

NAGRA NEWS

Winter 2011

A Message From the President

Happy New Year! I hope everyone had wonderful 2010; may 2011 bring happiness and abundant health to us all.

As NAGRA moves into 2011, the board of directors and the committee chairs have been busily planning for what should be a fantastic Training and Education Symposium in San Diego, June 6 – 10. NAGRA members are developing standards for various types of gaming. We already have Pull-Tab Standards, but Bingo Standards, Bingo Record Keeping and Reporting Standards and Card Minding Device Standards were recently amended or created and submitted to the membership for comments prior to approval. Additionally, a new committee chaired by Rick Saville will establish Internet Gaming Standards. These standards will provide jurisdictions with the necessary tools to develop their rules and regulations concerning gaming matters. That is why it's critical to remind the members of the agencies, boards and commissions that regulate or oversee gaming to inform their elected officials of how beneficial belonging to NAGRA can be.



Standards are not the only issue we have to deal with, as you know. NAGRA brings together agencies that regulate gaming activities and provides them a forum for the mutual exchange of regulatory information and techniques. Collecting and disseminating regulatory and enforcement information, procedures and experiences from all jurisdictions provide on-going gaming education and training for all members. In order to assist our members, the Training and Education Symposium this June will cover a variety of educational topics, including the following:
Ensuring Nonprofit Organizations are Qualified to Conduct Gaming; Texas Hold 'Em

Experience; Latino Scams; Horse racing – result fixing; FINTRAC/FINCEN 'fines' and avoidance; Loan Sharking; Adaptive Gaming; Money Laundering at Casinos in the
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and more!

Save the date!

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NAGRA's 2011

Annual Training & Educational Symposium

JUNE 6-10, 2011

LOEW'S CORONADO BAY HOTEL | SAN DIEGO, CA, USA

Call for NAGRA Board of Directors Nominations

The following NAGRA offices will be up for election in 2011: Western Region Director (Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming), Midwestern Region Director (Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas and Wisconsin), Treasurer and Vice-President. Director and Treasurer terms are two years in length. The Vice-President term is one year in length.

The Board typically meets in-person onsite during the NAGRA Annual Symposium and once again late fall. Interim meetings are held monthly, for one hour, via teleconference. The benefits of serving on the Board include building valuable relationships with other leaders in the field of gaming regulation and frontline access to the people and events that shape the regulatory landscape in North America.

Nominations should be submitted to Managing Director Eric Ewald by March 31. They will be forwarded to the Nominations Committee for consideration. The election will be conducted in May in advance of the Annual General Business meeting, which will be held from 3:45 p.m. to 4:30 p.m., Thursday June 9 at the Lowes Coronado Bay Hotel, San Diego, CA. New board terms will begin July 1, 2011.

Nominations should include candidate name, contact information and resume or vitae. It is acceptable to nominate yourself. Send nominations to erice@ewald.com. ■

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U.S. and Canada - Separating Fact from Fiction; History of Federal- Tribal Relations; Class II Gaming Systems: Slots or Not?; NIGC Update; Regulatory landscape in Canada from a First Nations perspective; Mobile Technology; Network and Internet Testing Standards; New Technology Coming Our Way.

We now have three confirmed keynote speakers. They each have much to say that all of us will want to hear. The first is Martin D. Owens Jr., J.D., of Sacramento, who specializes in Internet law, interactive gaming, and related issues. He will speak on cloud computing and the future of Internet gaming.

The second is Tim Donaghy, the former National Basketball Association referee who was jailed for illegal sports betting. Many of you will undoubtedly remember headlines such as "Former NBA referee Tim Donaghy Convicted of Wire Fraud, Exposed for Betting on a Number of NBA Games." Donaghy's book, PERSONAL FOUL, has been featured in more than 70 national news programs and networks, including 60 Minutes, ESPN, Fox's Your World and CNN Headline News. He will present a personal account of his struggle with gambling addiction, his connection to one of organized crime's most well-known families, and the choices that led him to where he is today.

Dr. Bo Bernard is the third keynote speaker. Currently the Director of Gambling Research at University of Nevada at Las Vegas' International Gaming Institute, Dr. Bernard will discuss past and current community-based challenges faced by the gaming industry. Today, the major community-oriented challenge is problem gambling and the costs commonly associated with this affliction. An increasingly global gaming industry is engaging this issue in fascinating ways.

The day before the Symposium gets underway, NAGRA will again provide a full day of training. It will focus on Advanced Techniques for Financial Due Diligence and Licensing of Gaming Applicants. Participants will learn which financial documents and areas of inquiry are important to regulators as they complete the required financial examination of applicants requesting a gaming license. Training will also include a discussion of the common financial documents utilized and the analytical methods they require. The class will also focus on public filings of financial statements with regulatory bodies such as the U.S. Securities Exchange Commission and Canadian Provincial Securities Commissions, as well as other entities that manage public records and sources. The instructor for the training is Craig L. Greene, CPA/CFF, CFE, MCJ.

I am also pleased to announce that as an added benefit to membership in NAGRA, we are developing the first of several webinars which will be made available to our members at no charge. In July 2010, BCLC (British Columbia's Provincial Lottery Corporation), launched the first legal Internet gaming website in North America to offer casino-style games to residents of the province. In 2011, BCLC proposes to expand into the peer-to-peer Poker market with the launch of a multi-jurisdictional partnership known as the Canadian Poker Network (CPN). This webinar will provide an overview of BC's Internet gaming systems from the regulator's perspective. The Director of Certification and Game Integrity for the BCLC's Gaming Policy and Enforcement Branch, Steve Lefler, will provide a brief history on the development of the eCasino and ePoker systems. He will also discuss the regulatory regime that has been created to ensure the integrity of the gaming companies, people and equipment used in the delivery of Internet gaming. The webinar is scheduled to air March 17, 2011. Please watch our website for additional information.

We look forward to welcoming regulators, trade affiliates and other delegates from across North America to San Diego, California, from June 6-10, 2011. ■

Call for Nominations for Excellence in Gaming Regulation Award

The North American Gaming Regulators Association is seeking nominations for the 6th annual presentation of the NAGRA Excellence in Gaming Regulation Award at the NAGRA Annual Training and Education Symposium Monday, June 6 through Thursday, June 9, 2011 at the Lowe's Coronado Bay Hotel in San Diego, CA. We have included information about eligibility, the nomination process and selection criteria below. Nominations are due Monday, May 2, 2011. Please consider nominating someone. This is a great way for our professional association of regulators to recognize excellence in the field.

NAGRA Excellence in Gaming Regulation Award Eligibility:

The NAGRA "Excellence in Gaming Regulation" Award is open to NAGRA regular members who have demonstrated outstanding accomplishments in the gaming regulatory or enforcement environment.

Nomination Process:

Nominations must be in writing. Nominations must include examples of actions/achievements by the nominee. Nominations should include the name of the nominee, title, jurisdiction and contact information.

Selection Criteria:

The committee will consider nominees who have demonstrated sustained achievement, exceptional performance and deserve recognition for their extraordinary contributions in the field of gaming regulation.

Areas of consideration may include the supervision or organization of employees leading to outstanding accomplishments, the enhancement of the public perception of gaming regulation by external orga-

nizations, the identification and implementation of significant cost savings for a specific jurisdiction and the identification and implementation of significant efficiencies in regulatory processes or procedures.

Notification:

Winners should not be notified until the announcement is made. If necessary, a contact person from the winner's jurisdiction may be notified in an attempt to ensure the winners are present to accept their awards.

Submission:

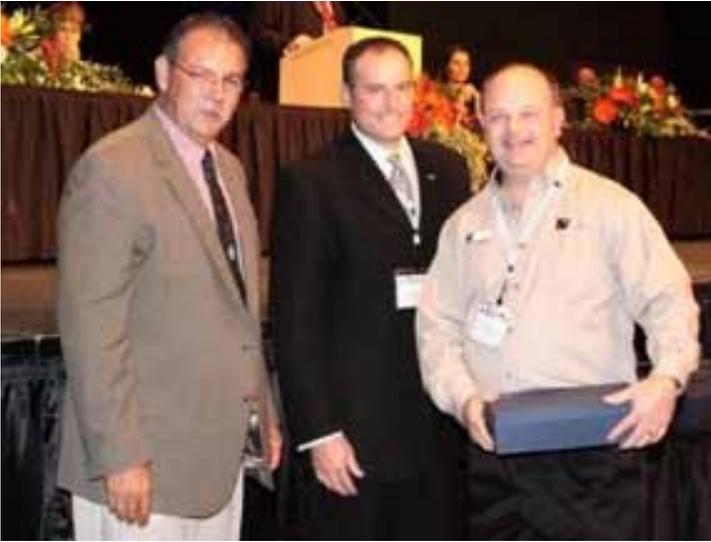
Submit your nominations to: NAGRA, Attention Eric Ewald, 1000 Westgate Drive, Suite 252, St. Paul, MN 55114 or erice@ewald.com. If you have any questions regarding this award, please contact NAGRA President Phil Sanderson, Awards Chair – Phil.Sanderson@lottery.state.tx.us

Previous Award Winners Include:

- 2006 – Jim M. Haynes
- 2007 – Norman H. DesRosiers
- 2008 - Bruce T. Samboy
- 2009 - Gerald E. Otoupal
- 2010 – Dale J. Fuga



NAGRA Member Nick Farley Receives 2010 Warrior Award at OIGA



CLEVELAND - Independent Testing Laboratory Eclipse Compliance Testing, announced that Company President Nick Farley was awarded the 2010 Warrior Award at this year's OIGA Conference and Trade Show held in Tulsa.

"The Warrior Award is presented by the Oklahoma Indian Gaming Association (OIGA) to recognize individuals who go above and beyond the call of duty," said David Qualls, OIGA Chairman. The Warrior Award was presented to Mr. Farley in recognition of his contributions to Oklahoma gaming. Chairman Qualls stated, "We appreciate Nick's understanding of the technical side of gaming and his contributions, working closely with tribal gaming regulators and operators, to help protect the integrity of gaming here in Oklahoma."

Nick Farley commented, "I am humbled by this honor. I really don't have words to express how much this means to me personally and for the company. Oklahoma has been a key market for the success of our business and to be recognized by the Oklahoma Indian Gaming Association for being a staunch proponent for Indian Gaming is really special. I truly am humbled."

This esteemed award comes on the heels of the Company's 10th Anniversary which is being celebrated over the next 12 months. Eclipse's staying power is noted in its themed anniversary slogan "10 Years of Success Against All Odds." Following a successful career as a New Jersey Regulator with the Division of Gaming Enforcement and as a Director with GLI, Mr. Farley relocated to Ohio due to a family illness where, through the inspiration of his wife and current Vice President Janice Farley, they established Nick Farley & Associates in 2000.

For those familiar with the compliance testing field and the dynamics of the gaming regulatory industry, entering this market was exceedingly challenging, and things did not come very easy as this start-up business had to gain recognition from state and tribal regulatory agencies. However, it did have two things necessary to build a compliance testing business: Mr. Farley, an industry veteran at the helm with a solid reputation for testing devices, and the big business insight of Mrs. Farley, a long-time General Electric professional and manager. Forging ahead with the leadership of this dynamic duo, the Eclipse Compliance Testing laboratory has become ISO accredited, and it has won the Best of Cleveland Award in the Laboratories category from the U.S. Local Business Association for three consecutive years. Most recently it was named one of the Fastest Growing Companies in Northeast Ohio by Case Western Reserve University's Weatherhead 100 Program. ■

Oviedo named Charitable Gaming Deputy Commissioner

LANSING, December 8, 2010 – Lottery Commissioner M. Scott Bowen has named Kathie Oviedo deputy commissioner of the Lottery's Charitable Gaming Division. Oviedo will replace Michael Petersen, who is resigning, effective January 1, 2011.

"We are pleased to be bringing Kathie into the Charitable Gaming family," Bowen said. "Her experience with numerous state departments, familiarity with state policies and procedures, and management style will lend themselves well to the multi-tasking that is necessary to effectively direct the Charitable Gaming Division."

Oviedo is currently the director of human resources for the Michigan Lottery, a position she has had since

fall of 2006. She was previously the acting manager of human resources with the Department of Community Health and has been a personnel specialist with the Departments of Community Health, Labor and Economic Growth, and Corrections.

The Lottery's Charitable Gaming Division is responsible for the licensing, administration and regulation of gaming activities for non-profit and fraternal organizations in Michigan. In fiscal year 2010, charities generated \$73.9 million for good causes through activities under the oversight of the Charitable Gaming Division. ■

Eclipse Compliance Testing Announces ISO 17020 and GSA Accreditation

Independent Testing Laboratory, Eclipse Compliance Testing, a division of Nick Farley & Associates, Inc. (NFA), announced that it has attained its ISO 17020 Inspection Body accreditation from The American Association for Laboratory Accreditation (A2LA) for Information Technology Testing. "This accreditation focuses on field service and inspection, areas which we continue to pursue in order to bring high quality and effective audit services to gaming commissions and operators throughout the industry," stated Janice Farley, Vice President.

Additionally, the company has received its Gaming Standards Association (GSA) accreditation from A2LA. To qualify, a lab must be ISO17025 accredited and must be found to meet GSA-defined requirements for conformance testing as provided within the GSA

Certification Program. "We are very proud to be one of only three independent testing labs to receive this accreditation," commented Ms. Farley. "The list of gaming device manufacturers which utilize GSA protocols is growing. Having this testing accreditation provides manufacturers with a choice in labs to have their certification testing carried out. We feel strongly that providing choice remains important to the industry in helping to drive up quality, drive down costs and get products through the lab more efficiently and effectively." Ms. Farley confirmed that Eclipse has been certified to perform conformance testing in all four of protocol testing areas of the GSA Certification Program. ■

Gambling and the Law®: But – Is It Gambling?

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Every week, I receive emails and phone calls from operators, reporters, and particularly entrepreneurs – individuals to large companies – wondering whether a new Internet idea is legal.

Auctions are particularly big at the moment, but these aren't your grandfathers' auctions.

Creative, non-traditional markets are blooming, sometimes having very little to do with stocks, bonds and commodities.

Inventors are developing more and better skill contests, no-purchase necessary games, and variations on fantasy sports.

There are other important legal issues that have to be examined. For example, something that operates like a public exchange, with participants buying and selling predictions or the like, might run afoul of the many restrictions on trading in securities.

The reason they contact me, though, is because they want to know: "Is it gambling?" And, if it is, what can we do to make it legal — that is, to make it not gambling.

Traditionally, any analysis started with examining whether all three elements of gambling are present: prize, chance and consideration.

However recent developments, including, ironically, a statute that was supposed to kill Internet gaming, the Unlawful Internet Gambling Enforcement Act ("UIGEA"), have created new opportunities for risk-seekers.

Take fantasy sports. What started as rotisserie football has developed into a multi-billion dollar industry, primarily due to the UIGEA.

American law allows the individual states and the federal government to create their own standards for what constitutes a contest of skill as opposed to a game of chance.

So, conservative game developer's gaming lawyers would have to research more than 51 sets of law, if they wanted to include the District of Columbia, Puerto Rico and other American possessions.

Although most American jurisdictions agree that the standard is predominantly skill, some try to regulate or prohibit games with "substantial" or even "any" chance. While all courts would agree that predicting whether the next play is gambling, some judge-made tests will not even recognize the skill required to analyze an entire season of sports games.

As an additional complication, the federal Wire Act prohibits sending sports bets across state lines, even if the gambling is legal under state law.

To get around these restrictions, developers turned to eliminating other elements of gambling. The legal term "consideration" derives from the law of contracts, which means any detriment to one party to an agreement, or benefit to the other party. Yet for gambling, the days of finding consideration in a player filling out a form or visiting a retailer are gone. Just about everyone today agrees that if a game does not require money to participate there is no consideration.

But – is it Gambling?, continued on page 8

>> *But – is it Gambling?, continued from page 8*

A little more complicated, most jurisdictions find no consideration even if the overwhelming majority of players do spend money to enter. No-purchase-necessary sweepstakes have flourished because they work; people really do buy more hamburgers if they get a free entry to a drawing with each purchase. And they work legally if anyone can enter with a free alternative means of entry and is treated with equal dignity, meaning they have exactly the same chances of winning as paying customers.

The third element, prize, is the easiest to eliminate in theory, but used to be the most difficult in practice. After all, who would pay to enter a game of chance where winners win nothing? However the growth of social games, with millions of players paying to win only bragging rights or fancy avatars, has astounded and enticed the gambling industry. Everyone wants to be the next Zynga.

The UIGEA introduced a wild card into the mix. Rammed through by the right-wing religious Republican, then-leader of the U.S. Senate Bill Frist (R.-TN), the law contains express exemptions for such things as intra-state and inter-tribal gambling as well as fantasy sports.

Technically the exemptions apply only to this particular federal statute and would not overrule the Wire Act, let alone any state law. Yet everyone, including law enforcement, sees the UIGEA as expressing the will of Congress. The Obama Department of Justice (“DoJ”) has let state lawmakers know, informally, that it won’t interfere if a state wants to legalize purely intra-state poker, even if the computer lines happen to cross through a neighboring state. For fantasy sports, prosecutors and regulators seem relieved to act like there is now a short checklist to determine whether a game is legal or not.

As icing on the cake, the UIGEA called for regulations to be issued by the Federal Reserve Board and

Treasury, in consultation with the DoJ. These went into effect on June 1, 2010. They allow banks and other payment processors to accept online gaming operators as patrons, if the operators have “reasoned legal opinions” from lawyers explaining why the Internet gambling transactions are legal.

So, in practice, a safe harbor has developed for sophisticated fantasy sports operators and their gaming lawyers. And the UIGEA does not limit the exemption for fantasy sports to sports.

The most interesting question I received along these lines was whether it would be possible to create fantasy teams for poker tournaments and whether a person could be on his own fantasy team.

Technology has opened the door to other ideas that may or may not be gambling. Trading in commodities and other securities was considered gambling until the dawn of the 20th century. Federal laws first passed during the Great Depression expressly preempted state anti-gambling laws for securities traded on listed U.S. exchanges. The birth of new markets in such things as elections currencies and fictional companies has led to a renewed interest by regulators in these ancient laws.

Insurance was also considered gambling. That is one reason why you cannot take out a policy on the life of a person you do not know. Additionally, lawmakers are afraid you might do something to increase your chances of collecting.

Entrepreneurs have come up with innovative variations on insurance, all designed to allow individuals to pay small amounts to protect much larger investments. These include policies to refund expensive tickets of final playoff games if the buyer’s teams is knocked out of the running to compensating students monetarily if they are forced to withdraw from college.

But – is it Gambling?, continued on page 9

Virginia News

Carlton Courter is the new manager of the Office of Charitable Gaming in the Virginia Department of Agriculture and Consumer Services. Carlton can be reached at (804) 371-0495 or Carlton.Courter@vdacs.virginia.gov. He recently oversaw the physical move of the office to a new location. The new mailing address is 102 Governor St., Richmond, VA 23219. The relocation to a smaller but more func-

tional work space was made possible through the conversion of paper records to electronic format. The office is also actively involved in developing and deploying online solutions for initial registrations and licensing, gaming permit renewals and amendments, as well as the electronic submission of financial reports. ■

>> *But – is it Gambling? continued from page 8*

It is only a small twist to convert these into money-making plans. How about allowing fans to pay small amounts way in advance for very expensive playoff tickets, good only if their team makes the playoffs? Or rewarding students with large payoffs in cash if they achieve straight A's?

Are these forms of gambling?

Online auctions have evolved far beyond eBay. Many sites today allow participants to obtain expensive goods and services for a fraction of their retail costs, if they have the winning, unique bid, high or low. The sites are extremely profitable because participants have to pay a small fee for each bid they make. The psychological impact of sunk costs can be so great, that many people find they can't walk away and write off the money they spent on losing bids.

Do these violate anti-gambling laws? Some gaming lawyers analyze these online auctions in the traditional terms of prize, chance and consideration. Certainly, anyone who gets something cheap has won a prize of value, and all bidders are paying for the chance to win. But is the outcome determined by skill?

There is no random number generator. However, par-

ticipants also have no control over what other participants are going to do and often they have little or no information even on how many other people are bidding them.

That is true in conventional, land-based auctions as well.

So the correct question is perhaps not "Is it gambling?" but "Is it legally an auction?"

After all, there are many forms of gambling, or what used to be considered gambling, that are now perfectly legal.

A smart gaming lawyer will know that changes in the law and technology have changed the questions they must ask and answer. ■

© Copyright 2010. Professor I Nelson Rose is recognized as one of the world's leading experts on gambling law, and is a consultant and expert witness for governments and industry. His latest books, INTERNET GAMING LAW (1st and 2nd editions), BLACKJACK AND THE LAW and GAMING LAW: CASES AND MATERIALS, are available through his website, www.GAMBLINGANDTHELAW.com.

Aristocrat Completes Successful Trial of New Oasis 360T nCompassT Platform at Chumash Casino Resort

Paul Speirs, Steinbeck Communications

Full story and video here:

<http://www.marketwire.com/press-release/Aristocrat-Completes-Successful-Trial-New-Oasis-360-nCompass-Platform-Chumash-Casino-1392301.htm>

LAS VEGAS (February 8, 2011) – Customers at the Chumash Casino Resort in Santa Ynez, CA now have the advantage of a highly sophisticated compass to point the way to all of the incredible amenities the resort has to offer. The compass is the new nCompass™ media window platform of leading slot and systems technology developer Aristocrat Technologies, which recently completed a very successful 4-week field trial of nCompass at Chumash Casino.

“We are absolutely thrilled with the results of our field trial at Chumash Casino Resort. nCompass is empowering Chumash to connect with their player in new ways, and we couldn’t be happier that the operations teams and the customers all love the nCompass product,” said Aristocrat V.P. of Systems Sales and Marketing Kelly Shaw.

nCompass is the next generation hardware platform of the Oasis 360 Sentinel™, and it is a leap forward in direct customer communication with amazing, advanced media delivery. At a surface level, nCompass utilizes an interactive media window on the main screen of the slot machine that offers dynamic gaming content to the player. Under the surface, nCompass is a technologically advanced engine that includes expansion capabilities, greater processing power and greater storage capability for multi-media content.

nCompass empowers a casino to deliver video or animated content, provides state-of-the-art touch-

screen interactivity and displays player points earned in a day (or points earned based on tier ranking). nCompass even enables the casino to target marketing messages to specific players on individual gaming machines.

nCompass has been installed on 34 Aristocrat games at the casino. Now with the power of nCompass, Chumash is able to directly reach its customers with messaging on the resort’s full line of amenities including the hotel, casino, showroom, spa and three restaurants.

Speaking for Chumash, Mike Hackett, Executive Director of Slots, said, “Our customer reaction has been very positive. Because nCompass displays directly on the screen like a picture-in-picture, our players can quickly and easily see their points earned and the many things we have to offer where they can reap their rewards. nCompass is also very easy for the player to turn on and off, so they can keep their focus where they choose.”

“From an IT perspective, nCompass was very simple for us to install and use,” said John Ormond, Director of IT. “We had no technical issues at all, and as a highly skilled technical department, we could appreciate the backend technology that runs nCompass.”

Alex Goodnature, Business Strategist for Marketing and Promotions, said, “We are thrilled to have nCompass in our tool box. Directly reaching our players is one of the best ways to market our business offerings, and nCompass empowers us to directly touch our customers on property, during their experi-

New Oasis 360T nCompassT Platform,
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>> *New Oasis 360T nCompassT Platform, continued from page 10*

ence, to further enhance their total experience. Plus, nCompass allows us to use whatever resources we deem necessary to create our messaging, so we can be very creative in fulfilling on the Chumash brand promise.”

Aristocrat’s sophisticated Oasis 360 system is successfully monitoring the casino floors of more than 260 casinos across North America and the Caribbean.

Aristocrat Technologies Inc. is a subsidiary of Aristocrat Leisure Limited (ASX: ALL), a leading global provider of gaming solutions. The Company is licensed by more than 200 regulators and its products and services are available in more than 90 countries around the world. Aristocrat offers a diverse range of products and services including electronic gaming machines, interactive video terminal systems and casino management systems. For further information visit the company’s website at www.aristocratgaming.com. ■

Gaming Laboratories International Opens First Office in the Caribbean

Former Regulator Luis de Valle Heads New Puerto Rico-based Office

LAKEWOOD, N.J. (February 9, 2011) – Responding to increasing client demand, Gaming Laboratories International, LLC has opened its first office in the Caribbean. The new office will be based in San Juan, Puerto Rico. Former Puerto Rico Tourism Company regulator and Puerto Rico native Luis de Valle will lead the office, and he will service GLI’s regulator and supplier clients in the region.

The office was opened after the Puerto Rico Tourism Company signed an exclusive agreement for technical services with GLI related to gaming device and systems testing, field inspections and other technical services.

GLI President James R. Maida said, “We are thrilled with this new contract with the Puerto Rico Tourism Company. We have been working with the PRTC and with regulators, suppliers and operators in the region for years, and we wanted to have a daily presence in the region to better service our clients there. That is the reason for the new office, and we could not have found a better person to head the office than Luis. His experience in gaming and knowledge of the region, combined with GLI’s

global expertise, will be extremely beneficial to our clients.”

The new Puerto Rico office is now open and is located at:
1018 Ashford Ave
Suite 3A-12
San Juan, P.R. 00907

For more than 20 years, Gaming Laboratories International, LLC has been the world leader in providing independent testing, inspection and certification services to the gaming industry. With 15 laboratories spread across Africa, Asia, Australia, Europe, North America and South America, GLI is the only global organization of its kind to hold U.S. and international accreditations for compliance with ISO/IEC 17025, 17020 and Guide 65 standards for technical competence in the Gaming industry. GLI offers independent third party evaluation and certification of Gaming technology, devices and systems in addition to providing network and information security assessments. For more information, visit www.gaminglabs.com. ■

Gambling and the Law®: The Growing Third Wave of Legal Gambling

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We are in what I call the Third Wave of Legal Gambling. Twice before in American history, legal gambling has spread across the nation, only to crash down in scandal and complete prohibition. The prior crashes left legal debris, which is still on the statute books.

The First Wave of Legal Gambling started even before there was a country, with lotteries in England helping to fund the colonies. The most important pieces of legal debris from the fall of the First Wave in the 1840s and 50s are the state constitutional bans on lotteries. So much time has passed that sometimes the meaning of the term "lottery" has been lost or warped to include other forms of gambling, creating enormous problems for proponents of bingo, parimutuel wagering and casinos.

Amending a state constitution is difficult, requiring a vote of the people. A century and a half after the anti-lottery provisions were written in, long after the memory of the scandals that led to their creation had died away, proponents of state lotteries were able to win constitutional elections in more than three dozen states.

Proponents of casinos have not fared as well. Voters have almost always rejected amending their state constitutions to bring in high-stake casinos. However, many state legislatures have been able to legalize casinos where no vote was required. These include some of the leading casino states, including Nevada, Mississippi, and now Pennsylvania, where the constitutional ban on "lotteries" has been interpreted as being limited to true lotteries, enabling state legislatures to legalize casinos without a statewide vote.

The Second Wave began with the Civil War and the continuing expansion of the western frontier. The South turned to state-licensed lotteries as a painless way to raise revenue. Legal gambling is often seen as a voluntary tax. This is the reason we are seeing so many attempts at expansion during the current Great Recession.

The most important legal debris of the crash of the Second Wave were the federal anti-lottery laws passed in response to the Louisiana Lottery scandal, and other problems in the late 19th century associated with legal lotteries licensed by various states. These were later incorporated into the federal radio and TV statutes and still exist in the U.S. mail laws.

I am not allowed to mail a lottery ticket from my home in Encino to a friend in Las Vegas because federal law does not want the good people of Nevada hearing about the evils of California's legal gambling.

We are now in the Third Wave, which started with the Great Depression. In 1931 Nevada re-legalized casinos. Every year since then there has been an expansion of legal gambling; horse tracks reopened in the 1930s, charities gained the right to operate bingo legally in the 1940s, social gambling was mostly decriminalized in the 1950s. Then New Hampshire rediscovered the state lottery in 1963. 13 years later, New Jersey became the second state to have legal casinos.

Imagine telling someone from 1909, when there was virtually universal prohibition on legal gambling in this country, or even a visitor from the America of

The Growing Third Wave of Legal Gambling,
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President Dwight D. Eisenhower, that there is a state in the United States that has the following forms of legal gaming:

- Casinos
- A state lottery
- Video poker machines in nearly every bar
- Racetracks and parimutuel betting on horse racing and dog racing
- Internet betting within the state and across state lines on racing
- Charity bingo
- Bets on sporting events taken by the state itself and that that state is not Nevada, but Oregon.

Nevada's State Constitution prohibits all lotteries, except charity raffles. There are no operating race tracks in the Silver State.

The impact of the Third Wave on the established forms of gambling has been dramatic and devastating. Horseracing had a monopoly for 50 years. Now, the only thing that is preventing many tracks from closing is off-track betting and the introduction of slot machines, creating racinos.

It is widely believed in this Third Wave of Legal Gambling that anyone, including governments, can get rich quick. All one needs to do to grab a piece of the action is to own, operate, or tax some form of legal gambling. An endless flow of instant, unlimited wealth will follow. This is actually true, as long as the rest the world cooperates and lets the operator have a monopoly.

Suppose Prohibition of alcohol had just been repealed. The hypothetical owner of the first and only liquor store in a state would make a fantastic return on investment. However, soon if there were no government controls, there would be liquor stores throughout the state, as there are few barriers to entry.

Excess profits would disappear and returns on investment would descend to normal levels, after a large number went bankrupt and that over-supply disap-

peared.

Government makes the situation worse. The fantasy that there is an infinitely inelastic demand for gambling seems to hit politicians harder than entrepreneurs.

Sin taxes are always the easiest to raise. Casinos, like liquor stores and tobacco retailers, are easier targets than more politically acceptable businesses. Government's thinking is that people should not be gambling anyway and they will continue to make wagers, no matter how much the cost. So, even though a quarter of the gaming establishments in a jurisdiction might go bankrupt, the state continues to consider raising taxes on gaming.

The explosion of legal gambling has finally settled the question of whether availability creates demand. The metropolitan area of Biloxi-Gulfport-Pascagoula, near the Mississippi casinos, has a population of slightly more than 100,000, yet it ranks as one of the most important feeder markets for casino gaming, far above much more massive cities like Houston and Seattle.

Although availability creates demand, that demand is not endless. Even a casino in New Orleans will fail, if Louisiana and Mississippi are already saturated with competing forms of gambling.

Technology is the wild card. Although it is possible to see the general trends and cycles in gambling, it is impossible to predict how exactly it will develop because the games are so much dependent on technology. The development of the Internet in general and online gaming in particular illustrate how invention creates a demand that did not formerly exist because the technology itself did not exist.

The most potent machines spread throughout and

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Indigenous Gaming Regulators Update

Lorna Ledoux, Manager Communications, Indigenous Gaming Regulators

Indigenous Gaming Regulators Compliance Officers complete regular inspections of Table Games at the six Saskatchewan Indian Gaming Authority casinos. Community Liaison Officers and Licensing Officers visit First Nations communities to provide general information on IGR as well as the licensing requirements around charitable gaming. IGR staff members continue to provide assistance where requested with charitable gaming licensing applications. The largest focus for the licensing staff remains on reporting and with helping the on-reserve charities establish efficient practices.

A Bingo symposium was conducted January 20, 2011 primarily to explain the reporting process in detail and provide an update on IGR activities. The symposium was well attended and participants expressed their enthusiasm through a variety of pertinent questions to the presenters. Topics at the symposium included terms and conditions of the IGR Licensing Agreement with the Province of Saskatchewan, common areas of concern and best practices for all IGR licensed charitable gaming. The highlight of the symposium was a panel discussion by managers for IGR licensed operations.

In 2010 IGR partnered with St. John's School in Saskatoon for our Christmas Card Contest. The elementary school accommodates families from the Riversdale, King George and Holiday Park Neighborhoods. The entries were judged by our independent panel of judges and mailed out to our contacts here at IGR. In addition to the Christmas Card Contest, IGR staff members once again donated food items to the needy as well as small gifts for children.

The number of charitable gaming licences issued by IGR continues to experience steady growth as does the percentage of licensed operations on the "Grandfathered Bingos List." As of February 2011, eighty-nine percent of on-reserve charitable gaming

is licensed by IGR. IGR maintains a statistic of 97.2% regarding "designation" Band Council Resolutions (BCRs) for First Nations that have gaming on their lands. These BCRs are an expression of confidence in IGR as the gaming regulator of choice for the First Nations communities.

Please visit our highly informational website at www.igr.ca. It includes an abundance of information on IGR and access to a variety of licensing forms. You will also find Gaming Rules Newsletter and the IGR Annual Reports on the website. ■

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dominate everywhere they go. Every form of gambling can now be played on a computerized video screen.

Inventions expand experience — technology creates its own demand. One of the most popular forms of gambling in 2011 is on video poker machines. Did anyone want to play video poker, before it was invented?

It is easy to predict, in general, what will happen over the next few years: more legal gambling.

Just as no one in 1909, or even 1959, could predict that Oregon would have more forms of legal gambling than Nevada, it is impossible to know what invention will take the place of the video poker machine in the year 2029. ■