



JIM GIBBONS  
Governor

STATE OF NEVADA  
**GAMING CONTROL BOARD**

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May 28, 2010

Carson City  
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Attorney at Law

Dear \_\_\_\_\_ :

This letter is a response to your inquiry dated April 28, 2010, wherein you seek guidance concerning the extent to which a nonrestricted licensee can do business with an internet gaming company that currently accepts wagers from United States ("U.S.") residents after the passage of the Unlawful Internet Gaming Enforcement Act ("UIGEA"). Your inquiry goes directly to the dot.net/dot.com distinction made in the past by the Gaming Control Board ("Board") which allowed Nevada licensees to enter into various business relationships with internet companies to advertise their dot.net websites in conjunction with various poker tournaments and other gaming activities operated by nonrestricted licensees. You ask whether a business relationship that migrates beyond advertising is permissible.

You point out that the distinction between the dot.com and dot.net websites operated by internet gaming companies has become blurred and that internet gaming companies which continue to accept bets over the internet from U.S. residents are entering into business relationships with nonrestricted licensees that appear to be inconsistent with the Nevada Gaming Control Act and regulations promulgated pursuant to that Act.

Your request has made it clear that based upon legal interpretations and differing levels of caution being exercised by some Nevada licensees that your clients believe they have been placed at a competitive disadvantage by accepting advice to not enter into business relationships with internet companies violating UIGEA and other federal laws as interpreted by the U.S. Department of Justice. You, therefore, request that the Board provide guidance so that the entire industry can clearly understand whether or not Nevada licensees can do business with such internet gaming companies and if so, to what extent.

As you can appreciate, this issue is being hotly debated at federal, state, and tribal levels as well as internationally. Therefore, any guidance included in this response is subject to modification based upon potential changes in the law at different jurisdictional levels to include the state of Nevada. My response is therefore limited to the environment that exists today.

What is clear is that the U.S. Department of Justice has shown no indication of relaxing its position and interpretation that internet gambling in any form is illegal in the United States. The lack of federal criminal prosecutions under UIGEA should not be interpreted by the gaming industry as a lack of interest by state and federal law enforcement and regulatory agencies on this issue. A number of federal statutes come into play as you advise your clients, such as UIGEA, the Wire Act, the Racketeering Influenced and Corrupt Organizations Act, the Illegal Gambling Business Act, anti-money laundering statutes, the Interstate Transportation of Wagering Paraphernalia Act, and the Travel Act. These, as well as a myriad of state and tribal laws and regulations should be considered carefully in light of the federal government's currently stated position. From the Board's perspective, these assessments need to be viewed in the context of current Nevada law and regulatory language which mandate standards for conduct that go beyond gambling.

Under the current environment, the Board is assessing these relationships on a case-by-case basis and recently has increased its efforts in this regard. Those activities that require Board review and approval are being looked at more closely so that determinations can be made as to whether business relationships between Nevada licensees and internet based companies violate state and federal law/regulations. You are reminded that should any of these assessments or decisions run counter to the commercial desires of your client, the decisions are appealable to the Board, and ultimately to the Nevada Gaming Commission ("NGC") pursuant to the provisions of NGC Regulation 4. From a policy perspective, these appeal provisions provide an opportunity for the Board and the NGC to weigh in on more global policy issues.

For activities not requiring administrative approval, the best practice would be to request a written response from the Board prior to entering into a business relation with an internet company wherein compliance with UIGEA is in question. In any event, it has historically been the Board's position that the responsibility for insuring that business relationships do not violate the Board's interpretation of existing law remains the responsibility of the Nevada licensee. Clearly, the Board reserves the right to intervene at its discretion.

Speaking more directly to the issue you have raised, it is important for the industry to understand that the Board and NGC have historically taken exception to any practice whereby a company utilizes an affiliate to engage in impermissible conduct the company itself cannot engage in. In this regard, it appears that the advice you have been giving your clients is sound from both a state and federal perspective.

As you are aware, this Board will not disregard the Department of Justice's interpretation of federal law and the effects that interpretation has on existing state law. On a State level, the Board is obligated to enforce existing law and in this regard I call your attention to NRS 465.093. I anticipate that the Board's increased attention directed at this issue will level the commercial playing field as current and proposed relationships are assessed on a property by property basis.

As in any regulatory environment, any acts of rehabilitation undertaken by a company to address past practices is appropriate when giving consideration to the suitability of that company's methods of operation. Through this assessment process, the Board has an interest in past and present compliance efforts and will look favorably upon those companies that are currently operating within compliance of not just U.S. law, but international laws, as they pertain to internet gaming. Clearly, those internet companies that have not complied with state and federal law, especially after the passage of UIGEA, and have demonstrated no interest in voluntary compliance will be looked upon less favorably.

I hope that this response adequately addresses your immediate question. Caution in this regard is appropriate as this regulatory system, the federal government and commercial interests navigate an environment which clearly has global implications. As always, the Board remains available to discuss the issue further should you desire.

Sincerely,

Randall E. Sayre  
Member

RES/amt

c: Dennis K. Neilander, Chairman  
Mark A. Lipparelli, Member  
Jerry Markling, Chief, Enforcement Division  
Records & Research Services