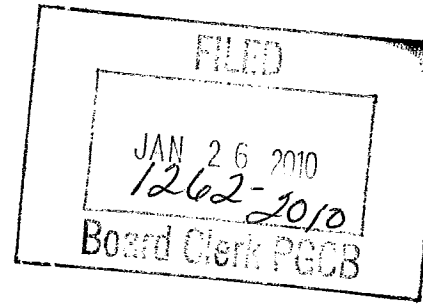


**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**



In Re: Petition of Downs Racing, L.P. for :
Approval of Authorization to Conduct Table : **Docket No.**
Games and Issuance of a Table Games :
Operation Certificate :

**PETITION OF DOWN'S RACING, L.P. FOR APPROVAL
OF AUTHORIZATION TO CONDUCT TABLE GAMES AND
ISSUANCE OF A TABLE GAMES OPERATION CERTIFICATE**

Downs Racing, L.P. d/b/a Mohegan Sun at Pocono Downs ("MSPD") submits this Petition pursuant to Section 1312A of the Pennsylvania Race Horse Development and Gaming Act as amended by Act No. 1 of 2010, ("Gaming Act"), 4 Pa. C.S. §1312A, requesting the Board to grant this petition ("Petition") and issue a table games operation certificate ("Certificate") authorizing MSPD to commence the conduct of table game at its licensed facility in Plains Township, Pennsylvania. MSPD is fully suitable and meets all of the statutory requirements for a table games operation Certificate, and the Certificate should be issued by the Board to MSPD in a timely fashion.

I. INTRODUCTION AND SUMMARY:

On January 7, 2010, Governor Rendell signed Act No. 1 of 2010 into law which amended the Gaming Act to legalize the conduct of table games by Pennsylvania casinos. Under the Gaming Act, in order to commence the conduct of table games, a slot machine licensee must submit a petition and qualify for issuance of a table games operations Certificate authorizing the conduct of table games. Pursuant to Section 1312A of the Gaming Act, MSPD is not subject to any prohibitions under Section 1313A of the Gaming Act and is therefore authorized to submit this Petition and, upon meeting the applicable standards, receive a Certificate.

Indeed, MSPD is duly qualified for table games authorization. MSPD was the first Pennsylvania licensed facility to open its doors for business in November of 2006, and, as discussed below, its affiliated property, Mohegan Sun in Connecticut, has been operating table games and tournaments at that facility for more than 14 years. MSPD's slot machine license is in good standing, and MSPD has met all of its legal and regulatory obligations on a continuing basis.

Recently on September 24, 2009, the Board issued an Order renewing MSPD's slot machine license finding that all of the entities, individuals, principals and key employees associated with MSPD were of "good character, honesty and integrity and are otherwise eligible and suitable for license renewal."¹ The Board's renewal of MSPD's slot machine license confirms MSPD's stellar record of regulatory compliance.

The MSPD licensed facility has been a huge success – both in its original temporary form in the grandstand of its racetrack and subsequently in its new, spectacular permanent facility. Since it opened for business, MSPD has generated over \$600 million in gross terminal revenue, and has contributed over \$200 million to property tax reform and \$70 million to horse racing. MSPD has also expended over \$320 million in capital investment at its site and hired over 1,000 employees over the past three and one-half years.

With all this said, possibly MSPD's most impressive accomplishment is its contribution to and reputation within the local community. As eloquently stated by a representative of the Greater Wilkes Barre Chamber of Business and Industry at the MSPD renewal hearing:

My final comments address community involvement. Mohegan Sun has not simply paid lip service to its host community; rather starting with Bobby Soper, the Mohegan team has become fully

¹ *In Re: Application of Downs Racing, L.P.; Renewal of Category 1 Slot Machine License*, Docket No. 1267 (September 24, 2009) at ¶ 5.

engaged with our community and its issues. Time and again, they have willingly contributed not just their resources, but their time and their ideas. They have become fixtures, not only in public settings, but also in the unglamorous tedium of meetings and committees familiar to anyone who's meaningfully occupied with new corporate arrival in our region that has so rapidly woven itself into our community fabric. To put it bluntly, when it comes to community involvement, Mohegan has set a very high bar for its peers to follow.

August 19, 2009 Renewal Transcript at 118.

Looking to the future, MSPD is eminently qualified to conduct table games at its licensed facility. As the Board is fully aware, MSPD's affiliate, the Mohegan Tribal Gaming Authority d/b/a Mohegan Sun ("MTGA"), operates one of the largest casinos in the world in Uncasville, Connecticut. That casino currently houses 330 table games and, indeed, the Mohegan Sun organization has become a global leader in not only the operation of table games, but also the training of employees as well as other surrounding table game issues. The Mohegan Sun organization has extensive experience in required tasks, like the training of table game employees, and has developed a model table games training program which will be used by MSPD in providing in-house training to all of its new table game employees as they are hired.²

Overall, MSPD, in every aspect of its operations in Pennsylvania, is overwhelmingly qualified to receive a table games operation certificate. In specific support of its Petition, MSPD states as follows:

² At the same as the filing of this Petition, pursuant to 4 Pa.C.S. §1323A(a), a detailed summary of MSPD's table games training program (more detailed than the outline attached hereto as Appendix 12) is being submitted to the Board's Executive Director for required regulatory approval under Section 1323A(b).

II. SPECIFIC SUPPORT

A. Petition Requirements

1. 4 Pa. C.S. § 1312A establishes the required contents of a table games petition.

Each of these requirements is met as set forth below and in the appendices (“Appendices”) attached hereto and made a part of this Petition.³

2. **Requirement # 1** – As provided in **Appendix 1** the name and business address of the Petitioner is Downs Racing, L.P. d/b/a Mohegan Sun at Pocono Downs. MSPD’s business address is 1280 Highway 315, Wilkes Barre, PA 18702. The contact person for purposes of this Petition is:

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Appendix 1 contains also a completed “Appendix Checklist” in the form issued by the Board’s staff on January 21, 2010. As noted therein and indicated by the responses below, there are no contemplated appendices on the Appendix Checklist that do not apply. Petitioner further acknowledges and affirms its continuing duty to update the information provided in the Appendices.

3. **Requirement # 2** – At this time, MSPD can identify one key employee who will be involved in the conduct of table games, but who is not currently licensed by the Board. That key employee is Jeff Walker, who is formerly of Mohegan Sun in Connecticut and will fill the

³ In addition to the information required by the express language of 4 Pa. C.S. § 1312A, the Appendices include items identified by the Board in its January 21, 2010 document for the Industry Meeting Regarding Implementation of Table Games – S.B. 711. These items, along with the items identified in the body of this Petition, are identified in the Appendices Table of Contents.

position of Vice President of Table Games at MSPD. Mr. Walker's business address, job title and photograph are attached hereto as **Appendix 2**.

4. **Requirement # 3** – MSPD is initially seeking authorization to conduct 81 table games – 65 banking games and 16 nonbanking games. An itemized list of the number of gaming tables and types of table games for which authorization is being sought is attached hereto as **Appendix 3**.

5. **Requirement # 4** – The estimated number of full and part-time employment positions that will be created at MSPD as well as a breakdown of the corresponding projected job titles is attached hereto as **Appendix 4**. An updated hiring plan in compliance with 4 Pa. C.S. § 1510(a), as amended by Act No. 1 of 2010 is also included in Appendix 4.

6. **Requirement # 5** – A brief description of the economic benefits expected to be realized by the Commonwealth and its municipalities as a result of table games at MSPD is attached hereto as **Appendix 5**. In addition to the new jobs specified in Appendix 4, MSPD is providing its current projections for Gross Table Game Revenue and a breakdown of the distribution of those revenues to the Commonwealth and to local share. Furthermore, as a direct result of expansion of its gaming floor and other related activities pertaining to table games implementation, MSPD has budgeted almost \$18 million in additional capital investment at the MSPD site.

7. **Requirement # 6** – MSPD has detailed plans, as provided in Appendix 10, to renovate and reconfigure its facility to add gaming floor space to accommodate both its slot machines and table games. Table game expansion will be implemented in two phases, as detailed below. The financing for all the costs associated with table game expansion at MSPD will be achieved by utilizing an existing \$675 million revolving bank credit facility held by

MSPD's limited partner, Mohegan Tribal Gaming Authority ("MTGA"). As of January 19, 2010, the credit facility has over \$100 million in available funds. **Appendix 6** contains a "Sources and Uses" statement covering the addition of table games. It includes also copies of the loan agreement documents reflecting the MTGA credit facility, as previously filed by MTGA with the Securities and Exchange Commission and incorporated by reference in exhibits to MTGA's annual report on Form 10-K, included in Appendix 7. Appendix 6 includes also an executed commitment letter from the General Manager of MSPD, who serves as the Chief Executive Officer of the licensee, and correspondence from MTGA's Vice President of Finance confirming the availability of the required funds. The MTGA revolving bank credit facility and other available funds from operation will provide ample financing for all aspects of table game expansion at MSPD, including the acquisition of table games and associated equipment and the build out of the licensed facility, as well as the \$16.5 million table game authorization fee to be paid prior to June 1, 2010.

8. **Requirement # 7** – Attached hereto as Appendix 7 is MSPD's most recent audited financial statements and reports of independent auditors which were previously submitted to the Bureau of Licensing and the Board's Financial Investigations Unit on or before November 25, 2009 for the fiscal year ended September 30, 2009. Also attached in Appendix 7 is MTGA's most recent Form 10-K for the same fiscal year as filed with the Securities and Exchange Commission ("SEC") on December 28, 2009, a link to which was previously submitted to the Bureau of Licensing and Financial Investigations Unit on January 5, 2010. Additional financial documents are available at the MTGA's website at www.mtga.com or through SEC's EDGAR reporting websites. These documents provide clear and convincing

evidence of the financial stability and responsibility of MSPD and the Mohegan Sun organization.

9. **Requirement # 8** – As generally described above, MSPD and the Mohegan Sun organization are obviously qualified and have more than sufficient business ability and experience to create and maintain a successful table game operation. Attached as Appendix 8 are pages from the MTGA website which demonstrates the extensive experience of the Mohegan Sun organization at its casino in Uncasville, Conn. Furthermore, as also indicated above, MSPD’s operation of slot machines has been a resounding success. In this regard, **Appendix 8** includes the most recent page from the Board’s website detailing MSPD’s generation of gross terminal revenue and contributions to property tax reform, local share, economic development and horse racing. Also included in the Appendix is a breakdown by department of the current jobs filled within MSPD’s slot machine operations, and a breakdown of its capital investment in the MSPD facility

10. **Requirement # 9** – Like the other financial obligations resulting from table games expansion, MSPD and MTGA are financing the \$16.5 million table game authorization fee through MTGA’s \$675 million revolving bank credit facility described above. Those funds are available and MSPD can provide the Board with any assurance of payment that it may require. That credit facility is included in Appendix 6 and is included in **Appendix 9** by reference. Appendix 9 also confirms that the authorization fee will be paid at one time and not in installments and is expected to be paid prior to June 1, 2010, subject to the granting of this Petition.

11. **Requirement # 10** – Attached as **Appendix 10** hereto are detailed site plans identifying MSPD’s proposed table game area.

12. **Requirement # 11** – Attached as **Appendix 11** hereto is the Waiver Form executed by Robert Soper, President of MSPD, and acknowledged by each of MSPD’s licensed principals and those principals whose applications remain pending before the Board, waiving its right to a refund of the \$50 million slot machine licensing fee, or any portion thereof, under 4 Pa. C.S. § 1209(f) and MSPD’s contract with the Commonwealth dated April 17, 2007 (included in Appendix 11) as well as any right to sue for return of its licensing fee or any portion thereof.

13. This Petition also includes **Appendix 12** which provides an outline of MSPD’s training and instruction plan for personnel that will be involved in table games and **Appendix 13** which contains a breakdown of anticipated investment associated with table games as well as an estimate of the number of construction jobs involved.

B. Standard for Review

14. The Board’s standard for review of this Petition is provided at 4 Pa. C.S. § 1315A and with several exceptions specifically addressed below, closely follows the statutory requirements applicable to this Petition.

15. As demonstrated herein and in the attached exhibits, MSPD has met its burden by clear and convincing evidence.

16. MSPD’s slot machine license is in good standing as demonstrated by the Board’s recent renewal of that license. The conduct of table games at MSPD will generate millions of dollars for both the Commonwealth and local municipalities through tax dollars and community grants and will provide hundreds of new jobs, the vast majority of which will be filled by nearby Commonwealth of Pennsylvania residents.

17. MSPD and MTGA, its limited partner and the sole member of its general partner, , have foreseen and arranged for the financing of all of the costs associated with table game

expansion at MSPD through MTGA's \$675 million revolving bank credit facility. This includes the \$16.5 million table game authorization fee and renovations to its licensed facility to accommodate both table games and slot machines.

18. MSPD has financial stability, integrity and responsibility as demonstrated by the Board's recent renewal of its slot machine license. Also, as demonstrated herein, it has globally recognized business ability and experience to successfully operate table games through MTGA's experience at Mohegan Sun in Connecticut.

19. Included in the detailed site plans attached as Appendix 10 for the licensed facility are the surveillance measures for the area of the gaming floor in which table games will be operated. Those plans demonstrate the adequacy of surveillance where table games will be operated. Also attached hereto as Appendix 14 are security and surveillance plans for table games, which demonstrates that security and surveillance will be more than adequate.

20. MSPD agrees that it will not permanently reduce the 2466 slot machines in operation at MSPD on October 1, 2009 in order to install slot machines. As demonstrated in the site plans, attached as Appendix 10; MSPD plans to implement table games in two phases. Under Phase 1, MSPD plans to remove 389 slot machines from a portion of its existing gaming floor and install 61 table games. At the same time, under Phase II, MSPD will renovate its licensed facility and construct an additional 7,250 square feet of gaming floor which will be utilized to accommodate slot machines (completed by July 1, 2010) and will subsequently further reconfigure its gaming floor to add 20 additional table games and return its slot machine count to at or above its current 2,466 complement (completed by August 1, 2010).⁴ Indeed, the build-out

⁴ This two-phased plan is referenced as OP-5. Included in Appendix 10 hereto is a summary of the proposed reconfiguration of the gaming floor under OP-5. Under 4 Pa. C.S. § 1207(20), the Board or a Board employee are expressly authorized to permit a temporary reduction in the number of slot machines in operation "for the duration of any renovation, remodeling or modification of an area of a licensed facility where slot machines are located."

of the gaming floor will complement and enhance the existing gaming floor and the storyline of the licensed facility.⁵ However, MSPD has no plans and will not permanently reduce the number of slot machines in operation on October 1, 2009 to install table games.

21. Furthermore, as indicated previously, MSPD has executed the waiver required by Section 1312A(b)(11). Finally, MSPD will provide any information requested by the Board in a timely fashion.

III. SUMMARY

MSPD's Petition fulfills all of the requirements of 4 Pa. C.S. § 1312A. Furthermore, through this Petition and accompanying attachments, MSPD has met the Board's standard of review for the Petition under 4 Pa. C.S. § 1315A by clear and convincing evidence.

Accordingly, this Petition has merit and should be granted and the Board should issue MSPD a table game operation certificate in a timely fashion.

MSPD's plans precisely follow the statute and temporarily reduce the number of slot machines in operation to renovate, remodel and modify the licensed facility. These slot machines will be returned to operation once construction of the build-out of the licensed facility is completed. Concomitantly with the filing of this Petition, MSPD is submitting a distinct, but related Petition, which requests regulatory approval under Section 1207(20) to proceed with its plans as outlined herein.

⁵ A narrative description of the gaming floor expansion is also included in Appendix 10.

WHEREFORE, for all of the foregoing reasons, the Board should grant this Petition and issue a table games operation certificate to MSPD.

Respectfully submitted,



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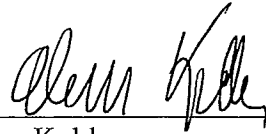
Dated: January 22, 2010

Attorneys for Downs Racing, L.P. d/b/a
Mohegan Sun at Pocono Downs

CERTIFICATE OF SERVICE

The undersigned counsel for Downs Racing, L.P. hereby certifies that a true and correct copy of the foregoing document was served this date by hand delivery, addressed as follows:

Cyrus Pitre, Chief Enforcement Counsel
Nan Davenport, Deputy Chief Enforcement Counsel
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Dated: January 22, 2010