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# The MICHIGAN GAMING Newsletter



## MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES FOR JUNE 2015

The Michigan Gaming Control Board (“MGCB” or “Board”) released the June, 2015 total adjusted revenue figures for the three Detroit casinos—MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino. Overall, the revenue for the Detroit market was up 0.9% compared to the same reporting period last year. For the first five months of 2015, the casinos’ aggregate revenue was up 4.8% compared with the same period last year.

Month in 2015	Total Adjusted Revenue 2015		
	MGM Grand Detroit	MotorCity Casino	Greektown Casino
	Total Adjusted Revenue	Total Adjusted Revenue	Total Adjusted Revenue
January	\$46,227,016.63	\$38,061,452.27	\$26,733,375.86
February	\$47,523,251.14	\$39,023,483.79	\$27,875,609.34
March	\$49,824,133.92	\$43,432,911.12	\$30,646,861.38
April	\$51,849,138.07	\$40,532,401.92	\$28,167,335.92
May	\$51,747,439.96	\$39,825,609.22	\$28,242,004.16
June	\$47,328,471.77	\$37,006,364.49	\$25,595,355.54
<b>Total</b>	<b>\$294,499,451.49</b>	<b>\$237,882,222.81</b>	<b>\$167,260,542.20</b>

Specifically, revenue for MotorCity Casino and Greektown Casino was up by 8.8% and 1.2%, during June, 2015 when compared to the same month last year. Monthly revenue for MGM Grand Detroit was down 4.7% compared to June 2014.

Month in 2015	Total Adjusted Revenue and Taxes 2015		
	All Detroit Casinos		
	Total Adjusted Gross Receipts	Total State Wagering Tax	Total Detroit Wagering Tax
January	\$111,021,844.76	\$8,992,769.43	\$12,101,381.08
February	\$114,422,344.27	\$9,268,209.89	\$12,472,035.53
March	\$123,903,906.42	\$10,036,216.42	\$13,505,525.80
April	\$120,548,875.91	\$9,764,458.95	\$13,139,827.47
May	\$119,815,053.34	\$9,705,019.32	\$13,059,840.81
June	\$109,930,191.80	\$8,904,345.54	\$11,982,390.91
<b>Total</b>	<b>\$699,642,216.50</b>	<b>\$56,671,019.54</b>	<b>\$76,261,001.60</b>

All three casinos are subject to a wagering tax of 19%, with 10.9% of this levy to go to the City of Detroit and 8.1% to be paid to the State of Michigan.

The market shares for MGM Grand Detroit, MotorCity Casino, and Greektown Casino for June 2015 were 43%, 34%, and 23%, respectively.

The figures released by the Board are the gross receipts less winnings paid to wagerers. The figures do not include: 1) any fees or other relevant city, state or federal taxes; 2) wages and benefits paid to casino employees; 3) payments to suppliers, services providers or vendors; and 4) other normal business expenses.

## SIXTH CIRCUIT RULES IN FAVOR OF NLRB IN SAGINAW CHIPPEWA SUIT

On July 1, 2015, the US Appeals Court for the Sixth Circuit ruled in favor of the National Labor Relations Board (“NLRB”) regarding a labor dispute involving the Saginaw Chippewa Indian Tribe of Michigan (“Chippewa”) and the tribe’s operation of the Soaring Eagle Casino and Resort.

The case involves an employee who attempted to organize and promote union membership among her peers at the casino. The Chippewa, however, maintain a strict “no-solicitation” policy prohibiting such activities by its casino employees. After repeated warnings to the employee, casino management terminated the individual’s employment with the casino. The individual thereafter filed a dispute with the NLRB, claiming that the Chippewa’s no-solicitation policy violated federal labor law. An NLRB adjudication found in favor of the former employee.

In its appeal to the Sixth Circuit, the Chippewa argued that the NLRB did not have jurisdiction over the tribe, as the tribe had specific treaty rights to exclude non-members from their reservation land and has inherent sovereign rights to govern activities on its land. The treaty and sovereign rights, as argued by the tribe, extend to the ability for the Chippewa to terminate the employment of non-members who violate tribal labor policies. In response, the NLRB argued that it enforces a federal law of general applicability and that the treaty rights cited by the tribe did not specifically extend to labor relations policy. In addition, the NLRB claimed that Congress had not expressed an intent to carve out an exception to federal labor

law for Native American tribes.

In its ruling, the court agreed that the National Labor Relations Act (“NLRA”), the federal law that governs the NLRB and requires employers to allow employees to organize under certain circumstances, should not apply to the Chippewa because the law would violate their inherent sovereign rights. However, although the court heavily criticized its recent ruling in a similar case involving the Little River Band of Ottawa Indians, finding that the review standards used in the case “overly constrains tribal sovereignty, fails to respect the historic deference that the Supreme Court has given to considerations of tribal sovereignty in the absence of congressional intent to the contrary, and inconsistent with...Supreme Court directives,” the court ultimately held that it was “bound to conclude that the NLRA applies to the Soaring Eagle Casino and Resort, and that the [NLRB] has jurisdiction over the present dispute.” Thus, the court affirmed the previous finding that the Chippewa were bound to comply with the NLRA due to its past holdings despite its disagreement with those rulings.

The Sixth Circuit ruling enforces the NLRB’s ruling and declined the Chippewa’s petition for review of the decision.

## **FIREKEEPERS ANNOUNCES YEAR-END RETIREMENT OF LONG-TIME PRESIDENT R. BRUCE MCKEE**

On July 1, 2015, FireKeepers Casino Hotel announced that its long-time President R. Bruce McKee is beginning a succession plan in advance of his retirement. McKee has been President of the property since May of 2008.

According to a press release, McKee will remain with the casino through the end of 2015 when he will retire. He has been with the property since its initial opening and credited by the Nottawaseppi Huron Band of Potawatomi (“Tribe”) as a key source of the property’s success.

“It’s been an honor and a privilege to be associated with FireKeepers Casino Hotel and the [Tribe]. I will never forget the many milestones and accomplishments we have achieved at FireKeepers and have many memories established

here in Battle Creek over the past seven years,” stated McKee.

Tribal Council Chairman Homer A Mandoka added, “[f]rom day one at FireKeepers Casino, McKee was responsible for all facets related to the opening and operating of the facility....His vast experience and positive personality created a path to success as the casino and employer of choice in the state of Michigan.”

The Tribe also announced that Brian D. Decorah, current Senior Vice President and Assistant General Manager, will act as CEO of FireKeepers Casino and Hotel. Decorah has been with the property since 2013 and has previously held executive positions with gaming properties in Wisconsin, Arizona, and New York.

## **APPEALS COURT GIVES IMMEDIATE EFFECT TO CHARITY GAMING RULES, APPEAL SOUGHT WITH SUPREME COURT**

On Thursday, June 25, 2015, the Michigan Court of Appeals granted a motion by the Michigan Gaming Control Board (“MGCB”) to give immediate effect to new charity gaming regulations. The court previously decided to overturn an injunction preventing the rules from going into effect.

The MGCB and its Executive Director began enforcing the new regulations last May, but the Court of Claims placed an injunction on further enforcement of the new rules in August of 2014 after the rules were challenged on procedural grounds by the Michigan Charitable Gaming Association. On appeal, the Court of Appeals held that the rules were properly instituted and overturned the injunction on May 28, 2015.

On July 9, 2015, an appeal of the Appeal’s Court ruling to the Michigan Supreme Court was filed by the Michigan Charitable Gaming Association.

The case is *Michigan Charitable Gaming Association v. State of Michigan*, Michigan Supreme Court, Case No. 151928.