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December 6, 2016

ELECTRONIC & U.S. MAIL

A.G. Burnett, Chairman
Nevada State Gaming Control Board
1919 College Parkway
Carson City, NV 89706

Re: **2016-90 and 2015-11R NOTICE AND AGENDA OF PUBLIC REGULATION WORKSHOP OF THE NEVADA GAMING CONTROL BOARD TO SOLICIT COMMENTS FOR POSSIBLE AMENDMENTS TO NEVADA GAMING COMMISSION REGULATIONS 1, 5A, 5, 22 and 26C REGARDING, WITHOUT LIMITATION, WAGERING ACCOUNTS**

COMMENTS OF NEVADA RESORT ASSOCIATION

Dear Chairman Burnett:

This letter is written on behalf of the Nevada Resort Association for the purpose of commenting on the October 14, 2016, draft of the above referenced proposed regulation amendments.

Regulation 5 Comments

1. In proposed reg. 5.225 (1) (b) the definition of "Licensee" does not include a mobile gaming operator as that term is defined in proposed reg. 5.220 (1) (h). If the mobile gaming operator provides/performs account wagering functions, we think they should be included in proposed reg. 5.225(1)(b). If they are not included, they will have to be licensed as a "Wagering Account Service Provider."

2. In proposed reg. 5.225(3) (a)-(b) the preposition "at" is used to refer to the use of the wagering account. This implies that wagering can only take place while a player is physically at a casino. We believe that the preposition "with" should be substituted for "at," so those forms of account wagering that may be conducted away from the physical casino are included.

3. In proposed reg. 5.225 (5)(a)(3) there is a requirement that a "mailing address" be included in the application process for a wagering account. We don't believe that obtaining a "mailing address" should be a mandatory requirement for two reasons. The first is that FINCEN requires the actual address for a patron on all their filings, and have made it abundantly clear that a mailing address, such as a post office box is unacceptable. In addition, the current interactive gaming regulation, 5A.110 (2) does not require a mailing address for the "authorized player" and we see no reason to require it for other wagering accounts. We would request that the obtaining of a mailing address in connection with the account application process should be at the discretion of the licensee and would propose the following language:

   5.225 (5)(a)(3) The patron's physical address and telephone number, and, at the discretion of the licensee, the mailing address.

4. Proposed reg. 5.225 (5)(b) would require a patron to "affirm in writing" the enumerated requirements. Because most of the information required for a patron to open a wagering account may be provided remotely before the arrival of the patron in Nevada, we believe the "in writing" requirement should be removed. Our members envision a check box on an online form that is checked by the patron as a sufficient affirmance of the patron's statements, and that the "in writing" portion of the proposed regulation merely adds confusion. This change would also make this section consistent with the requirement in Reg. 5A.110 (3) that the authorized player merely needs to affirm the enumerated requirements rather than affirm them "in writing."

5. Our next area of concern is the limitation of wagering accounts to a single person as set forth in proposed reg. 5.225, proposed reg. 22.140 and proposed reg. 26C.160. As you are aware, there are many married couples that have traditionally participated in gaming under a single account. We believe a single "wallet" account established pursuant to proposed reg. 5.225 that is shared by two people, including spouses, should be allowed. In the current Reg. 22.140 (6) and Reg. 26C.160 (3), an account may be opened with more than one person assigned to the wagering account, provided that each person on the account complies with all of the provisions for opening the wagering account. We do not believe that option should be eliminated. In the race and sports book arena, a principal and an agent often share a single account. As long as all of the requirements of the regulation are met, such an arrangement adds to the transparency of the transactions. Eliminating the ability of an agent to make wagers on behalf of a principal, by sharing a single account, would force the agent to make the wagers on behalf of a principal in person at the sports book and would force the agent to carry large sums of cash with all the attendant safety risks. It would also increase the burden on sports books and race books with respect to cash transactions.

6. With respect to proposed reg. 5.225 (9) and (10) we strongly support the funding and withdrawal mechanisms listed, including credit and debit cards, and strongly reject any contention that funding a wagering account somehow violates NRS 463.3557. We have no problem, however, with adding Prepaid Access Instruments to the list of permissible funding and withdrawal mechanisms.

7. Proposed reg. 5.225(19)(a) sets an August 1, 2017 deadline for implementation of a wagering account feature that will allow a patron to set deposit limits establishing the amount of total deposits a patron can make to their wagering account within a specified period of time. We believe this deadline should be extended to one year after the date of the adoption of the regulation by the Commission to give the software companies adequate time to design and implement this new requirement.

8. Proposed reg. 5.225(20)(c) contains an ambiguity insofar as it states: "[t]he record of the patron's confirmation of all wagers shall be deemed to be the transaction of record." This suggests that it is the patron who has control of the transaction of record, which surely is not what the drafter meant. We suggest using the language "The recording system's record of the wager shall be deemed to be the transaction of record."

9. Proposed reg. 5.225 (20)(d)(5) provides that there is only one mechanism for returning funds from a wagering account to a patron when the account closing is initiated by the licensee, and that is by check. We believe that the return of funds should be allowed to be made by a variety of mechanisms and in accordance with the methods provided in proposed reg. 5.225(14), which allows withdrawals to be made "in accordance with the terms of the wagering account agreement between the licensee and the patron." The same language should be used in proposed reg. 5.225(20)(d)(5).

Regulation 22 Comments

10. Proposed reg. 22.140 (b) requires a patron to affirm "in writing" the enumerated requirements specified in paragraph (b). Consistent with our earlier position in point 4 above, we believe that many of our patrons may fill out the account opening form online before appearing at the casino to show the required ID. We believe a check box to affirm the enumerated requirements should be sufficient without the "in writing" language, which we believe is ambiguous when a form is filled out online.

11. Proposed reg. 22.140(6)(b)(3) requires the patron to acknowledge language from 18 U.S.C. 1084 and "applicable Nevada law." We think this paragraph is unnecessarily complex and will be confusing to the player. 18 U.S.C. 1084 does not apply to individuals who are not engaged in the business of betting or wagering. Most of our account holders will not be engaged in the business of

betting or wagering. There are a number of court cases specifically declaring that bettors are not subject to 18 U.S.C. 1084. We think subparagraph (3) should be eliminated since the affirmation of the statement in proposed regulation 22.140(6)(b)(1) satisfactorily advises the patron that it is illegal to make a sports wager from outside the state of Nevada and it is illegal for the book to accept such a wager.

12. As noted in point 5 above, we don't believe current Reg. 22.140(6) should be eliminated because accounts opened by more than one person help to make transactions in an account shared by spouses more convenient. The dual account also allows an account opened by a principal and his declared agent to be transparent, while eliminating the need for an agent to make wagers in person in a sports book. Requiring an agent to make the wager in cash in the sports book simply increases the recordkeeping burden of the book and exposes the agent to safety concerns if he/she is carrying large amounts of cash to make the wager in the book.

13. NRA members would also like to amend Regulation 22.140(7)(a) to include that an employee of the nonrestricted licensee not just a "book" employee could review the identification. We ask that section 7(a) be amended to read as follows: A patron may personally appear before an employee of the book or an employee of the nonrestricted licensee at which the book is located, at the premises of the book or the nonrestricted licensee at which the book is located, or, for central site books, at an outstation, satellite or affiliated book, or the nonrestricted licensee at which the outstation, satellite or affiliate book is located, for purposes of presenting a government issued picture identification credential to confirm the patron's identity.

Regulation 26C Comments

14. Proposed reg. 26C.070 seeks to mandate a new standard for race books with respect to the acceptance of wagers. While it has always been true that a book cannot accept a wager where it knows the outcome of an event has already been determined, the proposed regulation seeks to impose a "should know" standard when a wager is accepted after the outcome of an event. While no book wants to accept a wager after the outcome of an event is known, and will generally suffer the losses associated with doing so, our members believe that a "should know" standard creates ambiguity and the likelihood of inconsistent results if disciplinary charges are brought. We believe licensees should know what conduct is proscribed and a "should know" standard does not meet that requirement.

15. For the reasons noted in points 5 and 12 above, we don't believe current Reg. 26C.160 (3) should be eliminated.

16. Proposed reg. 26C.160 (4) seeks to eliminate the ability to open an account for a patron remotely. The current regulation permits a patron in a state that allows pari-mutuel wagering, and does not otherwise restrict wagering on accounts outside that state's borders, to open an account without having to appear at the race book. It has the same type of safeguards as are present for interactive gaming account wagering in Reg 5A. Safeguards were put into place in the current regulation and proposed reg. 26C.160 (3) would extend those safeguards in the new regulation. We believe that remote signups should remain a feature for off-track pari-mutuel wagering since all the national ADW (Advance Deposit Wagering) competitors such as TVG, Twin Spires, NYRA bets and Xpressbet offer remote signups.

17. In the event the GCB and the NGC decide not to permit remote sign ups for off-track pari-mutuel wagering, we believe that the "marketing plan" approval to allow sign ups outside of a sport books' premises, set forth in current Reg. 22.140 (7)(a) and continued in proposed reg. 22.140(6)(a)(2) should also be incorporated into proposed reg. 26C.

18. Our members would also like to amend tReg. 26C.100.

Reg. 26C.100 currently provides:

> **Layoff bets.** Books may accept wagers placed by other books. Books may place wagers only with other books. A book that places a wager shall inform the book accepting the wager that the wager is being placed by a book and shall disclose its identity.

We propose that Reg 26C.100 be amended as follows:

> **Layoff Bets.** A book may not accept layoff wagers placed by another book unless the layoff bet comes from a book that does not have common Control (as defined in Regulation 16.010 (3)) with the book into which the layoff bet is being made. A book may place or accept wagers from another book if the accepting book does not have common Control with the placing book. A book that is permitted to place a layoff wager shall inform the book accepting the wager that the wager is being placed by a book and shall disclose its identity.

The reason for the proposed change is to harmonize Reg. 26C.100 with Reg. 26A.040(9), which provides:

A pari-mutuel book, other than a pari-mutuel only book, that has agreed to accept off-track pari-mutuel wagers may only accept nonpari-mutuel race wagers on types of bets not offered as part of the interstate or intrastate common pari-mutuel pool, and may accept nonpari-mutuel race wagers on types of bets offered as part

of an interstate or intrastate common pari-mutuel pool in the event the off-track pari-mutuel system is not functioning.

A Nevada licensee that controls and operates pari-mutuel race books should not be permitted to operate a nonpari-mutuel book to accept wagers and provide rebates to patrons, while "laying off" some or all of those nonpari-mutuel wagers to its controlled pari-mutuel race book. The intent of Reg 26A.040(9) is to prohibit a book that accepts pari-mutuel wagers from also accepting nonpari-mutuel wagers if those types of wagers are offered at the race track on a pari-mutuel basis. Our proposed reg. 26C.100 amendment would harmonize the "layoff bet" policy with the policy enunciated in Reg. 26A.040(9) with respect to off-track pari-mutuel wagers.

Thank you for the opportunity to provide these comments. We will be happy to provide any additional information you may require.

Sincerely,

Virginia Valentine
President