



In the matter of:

Request for Variance and Compliance Order submitted by the New Mexico Gaming Control Board Audit and Compliance Division (“Audit Division”) regarding Board Rule 15.1.10.27(B) NMAC as applied to licensed Gaming Operators (“Licensees”) and Request for Variance submitted by My Way Holdings LLC, dba Sunland Park Racetrack and Casino, R001 (“Licensee”) regarding the same Rule.

DECISION AND ORDER

This Decision and Order is issued pursuant to the New Mexico Gaming Control Act (“Act”), Sections 60-2E-1 through 60-2E-62, NMSA 1978. All relevant evidence having been considered, and based on the information made available to the New Mexico Gaming Control Board (“Board”) at its regular board meeting on March 17, 2021, and as of the date of this Decision and Order, the Board hereby finds as follows:

Findings of Fact

1. Board Rule 15.1.10.27(B) NMAC requires all gaming operators (“Licensees”) to redeem TITOs (tickets in and tickets out) within 180 days of being issued. The state Public Health Order mandated closures of gaming operations beginning on March 16, 2020, whereby patrons were unable to redeem those winnings during that period of time and their winning tickets are now expired. There is a concern that these patrons forfeited their winnings for which they are entitled, but they could not receive through no fault of their own.
2. The applicable Board Rule states as follows:

NMAC 15.1.10.27 PAYMENT OF GAMING CREDITS:

B. A player shall redeem credit slips at the designated place in the licensed premises where the gaming credit was issued. A credit slip shall be redeemed within 180 days of the date of issuance. Funds reserved for the payment of a credit slip shall be treated as net take if

unredeemed within 180 days from the date of issuance. The 180-day redemption policy shall be prominently displayed on the licensed premises.

3. The Audit Division proposed in its global variance request that Licensees shall redeem any valid TITOs issued within 180 days prior to the issuance of the closure order dated March 16, 2020. Licensees may deduct the cost of redeeming any such ticket redeemed in the calculation of Net Win for the month during which such ticket was redeemed. The proposed global variance recommendation is that the Board require gaming operators to allow patrons to cash in these TITOs throughout the extended period of redemption of 180 days after the 2021 date of reopening of the casino or nonprofit gaming operator.

4. On March 3, 2021, My Way Holdings, LLC, dba Sunland Park Racetrack and Casino, submitted a variance request asking for a variance allowing the Licensees to issue payments for a period of 90 days after its reopening date of March 5, 2021 for TITOs which expired during the closure period due to the Public Health Orders related to the Covid19 pandemic.

5. During the entire time of gaming operator mandatory closure from March 16, 2020 until reopening in 2021, patrons have been unable to redeem unexpired TITOs. To ensure fairness and integrity of gaming for patrons and licensees, all unredeemed TITOs which were issued less than 180 days in advance of the March 2020 mandated closure of the casinos should be redeemable through 180 days after the 2021 reopening date.

6. A mandate as described in Paragraph 3 herein would not be burdensome to gaming operators, as they are already required by Board Rule to keep TITO records for 5 years. NMAC 15.1.9.12 (B).

7. This matter was presented to the Board at the March 17, 2021 regular Board meeting and was discussed in the open session only.

8. In the open session of the Board's regular meeting on March 17, 2021, the Board voted 3-0 to grant the Audit Division's global variance to all nonprofit and race track gaming operator licensees extending the due date for patron redemption of TITOs issued within 180 days prior to the March 16, 2020 Public Health Order mandating closure until 180 days after the gaming operator's 2021 date of reopening of gaming operations as allowed by Public Health Orders issued by the Department of Health. The Board orders further that Licensees shall comply with the terms of this grant of variance as a mandatory requirement with regard to the referenced dates of TITOs issued and the dates in which patrons are entitled to redeem TITOs.

Conclusions of Law

9. The Board has jurisdiction and authority to act in this matter pursuant to the New Mexico Gaming Control Act (“Act”), Sections 60-2E-1 through 60-2E-62, NMSA 1978.

10. Section 60-2E-7(B)(3) of the Gaming Control Act authorizes the board to develop, adopt and promulgate all necessary regulations to implement and administer the provisions of the Act.

11. Additionally, the Board has authority pursuant to Board Rule 15.1.10.48(C) NMAC to grant the variance to its Board Rules when it is consistent with the purposes of the Act and is not contrary to the public interest.

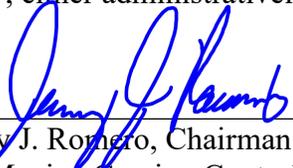
12. An extension of the redemption period for TITOs issued within 180 days prior to March 16, 2020 through 180 days after the gaming operator’s 2021 date of reopening in compliance with the Orders of the Governor or Department of Health, will not adversely affect the public interest.

Order

IT IS HEREBY ORDERED that the Audit Division’s requests for variance is GRANTED and that Sunland Park’s variance request is superseded by the Audit Division’s grant of variance described herein. It is further ORDERED that the Audit Division’s global variance is GRANTED to all nonprofit and race track gaming operator licensees in the state. The Licensees shall redeem any valid TITOs issued within 180 days prior to the issuance of the public health order dated March 16, 2020. The Licensees may deduct the cost of redeeming any such ticket redeemed in the calculation of Net Win for the month during which such ticket was redeemed. The Board hereby adopts the Audit Division’s request for a mandatory order requiring gaming operators to allow patrons to cash in the TITOs issued within 180 days prior to March 16, 2020 through 180 days after the 2021 date of reopening of the casino or nonprofit gaming operator. This Order and the actual 180-day redemption date based on the individual Licensee 2021 reopening date shall be prominently displayed on the licensed premises at the cashier’s cage.

Notice of Right to Appeal

Pursuant to Section 60-2E-59(A) of the Gaming Control Act, any person aggrieved by this decision may request and receive a hearing for the purpose of reviewing the Board’s action. To obtain a hearing, the aggrieved person must file a request for hearing with the Board within 30 days after the date the action is taken. Failure to file the request within the specified time is an irrevocable waiver of the right to a hearing, and the action complained of will be final with no further right to review, either administratively or by a court.



Jeremy J. Romero, Chairman
New Mexico Gaming Control Board

3/23/2021

Date