> May 9, 2005

Mr Thomas Decker  
Chairman  
Pennsylvania Gaming Control Board  
PO Box 69060  
Harrisburg, PA 17106-9060

PGCB GMS-30  
**RECEIVED**  
MAY 16 2005

Dear Chairman Decker

BMM is an independent testing agency for slot machines, casino management systems, and other gaming devices. BMM has been established since 1981, has offices globally, and is currently recognized in some 117 state and tribal jurisdictions throughout North America.

After having reviewed the document **RULES AND REGULATIONS TITLE 58. RECREATION PENNSYLVANIA GAMING CONTROL BOARD**, we propose a change to the wording to allow the use of multiple independent test agencies. Most gaming manufacturers and operators will agree that having a choice of testing agencies reduces delays, improves overall quality, and lowers the cost of compliance. There is ample precedent in the U.S. and around the world for recognizing multiple test labs.

The change we propose is under § 461.2. **Testing and certification generally.**

(c) The Board has the authority to require either of the following procedures with respect to testing and certifying a slot machine:

- (1) Accept other gaming jurisdiction certification under section 1320 of the act (relating to Slot Machine Testing and Certification Standards).
- (2) Utilize the services of **approved** slot machine testing and certification **facilities, which are recognized by major gaming jurisdictions within the United States**, to conduct the testing until a slot machine testing and certification facility is created by the Board.

(Text in **bold** indicates proposed changes.)

Chairman Decker, we appreciate all due consideration in this matter, and we welcome the opportunity to come before the Board at your convenience. If I can be of any assistance, please don't hesitate to call.

Sincerely

Paul Miller  
Director – Sales & Marketing