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*Editor in Chief*

**David D. Waddell, Esq.**

Phone: 517.507.3859

[waddell@rmclegal.com](mailto:waddell@rmclegal.com)

*Senior Gaming Analyst & Editor*

**Robert R. Russell, II**

Phone: 517.507.3858

[russell@rmclegal.com](mailto:russell@rmclegal.com)

*Reporter and Associate Editor*

**Dustin M. Ford**

Phone: 517.999.5414

[dford@rmclegal.com](mailto:dford@rmclegal.com)

*Reporter*

**Douglas L. Minke**

Phone: 313.221.9380

[minke@rmclegal.com](mailto:minke@rmclegal.com)

*Reporter*

**Blaine R. DeGracia**

Phone: 517.507.3857

[degracia@rmclegal.com](mailto:degracia@rmclegal.com)

*Subscription information:*

[info@michigangaming.com](mailto:info@michigangaming.com)

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**RMC Ventures, LLC**

University Place Center  
333 Albert Ave, Suite 450  
East Lansing, MI 48823  
Phone: 517.507.3860  
Fax: 517.908.0235  
[www.rmclegal.com](http://www.rmclegal.com)

# The \_\_\_\_\_ MICHIGAN GAMING \_\_\_\_\_ Newsletter



## **GLOBAL GAMING EXPO 2010: PART II**

### **MICHIGAN GAMING EXPERTS HIGHLIGHT PANEL DISCUSSION ON NETWORKED GAMING**

On November 16<sup>th</sup>, as part of the G2E “Gaming Technology – Plug and Play” conference track, a panel of gaming experts discussed the current status of networked gaming within the industry. The panel discussion, entitled, “GSA: The New Reality of Networked Gaming Applications”, was moderated by Gregg Solomon, CEO of MotorCity Casino Hotel, and included Adrian Marcu, Vice President Global Technical Architecture for International Game Technology; David Nehra, Vice President and CIO of MotorCity Casino Hotel; Rob Siemasko, Vice President, Product Management, WMS Gaming, Inc.; and Ramesh Srinivasan, Executive Vice President, Bally Systems, Bally Technologies, Inc.

Mr. Nehra described networked gaming as being in its “beginning” stages, and though he believes there are still tough lessons that will have to be learned, the manufacturers are moving in the right direction. Mr. Marcu stated that he is excited about the possibilities with networked gaming and foresees an explosion of different applications that will be available on a gaming device. He also said that the development of networked gaming will allow for multiple sources of creativity to combine to enhance a player’s gaming experience.

Mr. Siemasko stressed the importance of open standards in setting a firm foundation upon which the networked games and their applications can be built. He also stated that it is his goal, as a manufacturer, to make the return-on-investment related to networked games a “must have” for his casino operator clients.

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Mr. Nehra stated that the steps to successfully implement a networked gaming system will include planning and communication. He suggested that an operator view the implementation as a strategic partnership with its manufacturer. Mr. Nehra also emphasized the importance of having a solid relationship with the regulators that is based on mutual respect.

Mr. Solomon stated that an operator interested in networked gaming should move now, and not “sit on the sidelines”, as implementation is a long and complicated process that will require a coordinated approach that breaks down the walls between casino departments. He also shared his opinion that communication between the operator, the manufacturer and the regulators are key to a successful implementation.

Mr. Srinivasan stated that he believes networked gaming is already a value proposition for casino operators, as all of his customers who have invested in networked systems must be having good results, because they are coming back to the manufacturer for more applications. He also opined that the level of technology has made it such that an operator’s dreams for the possibilities of networked games are already possible today.

In closing the discussion, Mr. Solomon stressed the role that the Gaming Standards Association (“GSA”) is playing in the further development of networked gaming and open gaming device standards, and encouraged those interested in this segment of the industry to join GSA. He noted that the benefits provided by GSA’s efforts are not just enjoyed by the gaming device manufacturers and suppliers, but also by the casino operators themselves. Mr. Nehra echoed these sentiments, stating that MotorCity Casino’s requirement of GSA certification from its electronic gaming device vendors gives him confidence and allows his operation to focus on generating revenue, not worrying about whether the devices on his floor can communicate properly.

## **EXPERTS DISCUSS CURRENT ISSUES FACING CASINO OPERATORS AND SUPPLIERS**

On November 16<sup>th</sup>, a panel discussion entitled, “Casino Operators, Regulators, and Suppliers: Working Together for Progress,” was held as part of G2E 2010. In this panel discussion, industry representatives discussed the current state of the gaming industry and hopes for future collaboration between regulators and industry members in order to provide for more efficient regulatory systems. The panel was moderated by Lloyd Levenson, attorney and CEO of Cooper Levinson. Panel members included Kevin O’Toole, Executive Director of the Pennsylvania Gaming Control Board; Timothy Wilmott, President and COO of Penn National Gaming; Marc Comella, Vice President of Regulatory Compliance at Bally Technologies, Inc., and Mark Lipparelli, Member of the Nevada Gaming Control Board.

Mr. O’Toole began by summarizing the Pennsylvania regulatory scheme and giving his opinions on why the jurisdiction has been successful. He noted that, despite Pennsylvania’s relatively high tax rate of 55%, casino operators have been successful due to gamblers within the state increasingly patronizing local casinos instead of travelling to other jurisdictions. Mr. O’Toole also noted that the legislature has recently given regulators greater discretion regarding certain licensing practices, allowing the Board to implement more efficient processes for certain suppliers.

Mr. Wilmott noted that the recent addition of table games in Pennsylvania and West Virginia has allowed his company to expand within each of those jurisdictions. Conversely, he noted that Maryland’s imposition of a 67% tax rate has caused the company to limit its investment in the state in order to stay competitive in other markets. Mr. Wilmott commented on Ohio, stating that he hopes that the change in the governor’s seat and subsequent changes in the makeup of the initial gaming control board will not delay the licensing process for both operators and suppliers as casino facilities become operational.

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Commenting on expanding jurisdictions, Mr. Comella noted that duplication of disclosure requirements in certain jurisdictions have led to inefficiencies and increased costs for suppliers. As an example, he cited Pennsylvania's new table gaming disclosure process which requires licensed slot manufacturers who also supply table gaming equipment to renew the application process and apply with full disclosure as table game suppliers as well.

Mr. Lipparelli spoke of recent opportunities to homogenize the licensing process and create reciprocity for licensees across various jurisdictions. By advising new jurisdictions on possible licensing practices, existing regulators in places such as Nevada and New Jersey can help to develop more efficient practices in new jurisdictions that allow for a more modern approach to regulation. Mr. Lipparelli closed by citing Nevada's recent changes in the licensing process for independent contractors and reporting requirements for employees as examples of more streamlined approaches towards regulation.

## TRIBAL LABOR LAWS AND UNIONS DISCUSSED AT G2E 2010

On Tuesday, November 16, 2010, a panel of tribal law and labor union experts discussed recent developments in the field of tribal labor law, focusing on the ability of labor unions to organize tribal casino employees. The panel, entitled "Organization with Cooperation: Unions and Casinos," was moderated by Russell Lichtenstein, an attorney with the law firm of Cooper Levinson. Panel members included D. Taylor, Secretary and Treasurer of the Culinary Workers Union, Local 226; Gerald Nitzen, an industry labor and employment expert; Mark Samos, Labor Relations Specialist at Foxwoods Casino; and David Waddell, attorney and President of Regulatory Management Counselors, P.C..

Mr. Taylor spoke first, representing the view of unionized casino workers in general. He noted the long history between unions and casinos, stating that the relationship has been beneficial to both industry and labor. Mr. Taylor stated that unionized workers can help bring a human

element to an industry that is often viewed in an impersonal manner in state legislatures. Further, he stated that casino workers can help state and local governing officials recognize that the gaming industry provides local benefits beyond taxes and tourism in the form of employment opportunities for citizens.

Mr. Nitzen noted that flexible unions will be the most successful in a tribal gaming environment. Unions that have worked with casinos before are most able to collaborate with tribes that operate casinos because these unions have recognized the numerous and unique challenges facing gaming establishments. Mr. Nitzen stated that collaboration and communication between tribes and unions are important aspects of organizing tribal casino workers.

Mr. Samos offered a view from the standpoint of tribal management, noting that sovereignty is the main concern of tribal leaders in developing relationships with potential unions. He noted that he has seen organization efforts under both tribal and federal law during his time at Foxwoods Casino, and his experience has shown that, when negotiating labor agreements with tribes that have established organized labor laws, potential unions show great respect to the tribe by working within existing tribal legal structures. By attempting to organize under federal labor laws, unions negatively affect the tenor of labor negotiations resulting in a longer and more complicated process.

Mr. Waddell provided a brief overview of the seminal federal court opinion in this matter, focusing on the effects of *San Manuel Indian and Casino v. NLRB* decision and its progeny. The controversial *San Manuel* decision allowed for the National Labor Relations Board ("NLRB") to enforce federal statutory law on tribal casinos. Mr. Waddell opined that this opinion has served to erode notions of tribal sovereignty in relation to tribal labor and employment laws. Mr. Waddell further noted that subsequent cases, such as *Little River Band v. NLRB*, have further operated to remove sovereignty from Native American tribes, offering precedent that could be interpreted in the future in ways that would radically redefine tribal relations with state governments. In the *Little*

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*River Band* case, Mr. Waddell observed that the court held that the tribe should exhaust its administrative remedies through the NLRB before bringing a jurisdictional challenge, a move that implicitly recognized NLRB jurisdiction over labor disputes

## **PANEL PRESENTATION FOCUSES ON CASH REPORTING REQUIREMENTS**

A G2E panel discussion entitled, “Cash Reporting: New Developments in U.S. and International Jurisdictions” was held on the morning of November 17<sup>th</sup>. The panel was moderated by Thomas Peterman, Senior Vice President and General Counsel for MGM Grand Hotel & Casino. Panel members included Tom Bechtel, COO of New Wave Automation; Brian Ferrilla, founder and Managing Director of Resort Advantage; and Peggy Jacobs, Executive Director of Finance for MGM Grand Hotel & Casino.

The discussion started with the panel members comparing the cash reporting and anti-money laundering requirements in the United States with those requirements in foreign jurisdictions, including Macau, Australia, Canada, Singapore and Vietnam. Mr. Ferrilla noted that, although foreign compliance regulations differ from the U.S. regulations, they are not necessarily less stringent. He stated that no matter the jurisdiction that an operator is entering, whether foreign or domestic, the goal from a cash transaction reporting standpoint is to develop a quality compliance program that is world class.

Mr. Bechtel observed that technology has made cash transaction reporting much easier, and allows information to be reviewed and reported on a real-time basis. Ms. Jacobs agreed with this assessment, pointing out that the technology in this area keeps evolving. She did state, however, that technological advances can create somewhat of a “ghost standard,” as the regulations require an operator to utilize the full extent of its technology - - though it is difficult to know exactly what this means.

The panel discussion concluded with the panelists discussing current audit issues regarding to cash transaction reporting within the industry. Mr.

Ferrilla said that he has observed three main issues: 1) questions as to how the operator’s risk assessment is to be developed, and how an established compliance system supports the risk assessment; 2) operators are being told they need to be more proactive on Suspicious Activity Report generation and submission; and 3) questions as to the proper response when a transaction is flagged as an Office of Foreign Assets Control (“OFAC”) violation. Ms. Jacobs stated that she has found that the IRS auditors are not comfortable with a patron using a P.O. Box as a home address. She also said that the IRS is asking the operators to cull their data looking for “structuring” (i.e. manipulating transactions to avoid reporting requirements) trends.