



Pennsylvania Gaming Control Board



Office of Enforcement Counsel
February 19, 2013

**Privileged and Confidential
Internal Memorandum**

Subject: Washington Trotting Association, Inc.
GID# 1316

To: R. Douglas Sherman, Chief Counsel
Office of Chief Counsel
Pennsylvania Gaming Control Board

Through: Cyrus R. Pitre, Chief Enforcement Counsel 

From: E. Barry Creany, Deputy Chief Enforcement Counsel

CONSENT AGREEMENT TRANSMITTAL

This memorandum is being forwarded to assist in your review of the attached proposed Consent Agreement and Stipulation of Settlement entered into between the Office of Enforcement Counsel and Washington Trotting Association, Inc. d/b/a The Meadows ("Meadows").

Factual Background – The Meadows was issued a Conditional Category 1 Slot Machine License on June 11, 2007 with the opening of its temporary structure. In the spring of 2009 the Meadows began the transition to its new facility and by mid-September was offering gaming on 3,749 slot machines. Its permanent Category 1 Slot Machine License was issued on June 10, 2008.

Following the enactment of Act 1 of 2010 the Meadows filed a petition seeking approval to operate table games. That petition was approved by the Board on April 29, 2010 and confirmed in its June 10, 2010, Adjudication and Order. Specifically, the Meadows sought permission to operate "banked" games (i.e. blackjack, craps, roulette, three card poker, mini baccarat, pai gow poker and a big six wheel) and nonbanked games (i.e. poker). The Board issued the Meadows a Table Game Operation Certificate on July 8, 2010 and the Meadows began offering table gaming at its casino.

The Board's Regulations provide, *inter alia*, that prior to offering any table game a certificate holder shall submit and obtain approval of a Rules Submission which specifies which options, minimum or maximum payouts or wagers will be used in the conduct of the table game.¹ The Rules approval process likewise requires certificate holders to submit gaming guides to the Board's Bureau of Gaming Operations ("BGO") for review.

¹ 58 Pa. Code §521.2(a).

The Board's initial Temporary Table Game Regulations,² which was published in the Pennsylvania Bulletin on February 20, 2010, authorized a variety of permissible wagers in the game of craps; however, Buy Bets or Lay Bets were not included in the initial regulations. The Board promulgated an amendment to its Temporary Table Game Regulations, effective on July 10, 2010, which gave certificate holders the option to offer patrons the opportunity to place Buy Bets and Lay Bets and to collect a vigorish (i.e. commission) on such wagers.³ However, the template⁴ for a rules submission under this amended regulation was not posted on the Board's website until November 16, 2010 where it was available to certificate holders desiring to modify their rules.

The Meadows' first Rules Submission (Version 1.1) relative to Craps, which was submitted on May 17, 2010, did not include Buy Bet or Lay Bet options because these bets had not yet been authorized by the Board's Regulations. This initial Rules Submission was approved for implementation on June 23, 2010. The Meadows submitted an initial gaming guide to the BGO which indicated patrons would be permitted to place Buy Bets and Lay Bets and specified that a 5% commission on Buy Bets would be charged based on the amount wagered and a 5% commission on Lay Bets would be paid on the amount of the payoff. The Meadows' initial gaming guide was approved by the Board's Executive Director on July 1, 2010, with direction that the effective date for distribution of the gaming guide would be upon the Meadows' receipt of authorization to commence gaming operations.

The Meadows submitted a second gaming guide which was approved by the Board's Executive Director for implementation on February 24, 2011. This second gaming guide was consistent with its initial gaming guide with respect to Buy Bets and Lay Bets.

In May of 2011 the Meadows filed a second Craps Rules Submission in which it requested approval to: offer its patrons the option to place Buy Bets and Lay Bets; collect a 5% vigorish in connection with such bets; and, collect the vigorish at the time the player wagers on the Buy Bet the Lay Bet, rather than collecting only on winning bets. Meadows' second Craps Rules Submission was approved for implementation on May 27, 2011. Despite this change relative to when it would collect the Craps vigorish the Meadows maintains that it did not collect the vigorish on any losing Buy Bet or Lay Bet at any time. The OEC is advised that the investigation of this matter did not produce information to suggest that the Meadows engaged in a pattern or practice of collecting vigorish in a manner inconsistent with its approved initial and second gaming guide.

On August 27, 2012, the OEC issue a Request to Cease and Desist to the general manager of the Meadows requesting that it immediately cease collection of vigorish on Buy Bets and Lay Bets. This letter was based upon the understanding that the Meadows was not collecting the craps vigorish in accordance with its second Craps Rules Submission. The Meadows complied with the OEC request and on August 28, 2012, it filed its third and current Rules Submission which modified the May 27, 2011, Craps Rules Submission with respect to when the vigorish would be collected on Buy Bets and Lay Bets. Specifically, the vigorish would be collected only on winning bets consistent with its earlier and current gaming guide. This Rules Submission and a revised gaming guide were approved by the Board's Executive Director on August 30, 2012.

² Temporary Regulation #125-110.

³ Temporary Regulation #125-126.

⁴ Craps Rules Submission Version 1.2

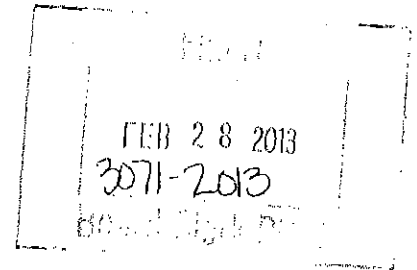
The OEC maintains that from the period from May 27, 2011 through August 27, 2012 the Meadows violated 58 Pa.Code §521.2 by collecting craps vigorish of 5% of all Buy Bets and Lay Bets in a manner that was not in compliance with its May 27, 2011, Rule Submission.

Proposed Order – The Office of Enforcement Counsel requests the Board's approval of the accompanying Consent Agreement and Stipulation of Settlement. If approved the Meadows will be required to institute policies and controls and provide training and guidance to its employees designed to minimize the possibility of its games being operated in a manner not in accordance with its approved rules submission. In addition, the Meadows will have to pay a civil penalty of thirty thousand (\$30,000) dollars for the violations which occurred after its May 2011 Second Rules Submission; and, a two thousand five hundred (\$2,500) dollars for the costs incurred by OEC, BIE and related Board staff in the investigation and prosecution of this matter.

Attachments – A copy of the Consent Agreement and Stipulation of Settlement and a proposed Order accompany this memorandum.



PENNSYLVANIA GAMING CONTROL BOARD
Office of Hearings & Appeals
P.O. Box 69060
Harrisburg, PA 17106-9060
717-265-7451



February 28, 2013

Washington Trotting Association, Inc.
210 Racetrack Road
Washington, PA 15301

PGCB
Office of Enforcement Counsel
Harrisburg, PA 17101

Docket # 3071-2013

NOTICE OF BOARD REVIEW

At their next Board meeting the board will be reviewing the:

Consent Agreement - violation of regulations

You are invited to attend and will have the opportunity to provide oral argument regarding the above referenced matter. No new evidence or testimony will be accepted. Please come forward when your name or matter is announced.

Meeting to be held:

DATE: March 13, 2013 TIME: 10:00 AM

LOCATION: Strawberry Square Complex 2nd Floor
PA Gaming Control Board Office of Hearings and Appeals
Harrisburg, PA 17101

If you have any questions please contact Steve Cook with the Office of Chief Counsel at 717-346-8300.

IN THE PENNSYLVANIA GAMING CONTROL BOARD

IN RE:

WASHINGTON TROTTING
ASSOCIATION, INC. d/b/a THE
MEADOWS RACETRACK AND CASINO


DOCKET NO.:

MAR 14 2013
3071-2013

ORDER

AND NOW, this 13th day of March 2013, upon consideration of the matters set forth in the Consent Agreement proposed by the Office of Enforcement Counsel and Washington Trotting Association, Inc. d/b/a The Meadows Racetrack and Casino, the Pennsylvania Gaming Control Board hereby **ORDERS** that the attached Consent Agreement is **APPROVED**, and that the obligations of the parties, pursuant to the terms of the Consent Agreement, shall be an order of the Board.

By the Board:



William H. Ryan, Jr., Chairman
Pennsylvania Gaming Control Board

**BEFORE THE
PENNSYLVANIA GAMING CONTROL BOARD**

In re: WASHINGTON TROTTING	:	OHA Filing No.
ASSOCIATION, INC. d/b/a	:	
The Meadows Racetrack and Casino	:	GID# 1316

MAR 14 2013
307K 2013

CONSENT AGREEMENT AND STIPULATION OF SETTLEMENT

THIS CONSENT AGREEMENT AND STIPULATION OF SETTLEMENT is made and entered into by the Commonwealth of Pennsylvania, Gaming Control Board's Office of Enforcement Counsel ("OEC") and Washington Trotting Association, Inc. d/b/a The Meadows Racetrack and Casino ("The Meadows"). The Meadows and OEC are collectively referred to as the "Parties";

WHEREAS, The Meadows is an enterprise organized and existing under the laws of Pennsylvania which maintains its principal place of business and at 200 Racetrack Road, Meadow Lands, Washington County, Pennsylvania 15347. The Meadows is the holder of a Category 1 Slot Machine License which was approved by the Pennsylvania Gaming Control Board ("Board") on December 20, 2006. The Meadows operates a licensed facility at the address referenced above;

WHEREAS, the OEC is the prosecutorial body established by 4 Pa.C.S. § 1517(a.2) and has the power and duty to initiate proceedings for administrative violations of the Pennsylvania Race Horse Development and Gaming Act ("Gaming Act") pursuant to section 1517(a.2)(1)(iii) of the Gaming Act;

WHEREAS, pursuant to 4 Pa.C.S. §1102(1), the primary objective of the Gaming Act, to which all other objectives and purposes are secondary, is to protect the public through the regulation and policing of all activities involving gaming and practices that continue to be unlawful;

WHEREAS, pursuant to 4 Pa.C.S. §1202(a)(1), the Board shall have general and sole regulatory authority over the conduct of gaming or its related activities and shall ensure the integrity of the

acquisition and operation of slot machines, table games, table games devices and associated equipment and shall have sole regulatory authority over every aspect of the authorization, operation and play of slot machines and table games; and

WHEREAS, pursuant to 4 Pa. C.S. §1202(b)(19) the Board shall have the "specific power and duty to levy fines or other sanctions against an applicant, licensed entity or other licensee, permittee or employee of the board who possesses, uses, sells or offers for sale any device, equipment or material subject to this part in a manner which constitutes a violation of this part";

WHEREAS, the OEC and The Meadows do not dispute the jurisdiction of the Board; and

WHEREAS, The Meadows and OEC, through their authorized representatives whose signatures are affixed hereto, have investigated the events that are the subject of this Consent Agreement, have conferred on the matter, and now desire to conclusively and amicably resolve all matters arising out of the events, and enter into a Consent Agreement before the filing of a Complaint, pursuant to 58 Pa. Code § 493a.13(a), which provides that "[p]arties may propose consent agreements at any time prior to the entry of a final order."

NOW, THEREFORE, the Parties stipulate and agree, and present to the Board for its consideration the following:

STIPULATION OF FACTS

1. On January 7, 2010, the Gaming Act was amended with the enactment of Act 1 of 2010 which, *inter alia*, added Chapter 13A providing the Board with the authority to approve the operation of table games at licensed facilities.

2. The Meadows petitioned for authorization to conduct table games and on June 10, 2010, the Board awarded The Meadows a table game operation certificate pursuant to 4 Pa. C.S. §13A16.

3. The Board promulgated regulations governing table games pursuant to 4 Pa. C.S. §13A02 including, but not limited to, Temporary Table Game Rules and Regulations published in the Pennsylvania Bulletin on February 20, 2010 ("Initial Table Games Regulations"). The Initial Table Games Regulations included a regulation relating to table game Rules Submission which provided that "[p]rior to offering any table game authorized by this subpart, which provides a Certificate Holder with options for the conduct of the table game, optional wagers, optional payout tables or establishes or requires minimum or maximum payouts or wagers, the Certificate Holder shall be required to submit and obtain approval of a Rules Submission which specifies which options or minimum or maximum payouts or wagers the Certificate Holder will use in the conduct of the table game." 58 Pa. Code §521.2(a).

4. The Initial Table Game Regulations likewise included a regulation relating to the offering of the game of Craps and authorized the permissible wagers that could be offered by table game certificate holders. This Initial Table Game Regulation relating to the game of Craps did not include any provisions regarding Buy Bets or Lay Bets. 58 Pa. Code §537.1, *et seq.* and §537.3.

5. On July 8, 2010, The Meadows began offering table games to the public, including Craps games.

6. The Board's Temporary Table Game Rules and Regulations ("Table Games Regulations") were amended on a number of occasions as the Board was revising the table games regulations including an amendment which was published in the Pennsylvania Bulletin on July 10, 2010. The Board's July 2010 amendment to the Table Games Regulation for the first time authorized certificate holders the option to offer players the opportunity to place Buy Bets or Lay Bets and for the certificate holders to collect a vigorish in connection with such bets.

7. On February 24, 2011, The Meadows' Table Games Rules and Guidelines ("Second Gaming Guide") was approved for use. The portion of The Meadows' Second Gaming Guide pertaining to Craps included provisions describing Buy Bet and Lay Bet wagers and the charging of a "5% commission". More specifically, the Meadows' Second Gaming Guide indicated that on a Buy Bet "A 5% commission is charged based on the amount wagered." The Second Gaming Guide further indicated that on a Lay Bet "A 5% commission wager for the lay bet is paid on the amount of the payoff; whereas, the 5% commission wager for the buy bet is paid on the amount wagered."

8. On May 5, 2011, The Meadows filed a second Rules Submission for Craps and Mini-Craps ("Second Rules Submission"). The Meadows' Second Rules Submission included provisions requesting the Board's approval for it: to offer players the option to place Buy Bets or Lay Bets; to collect a 5% vigorish in connection with such bets; and, to collect said vigorish at the time the player wagers on the Buy Bet and or the Lay Bet, as opposed to collection of the vigorish only on a winning Buy Bet or a winning Lay Bet. The Meadows' Second Rules Submission was approved for implementation on May 27, 2011.

9. From May 27, 2011, through August 27, 2012, The Meadows continued to operated its Craps games offering players the option of placing Buy Bets and Lay Bets and its dealers collected a vigorish of 5% of all Buy Bets and Lay Bets. However, during this period of time The Meadows Craps dealers (as instructed) were collecting the 5% vigorish on winning Buy Bet and Lay Bet rather than collecting it at the time the player wagers on the Buy Bet and Lay Bet as authorized by The Meadows' Second Rules Submission. The Meadows maintains that it did not collect vigorish on any losing Buy Bet or Lay Bet at any time.

10. On August 27, 2012, the OEC issued a Cease and Desist correspondence to The Meadows requesting that it follow its approved Rules Submission or stop collecting the Craps vigorish

until a new Rules Submission was approved. In response, on August 27, 2012, The Meadows stopped collecting Craps vigorish.

11. On August 28, 2012, The Meadows filed a third Rules Submission for Craps and Mini-Craps ("Third Rules Submission"). The Meadows' Third Rules Submission included provisions requesting the Board's approval to offer players the option to place Buy Bets or Lay Bets and for the collection of a 5% vigorish in connection with such bets. The Third Rules Submission provided that the 5% vigorish was to be collected only on winning Buy Bets and Lay Bets. The Meadows' Third Rules Submission was approved for implementation on August 30, 2012.

12. The Meadows Third Rules Submission included a third Table Games Rules and Guidelines ("Third Gaming Guide") which was approved for use on August 30, 2012. Again, the portion of The Meadows' Third Gaming Guide pertaining to Craps included provisions describing Buy Bet and Lay Bet wagers and clarified that it would collect a 5% vigorish only on winning Buy Bets or Lay Bets.

ALLEGED VIOLATION

By virtue of the activity described in the stipulation of facts set forth above, it is alleged that The Meadows engaged in practices which violated:

1. The Gaming Act §13A11 by not conducting table game operations in accordance with the Rules Submission for Craps and Mini-Craps approved for The Meadows and other conditions established by the Board, 4 Pa.C.S. §13A11(a).

2. Board Regulation §521.2 by collecting a vigorish of 5% of all Buy Bets and Lay Bets in a manner that was not in compliance with its Second Rules Submission during the period from May 27, 2011, through August 27, 2012. 58 Pa. Code §521.2.

TERMS OF AGREEMENT

In consideration of the foregoing stipulated facts, and in full and final settlement of any and all claims, causes or actions which could or might be brought under the Gaming Act or the regulations promulgated thereunder, whether against The Meadows, or any of its owners, arising out of the matter identified in the above stipulated facts, the Parties do hereby further stipulate and agree that:

1. This Consent Agreement shall become final and effective only upon its approval and adoption by the Board;

2. Within five days of the Board's Order approving this Consent Agreement, The Meadows shall pay a civil penalty of thirty thousand (\$30,000.00) dollars for the alleged violations involving The Meadows' operation of Craps games as more fully described above;

3. Within five days of the Board's Order approving this Consent Agreement, The Meadows shall pay the Board two thousand five hundred (\$2,500.00) dollars for the costs incurred by OEC, BIE and other related staff in connection with this matter;

4. The Meadows shall immediately institute policies and controls and provide training and guidance to its employees, which will minimize the opportunity for the occurrence of a similar incident in the future;

5. If approved, the Board may make public information regarding the terms and conditions of this Consent Agreement;

6. This Consent Agreement may be set aside by the Board if The Meadows should violate any term contained herein; and,

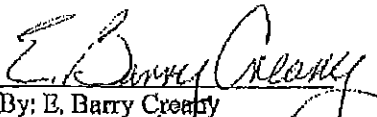
7. The Meadows, through its authorized representative(s) whose signature(s) appear below, have read, fully understand and agree to the terms of this Consent Agreement.

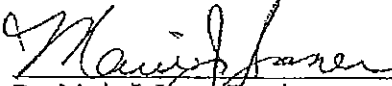
This Consent Agreement is offered and, if approved by the Board, entered into for purposes of settlement only. If the Board should decide to not adopt this Consent Agreement, then this agreement and the representations and obligations contained herein shall be null and void, and neither party nor any other person shall be entitled to use or rely on any portion of said agreement for any purpose whatsoever or to admit any portion of said agreement into evidence in the captioned matter or any subsequent proceeding. This Consent Agreement shall not preclude the Board, BIE or OEC from reviewing and considering any facts contained herein in any future proceeding relating to any application for licensure or qualification of the licensee. The Meadows expressly acknowledges and agrees that the Board reserves the right to take any action that the Board may, in its sole discretion, believe is necessary to protect the integrity of gaming in Pennsylvania, including the right to suspend or revoke any license, approval or permit without limitation if any further violations occur or are subsequently discovered, in conformity with the Gaming Act and the Regulations promulgated thereunder.

The undersigned consent to the form and entry of the above terms as evidenced by the signatures below.

Pennsylvania Gaming Control Board
Office of Enforcement Counsel

Washington Trotting Association, Inc.
d/b/a The Meadows Racetrack and Casino


By: E. Barry Creany
Deputy Chief Enforcement Counsel


By: Marie J. Jones, Esquire
Fox Rothschild LLP

Date: 02-14-13

Date: 2/13/13