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The _____ MICHIGAN GAMING _____ Newsletter



GLOBAL GAMING EXPO 2008: PART II

G2E KEYNOTE ADDRESSES FEATURE ECONOMIC AND GAMING INDUSTRY LEADERS

The 2008 Global Gaming Expo featured two keynote speaker sessions. The first keynote session was held on Tuesday, November 18, and featured an address by Ron Insana, accomplished businessman, award-winning journalist and former host of CNBC's "Street Signs." In an entertaining and thought-provoking speech, Mr. Insana discussed the current problems facing the U.S. economy, as well as the efforts being made to try to solve these issues. He discussed his experience in covering some of the country's prior economic crises and the lessons that can be drawn from these prior events. In his brief comments regarding the commercial gaming industry, Mr. Insana noted that although Las Vegas is currently troubled, it is not dead. Mr. Insana also shared his thoughts that it will be well into 2009 before the economy stabilizes.

The second keynote session occurred on Wednesday, November 19, 2008 and featured a "State of the Industry" roundtable discussion moderated by Frank Fahrenkopf, Jr., president of the American Gaming Association. This keynote panel included Gary Loveman, Chairman and CEO of Harrah's Entertainment, Inc., T.J. Matthews, CEO of International Game Technology (IGT), Ernie Stevens, president of the National Indian Gaming Association (NIGA), and Armin Karu, chairman of the Olympic Entertainment Group, a casino operation company working in eastern and central Europe.

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Mr. Loveman began the discussion by sharing his opinion that the liquidity crisis and tightening credit markets are more important challenges facing casino industry growth than the short-term reduction in consumer spending. He shared his belief that the industry was building too much, and building too big, saying that casino developers had been “spending like drunken sailors.” However, he noted that the gaming industry was resilient and fundamentally strong and would get through the current economic crisis, though there were a number of “unpleasant” things that needed to be done in the meantime.

Mr. Matthews explained that the current economic crisis had impacted IGT’s future business plans, as it was likely that a number of planned casino developments have been, and were going to be, put on hold. Mr. Matthews said that the company is aiming to not only help increase customer’s revenues, but also help its casino customers become more efficient through new technologies, including server-based gaming, and the likely effect it will have on casino floors.

Mr. Stevens discussed the NIGA’s excitement over the incoming Obama Administration, and his hope that this would lead to stronger government-to-government communication between Indian Country and the U.S. Government. He also discussed his opposition to proposed changes to the Indian Gaming Regulatory Act (IGRA), while noting that no one in Indian Country likes IGRA, which is viewed as a diminishment of tribal sovereignty. Nonetheless, Mr. Stevens said that Indian Country is celebrating the fact that tribal gaming is generating \$26 billion annually in revenue and provides 600,000-700,000 jobs.

Mr. Karu spoke on gaming issues facing the international market, specifically central and eastern Europe. Mr. Karu said that this region has seen tremendous growth recently, as only 20 years ago, gambling was illegal in many of these areas. This growth has also led to an increase of quality in the casino product. However, Mr. Karu did say that the global economic crisis is impacting casinos in Europe, just as it is in the United States.

In all, the panelists agreed that the current economic downturn will significantly impact how gaming companies do business in the future. Mr. Loveman stated that, though the crisis will make the short-term difficult, the long-term prospects for the

industry are good. In the short-term, he said that transactions that will clean up the company’s balance sheet are the way to go, while at the same time giving exceptional guest service.

G2E PANEL DISCUSSES GAMING INDUSTRY INVESTMENT AND LICENSING OF SOVEREIGN ENTITIES

On Wednesday, November 19, as part of the 2008 Global Gaming Expo, an expert panel of gaming industry professionals discussed the regulatory issues that arise when sovereign entities decide to invest in commercial gaming enterprises, and thus become subject to gaming licensure. This panel, entitled, “Expanding Licensure: When Sovereigns Join the Game” was moderated by Robert Russell, Gaming Analyst with Regulatory Management Counselors, P.C., and included Ellen Whittemore, an attorney with Lionel Sawyer & Collins, James Allen, CEO of Seminole Gaming and Chairman of Hard Rock Entertainment, and Jennifer Carleton, of counsel with Brownstein Hyatt Farber Schreck.

Ms. Whittemore began the conversation by discussing steps that sovereign entities (and/or their sovereign wealth funds) can take to prepare for entry into a commercial gaming jurisdiction. According to Ms. Whittemore, entities do not understand the licensing process the first time they are introduced to it. She said it is important to educate the sovereign on the licensing and investigation process that they will encounter. She said that it is also important to educate the regulators of the specific jurisdictions involved.

Ms. Carleton echoed Ms. Whittemore’s statements by noting that both the sovereign entity and the licensing jurisdictions will have a “learning curve” in getting comfortable with each other. She noted that most jurisdictions have designed their regulatory structures to license corporations, not another sovereign, and that as a result, the gaming regulators need to seek to properly interpret the regulations in the context of a sovereign entity.

Mr. Allen discussed how tribal sovereignty played a large role when the Seminole Tribe acquired Hard Rock Resorts. According to Mr. Allen, one of the

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main questions that was asked of the Tribe was whether it would “hide behind” its sovereignty in the event the transaction went bad. In the transaction, the Tribe formed a number of corporate entities to hold ownership of the assets, and thus agreed to a limited waiver of its sovereignty. Also, the Tribe agreed to appoint an independent Board of Directors to manage the Hard Rock investment. He noted that Seminole tribe has adopted a corporate structure with various committees in order to ensure the integrity of the operation.

Ms. Whittemore then discussed the sovereignty issues present in the Dubai World acquisition of an ownership stake in MGM Mirage. She noted that there are a number of unique issues present when trying to license a foreign organization created under the laws of a culturally different country. To do this, Ms. Whittemore said that they tried to get as many regulators from as many jurisdictions as they could to travel to Dubai to educate them as to the organization and the individuals who would be making the decisions.

Ms. Carleton emphasized that the transactional costs in obtaining licensure for a sovereign entity are very high, and require constant communication with the various regulators in each jurisdiction where the company is going to do business. She also pointed out that getting the license is just one part, and on-going compliance with each jurisdiction’s requirements is also important.

G2E PANEL DISCUSSES DEVELOPMENT OF PUBLIC SLOT LABS

On Tuesday, November 18, 2008, an expert group of gaming regulators participated in a panel discussion entitled, “Testing, Testing: Setting Up a Public Slot Lab.” The panel included Chris Adams, Gaming Lab Manager for the Michigan Gaming Control Board, Michael Cruz, Director of Gaming Laboratory Operations for the Pennsylvania Gaming Control Board, Travis Foley, Chief of the Technology Division for the Nevada Gaming Control Board, Emil Lyon, Director of the Mississippi Lab and Eric Weiss, Bureau Administrator of Technical Services for the New Jersey Division of Gaming Enforcement. The panel was moderated by gaming attorney Lloyd Levenson.

Mr. Michael Cruz began the discussion by sharing his experience in helping to create the Pennsylvania Gaming Control Board Laboratory from the ground up over the past 2-3 years. Mr. Cruz said that his lab started with 4 employees in 2006, and will increase to 17 employees and a 5,500 square foot lab facility by January, 2009. Mr. Cruz said that, as Pennsylvania is a relatively new gaming jurisdiction, he and his staff were able to completely shape and develop the lab’s policy. A main thrust of this policy is a prioritized queue, in which the gaming lab works with gaming operators and manufacturers to identify what products the gaming operators want on their floors, and give these products priority in the review and approval process.

Mr. Eric Weiss then discussed the New Jersey Gaming Lab and the changes that it has undergone to improve efficiency and performance. Mr. Weiss said that his lab had experienced past problems with communication with gaming manufacturers, as well as a relatively long turn-around time for the approval of products. To combat these issues, the New Jersey lab has implemented an on-line portal which allows manufacturers to track the approvals of their products and download regulatory agency forms. The lab has also focused on measuring and monitoring its review, testing and approval systems. Given these improvements, the New Jersey lab’s approval time is now approximately 47 days, down from more than 60 days.

Mr. Emil Lyon shared his experience in “reinventing” the Mississippi lab since his hiring more than four years ago. He discussed the large backlog of product submissions that the lab had back in 2004, noting that many of these backlogged submissions had not even been numbered. Mr. Lyon pointed out that Mississippi laws and regulations allow independent test labs to submit reports on the products to the Mississippi lab. This allowed the lab to efficiently work through its backlog and get back on track. He said that the Mississippi lab works on a “first in, first out” basis and is now turning around product approval decisions in 29 days (not including the time the product spends with the independent testing lab).

Mr. Chris Adams then discussed his tenure as the head of the Michigan Gaming Control Board’s (MGCB) lab. Notably, panel moderator Lloyd Levenson described the Michigan lab as an example of “stability” since its inception. Mr. Adams began

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his comments by recognizing his staff and noting that they play a large role in the lab's success. He described his lab as taking a "regulatory compliance" approach to review and approval of gaming devices and products. Mr. Adams said that his lab's job is to review the products and make sure that each submission meets the specifications required by the applicable law and regulations. Mr. Adams said that he makes a point to stay in constant communication with manufacturers and the casino operators so that they know the types of new technology and products that are likely to be submitted in the future so that the lab will not be surprised by a new product that may need approval. In giving advice to newer gaming jurisdictions that are just setting up their laboratories, Mr. Adams said that it is important to know the role that the lab will have within the regulatory organization, and then design the lab to fit that role.

Mr. Travis Foley described his experience in working within an "experienced" gaming lab that has been in existence since the early 1980's. Mr. Foley said that, although his lab is recognized as a leader in this industry, it is a lab that is constantly evolving, and also tries to learn from other gaming jurisdictions. Mr. Foley said that the Nevada lab has seen a large increase in the types of products it reviews for approval. As such, the lab has expanded, something Mr. Foley said was somewhat easier because the lab is self-funded through its application and regulatory fees.

SMOKING BAN IMPACT EXAMINED AT GLOBAL GAMING EXPO

The enactment of a smoking ban applicable to casinos has a significant impact on revenue and jobs according to members of a panel examining the issue at the Global Gaming Expo last week. The panel, which was moderated by Wes Ehreke, the President of the Iowa Gaming Association, included Chris Downy, Executive Director of the Australasian Casino Association, Lois Rice, Executive Director of the Colorado Gaming Association, and Joe Corbo, the President of the Casino Association of New Jersey.

Mr. Downy reported that in November of 2007 a smoking ban was implemented and applied to casinos in Australia. He said that there was a severe impact on revenue with a decline of from 8 to 12

percent in most quarters following the enactment of the ban. Additionally, he noted that there was a related impact on key suppliers to the casinos, such as Fosters Beer Company, which saw a significant decline in sales. He said that the smoking ban allowed the casinos to keep "premium" gaming rooms with smoking allowed for high rollers. He said that employees are given the choice with regard to whether to work in the premium smoking area, and most of them choose to do so because the tips and gratuities tend to be higher.

Lois Rice indicated that the enactment of a smoking ban in Colorado has had a severe impact on revenue, with the state experiencing a decline in tax revenue through the first three quarters of this year of 15.72 percent. She noted that the smoking ban passed in the fall of last year, which gave the casinos little time to properly inform casino patrons of the change before it took effect in January of this year. She noted that marketing materials for casino are typically prepared six months in advance, and suggested that there needs to be lead time for the implementation of any ban to avoid major problems. Mr. Downy agreed with this point saying that if a ban is passed, casinos need a minimum two year lead-in time to properly communicate the change to customers.

Joe Corbo indicated that the issue of a casino smoking ban involves balancing many concerns in addition to employee health concerns. He said that the competitive environment needs to be considered, and law makers need to consider whether the ban will result in a level playing field. He noted that as with most businesses, casino operators want to attract customers, and market surveys have demonstrated that casino customers tend to smoke. He said that before enacting the ban, its impact on various casino stakeholders (employees, vendors, etc.) should be carefully considered. Mr. Corbo noted that employees in Atlantic City have opposed the ban, which had a lengthy and complicated history, but now calls for 75 percent of the casino floor to be smoke free.