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**VIA HAND DELIVERY**Richard Sandusky  
Director of Regulatory Review  
Pennsylvania Gaming Control Board  
303 Walnut Street, Strawberry Square  
Verizon Tower, 5<sup>th</sup> Floor  
Harrisburg, PA 17106Re: Comments to Temporary Table Game Rulemaking No. 125-112

Dear Mr. Sandusky:

Downs Racing, L.P., d/b/a Mohegan Sun at Pocono Downs (“MSPD”), Greenwood Gaming and Entertainment, Inc., t/d/b/a Parx Casino (“GGE”), Penn National Gaming, Inc., t/d/b/a Hollywood Casino at Penn National Race Course (“Penn”), and Sands Bethlehem (“Sands”) (collectively referred to as the “Operators”) respectfully submit the following Joint Comments in response to the Pennsylvania Gaming Control Board’s (hereinafter the “Board”) temporary table game rulemaking number 125-112 (hereinafter the “Rulemaking”). Keeping within the same parameters of the Comments previously submitted in response to the first batch of temporary regulations adopted by the Board, the Operators<sup>1</sup> have pooled together their comments, concerns and suggestions to the Rulemaking based on their experience in the gaming industry and their future outlook for gaming in the Commonwealth of Pennsylvania.

**I. INTRODUCTION**

Flexibility remains a primary concern and objective as each operator attempts to anticipate and satisfy market trends and player demands. While much of the temporary regulations provide reasonable parameters within which operators are to conduct table games, it is important to recognize that the business practices of each operator are unique. As a consequence, what may

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<sup>1</sup> Penn has joined MSPD, GGE and Sands in these Joint Comments to the Board’s second batch of regulations.

be reasonable for one operator may not be acceptable to another. Administrative regulations should account for this reality.

It is important to recognize that operators employ different marketing strategies, they favor different gaming technologies and systems, and each pursue different business models and schedules in an effort to remain competitive and financially viable. Unfortunately, portions of the temporary regulations preclude operator flexibility and unnecessarily impose a “one-size-fits-all” mandate which fails to account for the different business practices of each operator. Accordingly, the following comments attempt to identify those issues that are of primary concern and provide suggested revisions that attempt to restore operator discretion based on individual business experience.

## **II. PRIOR COMMENTS RESTATED**

The Operators restate their prior comments concerning the conduct and play of table games – in particular, those comments that are applicable to all forms of table games. The temporary regulations related to placement of drop and tip boxes as contained in the physical characteristics of each table game should be crafted in a manner that permit the ability of an operator to place both boxes together on the same side of the table, next to the dealer, if so desired. *See, e.g.*, 58 Pa. Code §§ 553.2; 555.2; 557.2; 559.2; 561.2; 563.2; 565.2. Operators should only be required to use a card reader device if the particular game involves the dealing of a hole card. Otherwise, such a device should not be mandated. Additionally, the placement of the discard rack / holder should be permitted to be placed within the table, thereby permitting better view of the table top. This is a convenience and security issue that is important to the Operators. It has also been requested that the operators be granted the flexibility to use “pre-shuffled” card decks, which would serve to eliminate the shuffling and inspection steps that are mandated throughout the Board’s temporary regulations. *See*, 58 Pa. Code §§ 555.4; 557.4; 559.4; 561.4; 563.4; 565.4.

Lastly, the Operators restate their comment that when dealing, either from the hand or a shoe (manual or automated), the temporary regulations appear to leave the dealer vulnerable by requiring the use of the dealer’s right hand when dealing all non-hit cards – specifically, the first two betting positions. By requiring the use of the right hand to the first two betting positions, the dealer’s back is turned to the fifth and sixth betting positions. Thus creating the vulnerable position mentioned above. Accordingly, Operators should be granted the flexibility to direct their dealers to deal cards in whatever manner each operator deems most appropriate to maintain strict control and security of the table game operation.

The following comments are being submitted based on issues raised by the current Rulemaking.

### III. COMMENTS TO RULEMAKING NO. 125-112

#### A. General Provisions

- § 521.4 – (Request to offer a new table game or new feature for an existing table game). Under this section an operator is required to file a written request with the Board’s Executive Director describing the new table game or feature in detail, including the rules of play and wagering, the operator’s reason for submitting the proposal and other gaming jurisdictions offering the table game or feature. The Operators submit that the requirement under this section needs further clarification regarding its application to changes in game play. Some changes implemented by Operators should not require written requests, *e.g.*, the determination to deal a game by hand or from a shoe or the decision to utilize an automated shuffling device or to shuffle cards by hand.

#### B. Common Rules of the Games

- §§ 555.2(a); 557.2(a); 559.2(a); and 565.2(a) – (Betting positions). It is recommended that in each temporary regulation, language should be consistent and indicate the maximum number of betting positions at each table. The Board’s Rulemaking varies between identifying the exact number of betting positions, to stating a maximum number of positions. In order to permit operator flexibility, it is suggested that a maximum number be provided. Furthermore, in the case of Pai Gow Poker, it is unnecessary to number the betting areas. Numbering causes player confusion when dealing of hands as provided by a random number generator (RNG) or dice. *See*, 58 Pa. Code § 561.2(b)(1).
- §§ 563.11(h); 555.11(e); and, 559.13(f) – (Completion of play). The procedures for the completion of play and collection of cards and payout of winning bets is inconsistent among the differing games. Some rules require all losing wagers taken and then all winning wagers to be paid, while other rules require the wagers to be paid or taken in the order of betting position. In the interest of consistency and security, it is suggested that the Rulemaking be revised to permit the Operators the discretion to pay and collect wagers in the order of the betting positions and collect the cards in the same order and placed together in the discard pile to facilitate the recreation of the game, if needed. A similar system is provided for in the New Jersey gaming regulations. *See*, N.J.A.C. § 19-47:18.10(h).

- §§ 555.3(b)(5); 557.3(b)(5); 559.3(b)(5); 561.3(b)(5); 563.3(b)(5); and, 565.3(b)(5) – (Cards; number of decks). The Rulemaking requires the placement of a completed deck of cards into the discard rack. However, the newest automated shufflers permit the placement of cards from one deck back into the shuffler on top of the other deck – separated by a mechanism in the shuffling device. This process speeds up play and permits the efficient use of an automated shuffler with multiple decks.
- §§ 555.4 / 5; 557.4 / 5; 559.4 / 5; 559.4 / 5; 561.4 / 5; 563.4 / 5; and, 565.4 / 5 – (Opening of the table for gaming, shuffling and cutting of cards). It is suggested that these formalities are unnecessary and slows play. The Operators therefore restate that the use of pre-shuffled decks would eliminate the necessity for manually shuffling and “washing” a new deck of cards. In addition, it is recommended that the temporary regulations only require visual inspection of new card decks upon the request of the player. Games should be ready to be dealt as quickly as possible once a player or players arrive at a table. Waiting for player verification slows play and thus impedes revenue opportunity.
- §§ 555; 557; 559; 561; 563; and, 565 – (No more bets). Within each game’s rules pertaining to “wagers,” “procedures for dealing cards from a manual dealing shoe,” “procedures for dealing cards from an automated dealing shoe,” and “procedures for dealing cards from the hand,” the proposed Rulemaking directs the dealer to verbally announce “no more bets” at the end of each round. It is suggested that this requirement is outdated and may only serve to annoy players. While this requirement may still be critical in games such as Roulette, for each of these card games, it is self-evident when bets are no longer accepted. If a player is confused and makes an improper bet, the dealer simply reminds the player and returns the late bet. Accordingly, it is requested that each operator be provided the discretion to adopt their own policy concerning the dealer requirement to verbally announce “no more bets” as deemed appropriate.
- § 561.13(b) – (Setting of hands, player assistance). The Rulemaking provides that if a player were to request assistance in the setting of his hand, the dealer shall inform the player of the proper manner in which the hand is set in accordance with the rules of the game. In order to protect the integrity of the

game in progress, it is suggested that the Rulemaking require the dealer to wait until all of the other players' hands have been set prior to providing assistance to the player seeking help setting his hand.

- §§ 563.8(d)(2); 563.8(d)(4); 563.9(b)(2); 563.9(b)(4); 563.10(b); and 565.10(b) – (Use of cover card). The Board's regulations direct the use of a "cover card" to identify the dealer / house hand in those games in which a cover card is used. It is suggested that the common practice in the industry is to permit the use of a "button" inscribed with "Dealer" or "House" in lieu of a cover card. This practice should also be permitted in every banked poker game as well.
- §§ 555.9(a)(1); 557.9(a)(1); 559.11(a)(1); 561.10(a)(1); 563.9(a)(1); and 565.9(a)(1) – (Directing the use of an automated shuffling device to shuffle cards). The Board's Rulemaking provides that when cards are dealt from a hand, an automated shuffling device must be used to shuffle the cards. The concern that this requirement raises is that under circumstances in which a game is dealt by hand, it is likely that the table is without power therefore not allowing for the use of an automated shuffling device or the automated shuffling device is not functioning. It is suggested that Operators be provided with the flexibility to shuffle the cards manually pursuant to the Board's regulations. Otherwise, without access to a functional automated shuffling device, the table would have to be closed – thus resulting in a loss of revenue.
- §§ 555.14(b); 557.13(a); 559.15(a); 563.13(b); and, 565.13(a) – (Irregularities; incorrectly dealt card). The Rulemaking provides that if a card is found face up in the shoe or deck, the card is to be placed in the discard rack. However, this temporary regulation begs the question – then what? It is suggested that the discarded card be replaced by the first card in the stub. The Operators request that the Board provide direction on this matter.
- §§ 553.16; 555.14(g); 557.13(g); 565.13(g) – (Irregularities; removal of automated shuffling device). The regulations direct the removal from a table of an automated card shuffling device or an automated dealing shoe before any other method of shuffling or dealing is used at a table. However, the current trend among table manufacturers is to physically incorporate automated shuffling and dealing devices into the table, thereby making its removal

impractical. Accordingly, it is recommended that the temporary regulation be drafted to simply direct that such a device be disabled, not removed, prior to a different form of dealing or shuffling being utilized.

C. Rules of Non-Banking Games (Poker)

- § 553.1 – (Definitions). The definitions pertaining to “bad beat” and “bad beat payout” limits Operators to only bad beat jackpots. There are other jackpots that Operators would like to and should be permitted to offer and therefore, a revision of this language to a more general term such as “jackpot” and “jackpot payout” would allow Operators this flexibility.
- § 553.2(e) – (Poker Table Physical Characteristics). The Operators propose that the Rulemaking be revised to give operators the option to make the jackpot payout box opaque as an alternative to being transparent.
- § 553.3(b) – (Cards; number of decks). The requirement that open decks be changed at least every six hours fails to account for the fact that the cards carry a minimal life span of three to four weeks depending on use. The Operators propose that the aforementioned requirement be revised to permit the change of decks in less frequent intervals and retain the ability to reuse cards. It is worth noting that poker cards are manufactured for longer use.
- § 553.8(b)(5)(i) and (ii) – (Wagers). Requiring a floorperson or higher to be responsible for a player’s chips who temporarily leaves a poker table is a significant burden to place on operators. It is proposed that operators offer the chips cover. However, the Rulemaking should be revised to clearly state that an Operator is not responsible for a player’s chips which are left unattended. The current requirement exposes the Operators to risks -- such as being accused of altering the player’s stakes.
- §§ 553.2(d), 555.2(d), 557.2(d), 559.2(d), 561.2(c), 563.2(d), 565.2(d) – (Poker, Caribbean Stud Poker, Four Card Poker, Let It Ride Poker, Pai Gow Poker, Texas Hold ‘Em Bonus Poker and Three Card Poker Table Physical Characteristics). The requirement that each table have a drop box and a tip box attached to it on the same side of the table as the dealer but opposite sides is

unrealistic. The Operators previously raised this concern which remains relevant to this Rulemaking, as well as the location of discard boxes, use of pre-shuffled cards, dealing of the hole card and the manner in which cards are hand dealt. Given the advance design of tables and the technology used on many tables it is not always feasible to place the boxes on opposite sides of the dealer. Operators are sometimes limited to the amount and location of space available, although boxes would always be on the same side of the table but not necessarily on opposite sides of the dealer. If the Board is concerned about currency or documents being placed in the wrong boxes, perhaps the Rulemaking could be revised to require the box paddles to be different sizes and/or colors for easier identification. Also, the Operators seek clarification on whether the Board is requiring a tip box for Poker. It should be noted that it is common for Poker dealers to place tips in their shirt pocket as these tips are not pooled.

D. Rules of Banking Games

- §§ 557.8(d); and, 557.9(b) – (Four Card Poker; dealing of cards). The Rulemaking directs that “all cards dealt to the player and the first five cards dealt to the dealer shall be face down.” It is proposed that this is the proper method by which all banked poker games are to be dealt and thus should be consistent in all banking poker game regulations.
- §§ 555.10(g); 555.8(d)(2); and, 555.9(b)(2) – (Caribbean Stud Poker; dealing of cards). The Rulemaking directs the dealer to deal the house’s hand with the appropriate cards to be turned face up. It is proposed that a more appropriate alternative is to have the dealer turn up the designated cards only after all of the cards – both players’ and house’s cards have been dealt. This process permits the dealer to keep the value of the fifth card and the card the players are playing against hidden while the dealer is involved in dealing the hand. This method permits the dealer to better monitor the table at the time in which the critical cards are turned over.
- § 561.2(b)(1) – (Pai Gow Poker; table betting positions). The Rulemaking provides that there shall be six numbered betting positions. It is noted that the numbering of the betting positions is not mandated for any other table game and is unnecessary in this case. The numbering of betting positions would not necessarily correspond to the order in which hands are dealt as indicated by a

RNG or dice – thus causing player confusion. It is strongly recommended that the Rulemaking be revised by the Board to eliminate any requirement to number betting positions.

- § 561 – (Pai Gow Poker; rules for banking and non-banking). The Board’s Rulemaking differs substantially from the corresponding sections of the New Jersey Commission’s regulations related to alternative wagering in Pai Gow Poker. Standard Pai Gow rules provide for players to bank the game and for co-banking between the operator and players. These rules are omitted in the Rulemaking. Accordingly, it is suggested that the Board adopt a temporary regulation similar to N.J.A.C. § 19-47:11.10 to permit this form of wager in order to meet expected market demand.
- § 561.6(d) – (Pai Gow Poker; Resolution of tie or “copy” hands). The Rulemaking describes two hands of identical rank as a “tie hand” where, by comparison, the corresponding New Jersey regulation uses the term “copy” which is the industry standard. In order to avoid confusion in the interpretation, the term “copy” should be used when referring to two hands of identical rank as recognized by the Board in Section 535.1 of the temporary regulations relating to Pai Gow (tiles).

E. Minimum Training Standards

- § 527.2(1) – (Minimum proficiencies). The minimum number of hours and the minimum number of weeks required for curriculum related to the conduct of table games does not offer operators or prospective dealers any flexibility in the training program and is a matter of significant concern since each operator has different training and instructional programs that fit their individual human resource needs. For instance, some operators have experienced that the minimum number of hours required for Blackjack training is well in excess of what is actually necessary, while others may wish to exceed the minimum. Most individuals can learn to deal Blackjack in less than 80 hours, and certainly, 120 hours is never required. It is natural that an individual would require more training time for the initial introduction to the gaming industry and general rules of the games that would be applicable to all games, but once an individual successfully completes the requirements for a primary game, any training for additional primary games or secondary games would generally require less



instruction. After one game is learned, basic dealing skills training would only serve to be redundant; namely, chip handling, dexterity, shuffle of cards and card placement, fills, credits, opening and closing of tables, and procedures generally associated with all table games will have been taught and practiced in the first primary game instruction. The majority of secondary games (specifically the banking poker games) are all based on the rules of poker with the ranking of the hands being identical. As stated above, once a dealer is trained on one banking poker game, learning additional banking poker games will take relatively little time.

- Therefore, based on their collective experience training employees, the Operators propose the following training requirements for instruction on the conduct of table games as a minimum standard – which may be exceeded at the discretion of each operator:

<b>Banking Table Games</b>	<b>Minimum Hours of Instruction</b>
<b>Primary Card Games:</b> Blackjack & Baccarat (all styles and variations)	80 hours
<b>Secondary Card Games:</b> All Poker based games – first game	30 hours
All Poker based games – second game	8 hours
Craps	150 hours
Roulette	80 hours
Pai Gow Tiles	150 hours
<b>Non-Banking Table Games</b>	<b>Minimum Hours of Instruction</b>
Poker ( all styles and variations)	80 hours

The Operators’ proposed minimum hours of instruction closely parallel the hours offered at the Casino Gaming School of Nevada for the same games.<sup>2</sup>

Considering that it is not in the business interest of an operator to permit someone to deal a table game who is otherwise unprepared -- the interests of the Board and each of the Operators are common. Accordingly, the Board should

<sup>2</sup> For example, at the Casino Gaming School of Nevada, 80 hours is the set course requirement for courses in Blackjack, Craps, Roulette, Poker, Pai Gow Poker and MiniBaccarat.

permit each operator the flexibility to create a training and instruction program that is specifically and individually tailored to meet each operator's business needs. From a practical standpoint, some operators will work around the schedules of prospective dealers who maintain their employment while completing a training program. Other operators will likely pursue a more intensive training program that will require prospective dealers to commit more time to daily instruction. As a result, some operators may wish to conduct training in longer increments than the Board's minimum four hours per day in order to increase repetition during each training session, while other operators may wish to craft a training program that is more frequent but with shorter instruction periods. The Operators contend that a set minimum number of training hours without a prescribed amount per week, as contained in the above chart is sufficient to ensure adequate training from the perspective of the Commonwealth, while providing the discretion and flexibility each operator needs to develop their own training programs that ensure competent and capable table game operations.

- § 527.3(8) – (Employee training by certificate holders). There is significant concern that a regulatory requirement for prospective dealers to be trained in cardiopulmonary resuscitation (CPR) will create a legal expectation that dealers will have a first-response obligation in the case of a medical emergency. This is not appropriate. The Board's regulations appropriately provide that dealers are to maintain strict control and oversight over the table game at all times. A dealer who abandons a gaming table in a medical emergency may expose the operator to scams by patrons faking attacks solely for the purpose of diverting a dealer's attention. A dealer cannot be in two places at the same time – once the dealer moves from behind the table the dealer is no longer able to properly secure the game.
- Alternatively, it is recommended that a game or floor supervisor, floor security personnel or other employee that is not a dealer, be required to complete CPR training. It is more appropriate that such a requirement be imposed on an employee that is capable of quickly responding to a medical emergency rather than a dealer who has the conflicting responsibility of conducting table games

while protecting the security of the cards, chips, dice and other gaming equipment.<sup>3</sup>

- § 527.5(a) – (Table test). Prior to conducting a table game, every prospective dealer must pass a table test to the satisfaction of an employee who is “at the level of pit boss or higher.” The Board’s use of the term “pit boss”<sup>4</sup> here, a term which remains undefined in the temporary regulations, should be replaced with a more general term such as “floorperson” which has been defined in the temporary regulations.
- The requirement of a table test should be defined only as an audition demonstrating the prospective dealer’s capability of dealing the game in either a live environment or in the training facility area prior to the operator having a live table game environment. It is proposed that a written test not be required.

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<sup>3</sup> It should also be noted that the legislature did not impose CPR for operator training programs. By contrast, the General Assembly did impose a CPR training requirement for gaming schools. *See*, 4 Pa. C.S. §§ 1103 and 1702(g). This omission is noteworthy. The fact that the General Assembly mandated CPR training as part of curriculum guidelines regarding table game job training for gaming schools, but did not require in-house training programs to obtain the same approvals further supports the notion that in-house training programs were not intended to be subject to the same customary and general non-gaming training requirements as are Commonwealth educational institutions. The primary objective of the General Assembly in permitting in-house training programs for operators was to facilitate the timely commencement of table game operations in the Commonwealth.

<sup>4</sup> Harrah’s Chester Downs, Penn, The Meadows, MSPD, GGE, Presque Isle Downs and Casino, Rivers Casino, Sands and Sugarhouse Casino submitted a letter to the Board dated February 8, 2010 which expressed their position on the required use of the of pit bosses in, *Technology Shifts Job Responsibilities in the Gaming Industry, The Out-Dated Role of the Pit Boss*.

#### IV. CONCLUSION

Based on the foregoing comments to Rulemaking No. 125-112, as well as the prior comments that have been restated herein, MSPD, GGE, Penn and the Sands respectfully request that the Board consider their comments above and adopt the interpretations carefully drafted herein.

Respectfully submitted,



Alan C. Kohler

cc: Robert DeSalvio (Sands)  
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