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The MICHIGAN GAMING Newsletter



MICHIGAN GAMING CONTROL BOARD RELEASES JUNE 10, 2014 PUBLIC MEETING AGENDA

On Tuesday, June 10, 2014, the Michigan Gaming Control Board ("MGCB") will hold its Regular Public Meeting. The agenda includes the following items:

- A. Consider the Licensing & Regulation Division's Recommendations Regarding Level 1 and Level 2 Occupational License Applications
- B. Consider the Executive Director's Report and Licensing & Regulation Division's Recommendation Regarding the Pending Supplier License Application of
 1. Gemellaro Systems Integration, Inc., Board File No. SL004418-14-001
- C. Consider the Executive Director's Reports and Licensing & Regulation Division's Recommendations Regarding the Pending Supplier License Renewal Requests of
 1. Advertising Specialties LLC, Board File No. SL001616-14-001
 2. C. L. Rieckhoff Company, Inc., Board File No. SL004151-14-001
 3. Cadillac Coffee Company, Board File No. SL000440-14-001
 4. Custom Architectural Sheet Metal Specialists, Inc., Board File No. SL006461-14-001
 5. Interblock, Luxury Gaming Products D.d. d/b/a Interblock D.d., Board File No SL005524-14-001
 6. Konami Gaming, Inc., Board File No. SL001249-14-001
 7. Lavdas Enterprises, Inc., d/b/a Lavdas Limousines, Inc., Board

- File No. SL001574-14-001
8. Lorio, Ross Entertainment Agency Inc. d/b/a Lorio, Ross Sterling Entertainment Agency Inc., Board File No. SL001123-14-001
 9. Multimedia Games, Inc., Board File No. SL006431-14-002
 10. Northern Lakes Seafood & Meats, L.L.C., Board File No. SL002903-14-001
 11. Perfect Cleaners of Detroit, Inc., Board File No. SL001729-14-001
- D. Consider the Executive Director's Report and Licensing & Regulation Division's Recommendation Regarding New Key Person of Supplier Licensee Cummins-Allison
1. The Pasich-Tucker Trust, Board File No. SL000263-14-001
- E. Consider the Executive Director's Reports and Licensing & Regulation Division's Recommendations Regarding the Pending Transfer of Interest In
1. Cummins-Allison Corp., Board File No. SL000263-14-002
- F. Consider the Administrative Law Judge's Proposal for Decision Regarding Occupational Licensee
1. Jaime Rebecca Graves
- G. Consider Board Acceptance of Acknowledgment of Violation of Casino Licensee
1. Greektown Casino, LLC, Board File No. CDA-2014-03
- H. Consider Detroit Entertainment L.L.C. and CCM Merger, Inc.'s Request for Approval to Execute Second Credit Amendment and Restated Credit Agreement and Related Requests

The MGCB meeting will take place at the Detroit Office Hearing Room, located at Cadillac Place, 3062 W. Grand Blvd., Suite L-700, Detroit, Michigan at 9:30 a.m. on Tuesday, June 10th.

CHARITABLE GAMING GROUP FILES LAWSUIT, INJUNCTION GRANTED

On May 22, 2014, a group of 15 charitable organizations and gaming suppliers filed a lawsuit in the Michigan Court of Claims seeking a temporary restraining order to prevent Michigan Gaming Control Board ("MGCB") Executive Director Richard Kalm from implementing charitable gaming rule changes that went into effect on May 14, 2014. Alternatively, the groups sought a preliminary injunction against the enforcement of rules. On Friday, May 30, 2014, the Court of Claims granted the Plaintiff's request for a preliminary injunction.

The charitable gaming rule changes that are the subject of the suit affect the operation of Millionaire Parties across the state. The plaintiffs include the Michigan Charitable Gaming Association, various charitable organizations, and charitable gaming suppliers. The MGCB, its Executive Director Richard Kalm, and the State of Michigan have been named as the defendants.

On Friday, May 30, 2014, the Court of Claims granted the Plaintiff's request for preliminary injunction and scheduled a pre-trial hearing for next Thursday, June 12, 2014.

MICHIGAN AG WITHDRAWS REQUEST FOR HIGH COURT REVIEW OF LANSING CASINO DECISION

In a June 3, 2014 letter to the Clerk of the United States Supreme Court, Michigan Solicitor General, Aaron D. Lindstrom, withdrew the State of Michigan's Petition for a Writ of Certiorari ("Petition") in *Michigan v. Sault Ste. Marie Tribe of Chippewa Indians*.

The Petition, filed on May 14, 2014, was in response to a decision by the United States Court of Appeals for the Sixth Circuit allowing the Sault Ste. Marie Tribe of Chippewa Indians ("Tribe") to continue its pursuit of a casino development in Lansing. The Sixth Circuit has decided that the Tribe was immune from suit under the doctrine of

sovereign immunity. The Tribe is proposing to invest \$245 million in building and operating a 125,000 square foot casino with 3,000 slot machines and 48 gaming tables.

In its decision, the court affirmed the Tribe's sovereign immunity even with respect to commercial endeavors. Importantly, the Court did not reach the issue of whether the land the Tribe acquired under the Michigan Indian Land Claims Settlement Act would qualify as "Indian lands" under federal law, which is necessary for the tribe to be able to conduct gaming on the property under the Indian Gaming Regulatory Act.

In *Bay Mills*, the Court noted that states have other means of enjoining unlawful gambling activities, such as denying gaming licenses, "bring[ing] suit against tribal officials or employees seeking an injunction against an illegal and unlicensed gambling operation under state law . . . [or] utiliz[ing] the Michigan penal code [to] prosecute . . . anyone who maintains – or even frequents – an unlawful gambling establishment." 572 U.S. — (2014).

According to the Michigan Attorney General's Director of Communications, Joy Yearout:

"[t]he Supreme Court's recent decision in Bay Mills about the scope of tribal immunity resolved an important legal question, namely, whom a state should sue when a tribe violates federal law. We now know the state must sue the tribal officials, not the tribe itself. This clarification has resolved some conflicts among the lower courts and thus eliminated the need for the Supreme Court to step in at this stage.

As you may recall, the Sixth Circuit's decision addressed a preliminary injunction to stop the Tribe's application. Now, the case will go back to the district court to proceed on the merits about whether the Sault Tribe violated its compact and whether the Tribe can move forward to take the land into trust.

In those proceedings, Michigan will continue to seek to hold the Sault Ste. Marie Tribe, through its officials, to the promises it made concerning gaming in this state."

Meanwhile, tribal officials expressed their continued belief in the Tribe's legal position and commitment to forge ahead with the Lansing project.

GAMING LEGAL PIONEER PASSES AWAY

It is with great sadness that we report on the passing of Bob Faiss, a leading Nevada gaming attorney. Bob was a partner in the Nevada law firm of Lionel, Sawyer and Collins. He played a vital role in the development of gaming laws and regulations in Nevada and many other jurisdictions. In Michigan, Bob and his law firm played an instrumental role in the development of the City ordinance with respect to the Detroit Casinos.

He was an Adjunct Professor in gaming law and policy at the William S. Boyd School of law, at the university of Nevada. He contributed an immense amount by devoting a lot of time and effort to educating and assisting many lawyers in learning the intricacies of gaming law as gaming expanded throughout the world.

The Michigan Gaming Newsletter would like to thank Jack Weyers for his contributions to this Newsletter.