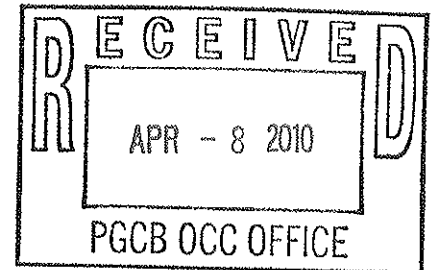


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April 8, 2010

VIA HAND DELIVERYRichard Sandusky
Director of Regulatory Review
Pennsylvania Gaming Control Board
303 Walnut Street, Strawberry Square
Verizon Tower, 5th Floor
Harrisburg, PA 17106Re: Joint Comments to Temporary Table Game Rulemaking No. 125-113

Dear Mr. Sandusky:

The following operators, 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 125-113 (hereinafter the "Rulemaking"). The Operators, though located in different geographical locations, targeting different markets and following their own unique business plans, have similar concerns regarding the regulation of gaming in the Commonwealth of Pennsylvania and therefore submit these comments for your review and consideration.

I. INTRODUCTION

The Operators restate the business imperative that the Board's temporary regulations related to the conduct and rules of table games be crafted in a manner that provides discretion and flexibility to each operator to conduct table gaming in a manner that reflects their particular business practice and market strategy. The following comments continue to raise familiar issues related to operational flexibility concerning side wagers, card handling and dealing, use of automated shuffling and dealing devices and frequency of changing cards that are not handled by players or dealers.

To reemphasize, it is an unrealistic expectation to assume each operator is going to conduct table gaming in the same manner. Operators pursue different strategies based on market

experience. For example, some operators may wish to adopt a policy in which the dealer hits on a “soft” 17 for low betting limit tables, but pursue a different policy requiring the dealer to “stand” on the safe soft 17 for higher betting limit tables. In either case, the rules should contain a level of flexibility so operators are not compelled to seek an exemption or waiver each time a minor variance from the rules is sought. The process causes delay, uncertainty, additional expense and thus hinders long-term competitiveness of the gaming operations within the Commonwealth.

II. COMMENTS COMMON TO EACH GAME

Comments previously submitted to the Board are raised and restated as relevant and common to most forms of table games, including those described in this set of temporary regulations. See Comments to Temporary Table Game Rulemaking No. 125-112 (March 19, 2010). While these concerns may be repetitive, they represent matters that are important to each Operator and have a direct business impact of planned table game operations.

In particular, the Operators renew their recommendations as follows:

- With the exception of Baccarat tables, where it is convenient to have numbered positions for the purpose of collecting commission, the temporary regulations should only set a maximum number of betting positions at each gaming table and not require the positions to be numbered or direct a particular amount of betting positions. Operators seek the discretion to establish the number of player positions at each table within a Board established limit. Numbering betting positions creates player confusion and slows gaming play when a die or RNG is used to determine the order of wagers (as in Pai Gow poker) or hands are dealt counterclockwise (as in Pai Gow tiles). 58 Pa. Code §§ 535.2(a), 541.2(a), 543.2(a), 545.2(a) and 551.2(b)(2).
- It is requested that the Operators be granted the discretion to forego any requirement that a dealer call “no more bets,” as being unnecessary. 58 Pa. Code §§ 537.7(c), 535.8(a), 541.8(c), 541.9(h), 543.8(c) and 543.9(b).
- The Operators seek the ability to offer alternative wagering commonly accepted in other jurisdictions, such as “pair” or “dragon bonus” side bets for all forms of Baccarat without having to request a new feature to the games. 58 Pa. Code §§ 541, 543 and 545. Such bets are permitted under corresponding New Jersey Casino Control Commission regulations but require a request to be made and approved by the Commission. See NJAC 19:47-7.2(b).

- The Operators also seek to clarify the requirement that numbered betting positions are necessary for the vigorish collections – in other words it is required only if the operator intends to collect vigorish. 58 Pa. Code §§ 541.2(c) (4), 543.2(b)(4) and 545.2(b)(4).
- The frequency of changing card decks should be determined by criteria related to the handling of the cards – not a strict standard that does not account for automated dealing and players not handling the cards. Factors such as handling of the cards by players, dealing by hand, use or non-use of an automated shuffler or automated shoe should determine card deck replacement cycle. As a consequence, the regulations should account for these circumstances instead of imposing a set deck cycle life that does not take into consideration actual card handling and usage. 58 Pa. Code §§ 541.3(c), 543.3(b) and 545.3(b).
- As raised in prior comments, the regulations related to the dealing of cards should permit the use of pre-shuffled cards and the use of intelligent card shoes as necessary tools to speed play, reduce costs and more effectively operate a table game. 58 Pa. Code §§ 541.4(b)(c), 541.5(g)(h), 543.5(h)(g), 543.4(b)(c), 545.4, 551.4(b)(h). It is noted that this latest addition of temporary regulations expressly acknowledge and permit the use of pre-shuffled card decks in Minibaccarat. See 58 Pa. Code § 543.5(a). Accordingly, the Operators point to this precedent and renew their request that pre-shuffled decks be permitted for use in all table games using more than two decks of cards simultaneously.
- As previously discussed, there remains concern about the Board’s use of the terms “void” and “tie” as if they are interchangeable. They are not, as having separate and distinct meanings. The Board’s use of the term “void” in §§ 541.8(a)(1)(iii) and 543 is exactly consistent with the rules in place in New Jersey, see NJAC 19:47-7.2(a)(1)(iii), which appears to be incorrect and therefore should not be followed but correctly defined in Pennsylvania from the outset.
- The Operators suggest that the regulations use the term “holder” to refer to discard devices as not all discard devices are considered “buckets.” 58 Pa. Code §§ 535.2(f), 543.5(g), 543.14(c), 545.2(e), 545.5(f), 545.15 (c) and (d). As a corollary, the 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 both boxes placed together on the same side of the table, opposite of the dealer. 58 Pa. Code §§ 535.2 (c), 541.2(e), 543.2(e), 545.2(d) and 551.2(d).
- There exists some confusion related to the reference to the “dealer calling the game” as part of opening the game rules of Minibaccarat. 58 Pa. Code §§

541.4(b) and 543.4(a). There is only one dealer in Minibaccarat – no caller. See also, §§ 541.12(b) and 543.12(b). The phrase used in this regulation is also, verbatim, the same as the rules established in New Jersey. See NJAC 19:47-7.4. This is believed to be a carry over error from the NJ rules.

- There are several rules that implicate the issue of vigorish – in particular the manner and amount a casino may charge. Sections 541.8(a)(1)(iii)(B) and 543.8(a)(1)(iii)(B) suggest a vigorish equal to 25 percent of the wager be charged. This is not reasonable. The standard vigorish on Baccarat is 5 percent of the winning banker wagers. In addition, there are variations on Baccarat that eliminate vigorish payments and these variations should be permitted. Section 541.13(d) suggests that the smallest amount of vigorish should be set by multiples of 5 cents. It is industry practice that the smallest amount is 25 cents and should be set by multiples of 25 cents. Operators cannot keep nickels and dimes on the table – 25 cent multiples is the industry norm. Accordingly, while the Board should permit vigorish and may consider a maximum rate, the Board should resist requiring standard rules governing vigorish which will do nothing more than inhibit an operator’s flexibility to address these issues.
- It is suggested that the regulations be amended to make it clear that when the cover card appears during play – or is the first card in the window of the shoe – then the card is removed, placed on the side and the hand completed. The Operators seek clarification that the Rule also applies when the cover card is the first card in the window of a shoe. 58 Pa. Code §§ 541.10(e), 543.10(e) and 545.10(e).

Finally, it is recommended that when any card is found face up in the dealing shoe, it is not necessary, as the regulations suggest, that the card be discarded not be used in the game. See 58 Pa. Code §§ 541.14(d), 543.14(d) and 545.15(d). The face-up card should only be burned if it’s the first card of the hand. In all other circumstances, the play of the hand should remain as there is no advantage gained by having the card dealt face-up.

III. COMMENTS SPECIFIC TO INDIVIDUAL GAMES

A. Pai Gow (Tiles)

- § 535.1 – (Definitions). The explanation of the term “copy hand” should be revised to state that the high hand or low hand of a player is identical in pair rank or point value as the corresponding high hand or low hand of the dealer or bank. The current version states that the player’s hand must contain the same highest

ranking tile as the corresponding high hand or low hand of the dealer or bank. The term “copy” as used in “copy hand” refers to a hand and not a tile. This issue was previously raised in the Operators’ comments to Pai Gow Poker, section 561.6(d) where two hands of identical rank are described as a “tie hand,” which the Board intended to mean a “copy hand.”

- § 535.2(b)(1) – (Table). The requirement of numbered betting areas as part of the table layout is unnecessarily confusing to players since the numbered positions will not directly correspond with the order in which the hands are dealt where in this particular game, the hands are distributed in a counter-clockwise direction. The Operators therefore restate the previous comment to the Pai Gow Poker rules and strongly recommend that the Board revise the Rulemaking and dispose of the requirement pertaining to numbered betting positions.
- § 535.2(d) – (Requirement of Pai Gow shaker). Similar to the game of Pai Gow Poker, this game may be played with an electronic random number generator. The Board is urged to revise the Rulemaking in order to permit the use of a computerized random number generator as is permitted under sections 561.2(f) and 561.8(a)(2) in the game of Pai Gow Poker.
- § 535.3(b)(3) – (Physical characteristics of tiles). The requirement that each tile have an identifying feature unique to each operator on the back of the tile is not general practice, but rather generic tiles are used similar to the practice with poker cards. Mandating the marking of all tiles will be burdensome to the Operators and only serve to provide an additional task and expense to any operator implementing table game play. The Operators request the Board to revise this provision of the Rulemaking and remove above discussed requirement.
- § 535.6(a)(3)(ii) – (Unsuitable tiles). It is the Operators’ position that the bagging, sealing and labeling unsuitable tiles by table number, indicating date and time and requiring the signature of the dealer and floorperson is unnecessary when tiles can easily be canceled out by simply scratching the backs of the tiles designating them for final disposal.
- § 535.7(b) – (Abandoned wagers). The consequence for operators when a player leaves the table during a round of play requires further clarification. The Rulemaking states that an operator “may” treat the abandoned wager as a losing wager. The Operators request that the Board clarify whether it is in an operator’s discretion to treat the abandoned wager as a losing wager or is the Rulemaking intended to mandate such treatment.

- § 535.10(a) – (Procedures for completion of each round of play). The Rulemaking provides that after the player has set his/her hand, the tiles must be placed on the layout face down “immediately behind that player’s betting area and separated into two distinct hands.” It is unclear from whose perspective the Rulemaking intends to refer. As a result, it is requested by the Operators that subsection (a) be revised to clarify that the player’s hand should be placed between the dealer and the player’s wager.
- § 535.10(b)(c) – (Setting of hands). Under subsection (b), if a player requests assistance from the dealer in the setting of his/her hand, the Rulemaking provides that the dealer may advise the player of the operator’s rules. It is important that the dealer stay focused on the game and avoid intentional distractions by players. The Operators restate their previous comment regarding this practice that in order to preserve the integrity of the game being played the Rulemaking should be revised to require the dealer to wait until all of the other players have set their hands before providing assistance to the player requesting assistance.

Subsection (c) provides that once the dealer’s hand is set, it must be placed on the layout face up with the high hand to the right of the dealer and the low hand to the left of the dealer, which is not standard practice. Standard procedures for this game require the dealer to place the high hand in the vertical position and low hand in a perpendicular or horizontal direction and therefore the Operators urge the Board to revise the Rulemaking in accordance with industry standards.

- § 535.11(g) – (Cutting of tiles). It is unclear what is permitted in the game when the dealer cuts the tiles and further how the player is permitted to handle the tiles. Operators request guidance on this issue in this particular regulatory provision.
- § 535.11(i) – (Style of delivery for tiles). Pursuant to this provision, dealers are required to notify the surveillance department of the selected delivery style of the stacks of tiles in all instances. It is unclear whether the Board intended to impose such a burden on operators. This subsection should be revised to clarify whether the Board intended this directive to apply only in instances where the standard style of delivery is not used. Alternatively, the Operators propose that the subsection be revised to permit operators to seek the approval of a game supervisor since dealers, unlike game supervisors and higher, do not have access to the surveillance department nor do they directly communicate with surveillance personnel.

B. Midibaccarat

- § 543.9(c)(3)(i)-(v) – (Dealing procedure). The third option presented for dealing the initial four cards requires the second and fourth card to be placed face down on the area designated for the Banker’s Hand and then placed under the right corner of the dealing shoe. It is unclear what the rationale is for dealing the cards to one position and then moving them to another, *i.e.*, underneath the right corner of the shoe when the cards could be positioned under the right corner of the shoe immediately upon being dealt. The Operators request clarification on the intended benefit of this option.

Subsections (c)(3)(i) and (ii) assume that there will always be a player or banker wager; however, it is possible that there will not always be one. In order to address this scenario, the Operators propose an amendment to the Rulemaking acknowledging that if there is no Player (or Banker) wager, the dealer shall expose the Player’s (or Banker’s) Hand and any third card.

Pursuant to subsections (c)(3)(iii) and (iv), a dealer must place any third card required to be dealt to the Player’s (or Banker’s) Hand face down on the designated area and then hand the card to the player who was handed and returned the Player’s (or Banker’s) Hand. In the interest of time, the Operator’s suggest that it would be most efficient to deliver the card directly to the player exposing the Player’s (or Banker’s) Hand.

Instances where two or more players wager an equally high amount on the Player’s (or Banker’s) Hand are discussed under subsection (c)(3)(v) and provide that “the player making the wager who is closest to the dealer moving counterclockwise around the table shall be handed the Player’s [(or Banker’s)] Hand and any third card required to be dealt.” In order to avoid the same player getting the cards in all instances where wagers are equal, the Operators suggest that the procedure be rotated counterclockwise around the table.

C. Baccarat

- § 545.5(a) – (Shuffle and cut of the cards). Unlike some of the other games, the game of Baccarat has multiple dealers and requires specific direction in regards to each dealer’s responsibility in the game. The Rulemaking provides that prior to commencing play, “one or more of the dealers shall wash and stack the cards, after which each of the dealers shall shuffle the stack of cards independently.” The foregoing provision is very vague and imprecise. The Operators request a

more precise description as to the responsibilities of each dealer regarding the shuffling of the cards.

- § 545.14(b) – (Selection of a new curator). The Rulemaking directs that when a new curator is being selected the dealer must offer the dealing shoe to the player at the immediate right of the previous curator. It is not entirely clear to whose “right” the rule will apply which further confuses the process if the player who is up refuses the dealing shoe or there is no player in that position because the rule then requires the dealer to offer the shoe “to each of the other players in turn counterclockwise around the table.” The Operators think Board clarification is required on this issue and request guidance as the Board deems necessary.

D. Spanish 21

- § 551.1 – (Definitions). Operators request the Board to revise the definition of “hard total” in order to correctly state that the point count of the hand may contain only one ace that is counted as one in value rather than the current definition allowing the hand to include more than one ace.
- §§ 551.2(c)(2); 551.13(b) – (Spanish 21 table; Drawing of additional cards by players and the dealer). It is the Operators’ position, as previously communicated to the Board regarding the game of Blackjack, that an operator should have the option of hitting on a “soft” 17. The requirement in subsection 551.2(c)(2) that the house rule be inscribed on the layout is not disputed, but only that the rule to be inscribed, *i.e.*, stand on all 17’s, removes operator flexibility and a slight advantage.¹ Subsection 551.13(b) states that the dealer must draw additional cards “until the dealer has a hard or soft total of 17...” Operators strongly urge the Board to revise the Rulemaking to allow for the necessary flexibility in the conduct of the game clearly providing that it is the operators’ option whether to hit on a “soft” 17.

¹ As stated in the Operators’ letter dated February 16, 2010:

Hitting on a “soft” 17 provides a modest house advantage within the context of a disciplined basic strategy player. As Blackjack is one of the lowest statistical operator-advantage games, the ability of the house to adopt a game rule that requires the dealer to draw an additional card when dealt a “soft” 17 is an important business practice that directly impacts the revenue potential of the gaming operation. Without such flexibility, operators will be unable to maximize Gross Table Game Revenue. House policies, such as dealers standing or hitting on a “soft” 17, are more appropriately set by the operator to meet market conditions, not administrative regulation. [T]he business decision to permit the dealer to hold or hit on a “soft” 17 is the type of practice that is best left to each operator – and, ultimately, an operator’s decision will be heavily influenced by player response.

See Comments to Temporary Table Game Rulemaking Nos. 125-110 and 125-111 (February 16, 2010).

- § 551.2(e) – (Card reader device). The Rulemaking insists that a card reader device be attached to the gaming table thus assuming that the dealer will be dealt a card with its face down. Operators in their prior comments regarding the game of Blackjack and the mandated use of the device suggested that the rulemaking be revised to only require use of a card reader device when the game is played with the dealer being dealt a hole card, or otherwise use should be permissive as in New Jersey, see N.J.A.C. § 19:46-1.10(g), since there is a variation of the game that requires both of the dealer’s cards to be dealt face up. Therefore, Operators restate the prior comment in regards to the same mandate in this game and request a revision of the Rulemaking.
- § 551.2(f) – (Discard rack). The requirement that a discard rack be securely attached to the dealer’s side of the table deprives operators the option of placing a discard rack/holder in any other location including one that may be more functional, such as on the side or within the table. The placement of the discard rack in an alternative location has been found by operators to give table game supervisors a better view of the gaming table thus reducing instances of card counting, shuffle tracking and card stealing. Operators raised this comment to the rulemaking addressing Blackjack tables. It is requested by the Operators that the Rulemaking be revised to allow an alternative location of the discard rack/holder as described above.
- §§ 551.3(a); 551.4(b); 551.5(a) – (Cards; Opening of the table for gaming; Shuffle and cut of the cards). With respect to the cards used to play this game and the required removal of the “10” cards from each deck, see §§ 551.3(a) and 551.4(b), the Rulemaking does not address the application of the rule when pre-shuffled cards are used. Operators respectfully request clarification from the Board on this issue and suggest that the Board revise the Rulemaking to provide that if pre-shuffled cards are used, dealers must remove the “10” from the decks after they have been spread face up on the layout. Also, it appears according to the Board’s later reference to pre-shuffled cards in section 551.5(a) that the Board anticipates the use of pre-shuffled cards in the game.
- §§ 551.5(c); 551.5(e); 551.5(h)(2) – (Shuffle and cut of the cards). In regards to the proper direction of rotation when cutting cards the rule should be consistent throughout all applicable games in order to avoid confusion among the players. The provision under subsection 551.5(c) requires the cut to be offered to players in a clockwise direction around the table. The Operators respectfully request that the Board make the Rulemaking consistent in the rotation of the cut offering

whether it is clockwise or counterclockwise. Less confusion facilitates continuous game play.

Under subsection (e) the dealer must “insert the cutting card in the stack at a position at least approximately one-quarter of the way in from the bottom of the stack.” Operators are concerned that in a skilled game such as this one (and Blackjack), this may be too many cards to cut away. It is proposed that operators be given the option to insert the cut card as it deems necessary for the purpose of discouraging skilled or otherwise advantaged players.

Subsection (h)(2)(i) assumes that the automated card shuffling device used by operators will have the capacity to store an additional batch of cards. Operators suggest the Board revise the Rulemaking to account for the use of a device which continuously shuffles one batch of cards therefore not requiring a second batch to be stored.

- §§ 551.8(b); 551.8(d)(4) – (Procedure for dealing the cards). The Operators resubmit their prior comment to the Blackjack rules regarding the requirement of dealing all “non-hit” cards with the right hand. Operators respectfully request that the dealing procedure, especially to the first two spots, be at the discretion of the operator. Further, when commencing a round of play Operators should also be afforded the option of not delivering a hole card until all players have acted on their hands.
- § 551.8(f)(h) – (Dealer announcements). The announcement of the point total of each player, “Dealer’s Card,” and the dealer’s total point count after each additional card is dealt should be left to the discretion of each individual operator. There may be instances where announcements severely annoy players or players specifically request announcements. Dealers are capable of making the call of what practice will best accommodate their players.
- § 551.10(d) – (Insurance wager). The Rulemaking requires all losing insurance wagers to be collected immediately after the dealer inserts his/her hole card into the card reader device and does not have a Blackjack. If there is no hole card, the Operators submit that when the dealer draws a hole card from the shoe all losing insurance wagers must be collected.
- § 551.12 – (Splitting pairs). The Rulemaking does not address the splitting of aces. The Operators propose the option to offer the “re-splitting” of aces three times for a total of four hands, which is standard as in Blackjack.

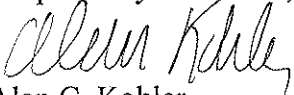
- § 551.16(k)(m) – (Irregularities). The requirement that an automated card shuffling device must be removed from the gaming table before any other shuffling method may be used is not practical. It is not always possible to remove an automated shuffling device from the gaming table. It is proposed by the Operators that the Rulemaking be revised to state that “all power must be disconnected to the automated card shuffling device before any other method of shuffling may be utilized.”

If a card reader device malfunctions the dealer should be able to continue dealing by using an alternative solution rather than waiting for the device to be repaired. For example, the dealer can choose not to take a hole card until all players have played out their hands.

IV. CONCLUSION

Based on the foregoing comments to Rulemaking No. 125-113, as well as the prior comments that have been restated herein, MSPD, GGE, Penn and 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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