

August 5, 2011

Volume 17, Issue 23

For more information on Michigan's gaming industry, please visit www.michigangaming.com

Editor in Chief

David D. Waddell, Esq.

Phone: 517.507.3859

waddell@rmclegal.com

*Senior Gaming Analyst
& Editor*

Robert R. Russell, II

Phone: 517.507.3858

russell@rmclegal.com

Reporter and Associate Editor

Dustin M. Ford

Phone: 517.999.5414

dford@rmclegal.com

Reporter

Douglas L. Minke

Phone: 313.221.9380

minke@rmclegal.com

Reporter

Blaine R. DeGracia

Phone: 517.507.3857

degracia@rmclegal.com

Subscription information:

info@michigangaming.com

A publication of

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

The _____ MICHIGAN GAMING _____ Newsletter



BAY MILLS LITIGATION UPDATE

The Michigan attorney general's office has made a motion to amend its original complaint in a lawsuit that challenges the validity of a casino operated by the Bay Mills Indian Community ("Bay Mills") in Vanderbilt, Michigan. The motion, filed on July 15, 2011, seeks to add individual members of the Bay Mills tribal gaming commission and executive council to the complaint. A hearing is set in the case for August 9, 2011.

The amended complaint contains allegations that the "Council Members that authorized and operate the casino, and the Tribal Officials that approved the license for the Vanderbilt Casino and allowed its continuing operation exceeded their authority under Tribal law." In addition, the state has included allegations that Bay Mills waived its sovereign immunity through its gaming ordinances and that this waiver extends to individuals of the tribal gaming commission.

Bay Mills responded to the motion to amend the complaint by filing a brief in opposition stating that the state's allegations must first be heard in Bay Mill's tribal court because each new allegation is based primarily in tribal law. The brief in opposition also argues that the new allegations are based on events separate from those that are the basis of the litigation and, therefore, must be contested in tribal court separately from the existing litigation.

In addition to the present litigation, Bay Mills has filed a complaint against Governor Rick Snyder alleging that the Governor improperly asserted jurisdiction over Bay Mills by filing the initial lawsuit regarding the Vanderbilt Casino. Filed on July 15, 2011, the complaint states that the "continued assertions of State jurisdiction over the Vanderbilt Parcel and of the actions of the Bay Mills Indian Community, its agents and officials thereon by Governor Snyder's representatives violate the supreme law of

(Continued on page 2)

the land, Article VI, Clause 2, of the United States Constitution, MILCSA, and fundamental provisions of federal Indian law.” Governor Snyder has not yet filed an answer to Bay Mill’s complaint.

Bay Mills opened the Vanderbilt casino on November 3, 2010. The tribe sought to expand the original facility, which held 36 slot machines, by breaking ground on an expansion project on December 1, 2010, that would have doubled the size of the original site.

The state attorney general’s office issued a letter to Bay Mills on December 16, 2010, that demanded that the tribe cease all gaming activity at the Vanderbilt facility due to the state’s allegations that the tribe was operating an illegal casino. Litigation began on December 21, 2010 when the state and the Little Traverse Bay Band filed separate lawsuits challenging the validity of the Vanderbilt casino under tribal compacts and federal law. Shortly after the initial filings, the District Court consolidated the two cases.

On Tuesday, March 29, 2011, the District Court held that the Bay Mills’ Vanderbilt casino was not operating on “Indian Lands” as required by federal law and issued a temporary restraining order that required the casino to close during litigation. In doing so, the court rejected the Bay Mills’ argument that the Vanderbilt land qualifies as “Indian Land” because it was purchased from the earnings of a land trust and was used to consolidate and enhance tribal landholdings. In addition to examining the merits of the “Indian Land” issue, the order stated that immediate closure of the Vanderbilt casino would serve the public interest as “Bay Mills is operating the Vanderbilt Casino illegally.” The order also stated that the Little Traverse Bay Band would be economically harmed by the continued operation of the Vanderbilt casino due to a loss of patrons.

On Wednesday, June 29, 2011, the United States Sixth Circuit upheld the original order and a stay of the injunction issued by the District Court after an expedited review was filed by Bay Mills, keeping the Vanderbilt casino closed.

EMERGING TRIBAL ECONOMIES CONFERENCE TO BE HELD NEXT WEEK

On August 11-12, 2011, The Seminar Group will be conducting its “Emerging Tribal Economies” seminar in Acme, Michigan. The two-day conference will focus on seminars and group discussions regarding tribal economic planning, talent recruitment, business start-ups, and other issues facing tribal economies in the region.

The event will be held at the Grand Traverse Resort and Spa in Acme, Michigan and will feature several notable speakers that will address key economic considerations affecting tribal governments. Thursday’s events include a range of topics, including an introduction to tribal member entrepreneurship lead by R. Lance Boldrey of Dykema Gossett in Lansing. Seminars will also discuss the development of non-gaming enterprises and accessing capital in the current economic climate. Friday’s events will include a tribal leaders roundtable discussion featuring tribal leaders from several Michigan tribes.

For more information on the Emerging Tribal Economies conference, or for more information on other conferences organized by The Seminar Group, please visit the conference’s website at: <http://www.theseminargroup.net/seminar.lasso?seminar=11.INDMI>

MICHIGAN GAMING CONTROL BOARD ANNOUNCES ONLINE RENEWAL SERVICE

On Thursday, August 4, 2011, the Michigan Gaming Control Board (MGCB) announced the implementation of its new Online Non-gaming Vendor Exemption Renewal application, which is accessible via the Internet 24/7.

According to the MGCB press release, if you have received a Non-gaming Vendor Exemption Renewal letter directing license holders to use One Stop to renew your application, you will be able to complete the renewal transaction online.

(Continued on page 3)

Notably, on December 3, 2010, the MGCB unveiled its newly redesigned website. Mr. Rick Kalm, Executive Director of the MGCB, noted that the website would help “streamline the distribution of information from the MGCB to supplier licensees servicing the Detroit casinos, as well as provide an online submission process for certain regulatory filings.” Mr. Kalm also noted in December that it was the MGCB’s goals to utilize the website for Gaming Laboratory submissions and modify the portal in the future with additional automated functionality.

The new service can be found at www.michigan.gov/business.

AGA’S RESPONSIBLE GAMING WEEK

Today, August 5, 2011, marks the last day of the American Gaming Association (AGA) and the National Center for Responsible Gaming’s 14th annual Gaming Education Week. This year’s theme is “Know the Odds,” and urges gaming employees and patrons to learn more about how casino games work and the odds of winning and losing.

“The gaming industry takes responsible gaming very seriously, and a major part of its efforts center on transparency and education,” said Frank Fahrenkopf, president and CEO of the AGA. “It’s important for our employees and patrons to understand that the odds are with the house whenever someone enters a casino. This knowledge doesn’t mean you can’t still have fun gambling, but it helps people make more responsible decisions, which is the cornerstone of keeping gambling fun.”

The AGA’s efforts to educate casino staff and patrons centers around its brochure, “The House Advantage: A Guide to Understanding the Odds,” which according to the AGA, “provides information about a casino’s advantage in various games, debunks some commonly held superstitions, and outlines each game’s mathematical probabilities and other factors behind winning and losing. The brochure is widely distributed to various casinos throughout the United States and can be downloaded from the

AGA website at www.americangaming.org.

Responsible Gaming Education Week was developed by the AGA in 1998 and is held annually during the first week of August. The event was designed to create awareness of responsible gaming and disorderly gambling among employees, customers and the general public. It is part of the AGA’s Responsible Gaming National Education Campaign, created in 1999 as an industry-wide program focused on promoting and expanding responsible gaming education.

For more information on the AGA’s Responsible Gaming Education Week, please contact Holly Wetzel, at 202-552-2686.

EXECUTIVE DEVELOPMENT PROGRAM TO BE OFFERED OCTOBER 10-18 IN LAKE TAHOE

The Institute for the Study of Gambling and Commercial Gaming at the University of Nevada, Reno, in partnership with the Division of Extended Studies, will offer its 21st annual Executive Development Program for senior level gaming industry executives from October 10-18 in Lake Tahoe, Nevada.

This year’s Executive Development Program, titled “Confronting Challenges and Embracing Opportunities – Strategic Leadership in the Gaming Industry” will look at many of the various issues that casino organizations currently face. Such challenges include effective leadership, revenue enhancement, customer retention, operational efficiencies, effective marketing in increasingly competitive markets, managing political situations, and understanding financial alternatives.

According to Bill Eadington, Professor of Economics and Director for the Institute for the Study of Gambling and Commercial Gaming at the University of Nevada, Reno, noted that “there are a number of things past delegates remember and value about the Executive Development Program.

(Continued on page 4)

Among these are:

- A better understanding of the challenges posed in the internal and external environments in which modern casino companies and organizations must operate;
- The development of personal relationships with other Program delegates from throughout the world which (we hope) have continued long after the completion of the Program;
- An appreciation of time away from your normal working environment coupled with the opportunity to contemplate the “Big Picture” as it is evolving in many jurisdictions that may have important similarities, but also critical differences, from those you have experienced;
- An exposure to many top-notch faculty and industry representatives who have long been associated with the EDP, including Larry Barton, Bruce Rowe, Richard Schuetz, Pete Bernhard, Bo Bernhard, and Paul Steelman; and
- The thrill of victory and the (temporary) agony of defeat in the competition known as The Case.”

For more information, please visit www.gaming.unr.edu/edp or contact Teri Rodrigues at Extended Studies at terir@unr.edu, or 775-784-6685.