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February 6, 2024

Erie County Gaming Revenue Authority Board  
c/o Mr. Dale Barney, Chair  
5340 Fryling Road, Suite 201  
Erie, Pennsylvania 16510

RE: Conflict of Interest

Dear ECGRA Board:

It has recently come to my attention that a concern has been raised as to whether the Erie County Gaming Revenue Board (ECGRA) has operated in compliance with the express terms of the conflict of interest provisions of the Pennsylvania Ethics Act. In my opinion, the members of the ECGRA Board of Directors has not, to my knowledge, ever engaged in a conflict of interest.

The Pennsylvania Ethics Act (the “Act”) provides that “no public official ... shall engage in conduct that constitutes a conflict of interest.” 65 PA.C.S. §1103. A “conflict of interest” is defined as “use by a public official...of the authority of [her] office...or any confidential information received through [her] holding public office...for the private pecuniary benefit of [herself], a member of [her] immediate family or a business with which [she] or a member of [her] immediate family is associated.” 65 PA.C.S. §1102. A “member of your immediate family” includes “a parent, spouse, child, brother or sister.” Id. A “business with which he is associated” is defined as “any business in which the person or a member of the person’s immediate family is a director, officer, owner, employee or has a financial interest.” Id.

Additionally, the Act provides that where a voting conflict exists, a public official is to “abstain from voting and prior to the vote being taken, publicly announce and disclose the nature of [her] interest as a public record...” and file a memorandum of such conflict with the Board Secretary to be part of the minutes. 65 PA.C.S. §1103. Further, a public official who would be in a conflict situation should avoid deliberation on the matter as a whole, as their participation in the deliberation could be determined to be an improper “use...of the authority” of their office. See 65 PA.C.S. §1102.

In each instance that a member of the Board of Directors has identified a conflict of interest, in which they, or a member of their immediate family, or a business in which they or a member of their immediate family was associated, was an applicant for funding from ECGRA, that member has abstained from engaging in deliberations regarding the application or the award, and they have abstained from any associated vote. Additionally, each member has issued a conflict of interest memorandum to the Board Secretary for inclusion in the minutes for the meeting at which the abstention occurred.

Additionally, it is important to note that a conflict of interest does not exist when the action in question has “a de minimis economic impact or which affects to the same degree a class consisting of the general public or a subclass consisting of an industry, occupation or other group which includes the public official or public employee, a member of his immediate family or a business with which he or a member of his immediate family is associated.” 65 PA.C.S. §1102. I raise this as there have been concerns in the past as to whether a conflict would exist if ECGRA received an application from a church that a Board member was associated with. I have regularly, and correctly, issued the opinion that a technical legal conflict, as defined by the Ethics Act, does not exist as the Board members would be considered to be a member of a subclass consisting of the church membership, and they did not serve as an officer or employee of the church. Such mere membership within the subclass would not constitute a conflict of interest.

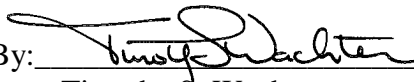
In anticipation of such misplaced criticism being lodged against the past and current members of the ECGRA Board, I have asked Dr. Wood to ensure that each conflict memorandum be publicly disclosed on the ECGRA website.

Also, I write to inform you that, as members of the ECGRA Board of Directors, if you have any question as to whether a conflict of interest exists, and you wish to receive an advisory opinion from the Ethics Commission, I can write and request that the Commission issue an advisory on your behalf. If you follow the advice provide by the Commission, it shall be a complete defense in any enforcement proceeding under the Ethics Act, and as evidence of good faith conduct in any other civil or criminal proceeding. 65 PA.C.S. § 1107. Please know that I can also provide you with a legal opinion regarding a conflict of interest, and that you are entitled to rely upon that opinion. However, you may wish to request an official advisory opinion if a matter is particularly sensitive. I am happy to assist any of you in these matters.

Please do let me know if you have any questions or if you would like to discuss this further. I remain,

Very truly yours,

KNOX McLAUGHLIN GORNALL &  
SENNETT, P.C.

By:   
Timothy S. Wachter

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cc: Dr. Perry Wood, Executive Director