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July 7, 2003

**TO: ALL NONRESTRICTED LICENSEES**

**RE: QUICK LOSS PAYMENTS TO REGISTERED INDEPENDENT AGENTS**

The purpose of this letter is to advise all nonrestricted licensees of the Gaming Control Board's position regarding payments based on a "quick loss" formula.

Nonrestricted Licensees contract with Independent Agents (hereafter "IA") to bring preferred customers to their properties. Most IA contracts have a fairly detailed compensation schedule, which provides for commission payments to the IA in differing amounts depending upon a customer's bankroll, table game play, slot play, etc.

Most IA contracts provide that in the case of a "quick loss", usually defined as the customer losing at least 80% of front money/credit line in less than four hours, the IA's commission will be calculated using an "adjusted theoretical" (e.g., 25% of the loss).

NRS 463.162(1)(c) provides in relevant part as follows:

1. It is unlawful for any person to:  
(c) **Furnish services** or property, real or personal, on the **basis** of a **contract**, lease, or license, pursuant to which that person receives payments **based on earnings or profits** from any gambling game, including any slot machine, without having **first procured** a state gaming license.

NRS 463.162(1)(c)(1991)(Emphasis added).

Pursuant to the above statutory provisions, mandatory licensing of an independent agent is required if the compensation payments are "based on earnings or profits" that are generated from a gambling game.

A recent unpublished Attorney General opinion states that:

Independent Agent contracts that contain a quick loss formula where Independent Agents are to receive a commission that is equal to a percentage of the actual losses incurred by a patron over a given period are the equivalent of the licensee's "profits" from exposing of the table game. As a result, the payment of a percentage of these profits requires that the Independent Agent undergo mandatory licensure pursuant to the provisions of NRS 463.162(1)(c).

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Based on this opinion, Independent Agents that have a quick loss clause in their contracts and are to be paid commissions based on an adjusted theoretical, which is actually a percentage of the actual earnings or profits, **must undergo mandatory licensure** prior to receiving any such payments.

Effective immediately, no further payments are to be made to independent agents based upon a quick loss formula as described in this correspondence. All contracts that provide for a quick loss formula are to be amended and forwarded to this office for review and retention no later than 60 days from receipt of this letter. You may continue to compensate registered independent agents for services rendered based upon existing (less quick loss) or proposed contracts in this interim period.

Should you have any questions regarding this correspondence, please do not hesitate to contact my office directly or Senior Agent Michael Lackey at (702) 486-2260.

Sincerely,

Randall E. Sayre, Chief  
Investigations Division

RES/bll

c: Dennis Neilander, Board Chairman  
Bobby L. Siller, Board Member  
Scott Scherer, Board Member  
Gregg Gale, Chief, Audit Division  
Mike LaBadie, Chief, Corporate Securities Division  
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