

**OFFICE OF THE ATTORNEY GENERAL**  
**MARYLAND LOTTERY AND GAMING CONTROL AGENCY**

TO: Maryland Lottery and Gaming Control Commission  
Stephen Martino, Director

FROM: Robert T. Fontaine, Assistant Attorney General  
Principal Counsel

RTF

DIVISION: Office of the Attorney General

DATE: December 6, 2012

SUBJECT: Report for the December Commission Meeting

---

This is a status update of ongoing and special projects in the Office of the Attorney General.

**I. Contracts and Human Resources**

**a. Key accomplishments last period:**

- i. Reviewed one contract for the Communications Division for promotion of public affairs events.
- ii. Filed a lien against an agent on behalf of the AFO Division; the total amount of the lien is \$5,795.56.
- iii. Reviewed six Corporate Guaranty documents and six Financial Responsibility Agreements submitted for 7-11 Lottery retailers.
- iv. Reviewed seven Family and Medical Leave Act leave requests submitted from the Human Resources Division.
- v. Reviewed two Licensing Agreements.

**b. Upcoming tasks for this period:**

- i. N/A

**c. Issues:**

- i. N/A

**II. Lottery**

**a. Key accomplishments last period:**

- i. Reviewed five requests from Creative Product Development relating to new Lottery scratch-off games.
- ii. Reviewed one Annuity Trust Case.
- iii. The Agency received a subpoena that would have forced the Agency to disclose the identities and financial information of the three true winners of the record-breaking March 30, 2012 Mega Millions prize. Because the Agency cannot legally, and will not, disclose that information absent a court order, we filed a motion to quash the subpoena and for an order protecting the Agency from being forced to produce the winners' information. By order dated November 21, the Circuit Court for

Baltimore City granted our motion. Since then, there has been no communication from the parties who were seeking this information.

- iv. In consultation with Agency staff, revised and reformatted Lottery regulations for migration of all Agency regulations into new Title 36. A Draft of the revised and reformatted Lottery regulations will be provided to you separately for your review. Most of the changes to the regulations involve clarification, deletion of extraneous or inaccurate content, or simply reformatting. However, we will provide you with a summary of substantive changes.

**b. Upcoming tasks for this period:**

- i. Incorporate Commission members' input into the content of the revised Lottery regulations.

**c. Issues:**

- i. N/A

**III. Video Lottery Terminals**

**a. Key accomplishments last period:**

- i. Continued to assist Agency staff on compliance issues associated with casino operations at Perryville, Ocean Downs, and Maryland Live!
- ii. Continued to provide Agency staff with advice on the employee licensing process.
- iii. Reformatted all VLT regulations for migration of all Agency regulations into new Title 36, and worked with Agency staff to draft all-new Table Game regulations. A Draft of the revised and reformatted VLT regulations will be sent to you separately for your review. We reorganized content from the existing regulations into a new Gaming subtitle that covers regulations pertaining to both VLT and Table Games. We created a separate VLT subtitle for content pertaining only to VLTs, and a new Table Games subtitle for all-new content pertaining only to Table Games. We will provide you separately with a summary of substantive changes to the VLT regulations. Please note that, although the Table Games subtitle presently contains game rule regulations for only Blackjack and Craps, you will receive within the next few days game rule regulations for Poker and Roulette.
- iv. Harborwest Partners, LLC, has filed in the Circuit Court for Baltimore City a petition for review of the decision of the Maryland State Board of Contract Appeals (MSBCA) granting the Location Commission's motion to dismiss the challenge of the award of the Baltimore City VLT facility license to Caesars's. On November 20, we filed a Preliminary Motion to Dismiss the Petition for Judicial Review on the basis that HarborWest never submitted a proposal for the license so it lacks standing to challenge the license award. A copy of the motion is attached. CBAC Gaming, LLC, which was awarded the Baltimore City license, joined in our motion. A court hearing is scheduled for January 14. Counsel for HarborWest has advised that he will ask the court to push back the hearing date. Given that this litigation is now required by law to be fast-

tracked in court, if HarborWest's counsel seeks to delay the hearing, we will ask the court to advance the hearing to an earlier date.

**b. Upcoming tasks for this period:**

- i. Incorporate Commission members' input into the content of the revised VLT/Gaming regulations and the new Table Game regulations.
- ii. Finalize Table Game rule regulations for several more Table Games for consideration at the Commission's January 2013 meeting.
- iii. On November 2, 2012, several citizens and the Accokeek, Mattawoman and Piscataway Creeks Communities Council, Inc., brought suit in the Circuit Court for Anne Arundel County against the State Board of Elections, the Governor, the State Lottery and Gaming Control Commission and Agency and its Director. The suit seeks to prevent the state from implementing gaming expansion the voters approved under Question 7 by mounting a constitutional challenge to the VLT law's expansion of gaming. The Office of the Attorney General is defending this lawsuit. The law firms of Rifkin, Livingston, Levitan, and Silver, LLC, and Joseph, Greenwood & Laake, P.A. have moved to intervene as defendants and to dismiss the lawsuit. We will provide you with copies of their pleadings upon request.
- iv. Given that the passage of Question 7 means a sixth VLT operation license will be available in Prince George's County, the Video Lottery Facility Location Commission will issue a Request For Proposals for that license. By operation of SB 1, the Department of Legislative Services no longer provides staff support to the Location Commission. Our unit will provide assistance as necessary to the Agency in providing staff support to the Location Commission.

**c. Issues:**

- i. N/A

**IV. New Initiatives – Internet Lottery and Electronic Gaming Devices**

**a. Key accomplishments last period:**

- i. Continue to assist Agency staff with planning the implementation of internet lottery and the regulation of electronic gaming devices.
- ii. Drafted all-new regulations to implement the regulation of electronic gaming devices and instant ticket lottery machines for veterans' organizations. These regulations will be sent to you separately for your review.
- iii. The lawsuit brought against the State by the Crooked I Sports Bar & Grill in the Circuit Court for Anne Arundel County remains pending before the Court of Special Appeals.
- iv. An attorney in Prince George's County requested review of his clients' internet café operations and a determination that they are legal under SB 864. Consistent with the Director's Declaratory Ruling on a similar request by BBB Management, Inc. d/b/a Patapsco Bingo, the Director issued a Declaratory Ruling in which he concluded that the operation of sweepstakes machines, as described by the attorney in his request for a

To: Maryland Lottery and Gaming Control Commission  
Stephen Martino, Director

Page 4

From: Robert T. Fontaine

December 6, 2012

---

ruling, are illegal under Maryland law. We will provide you with a copy of the Director's decision at the Commission meeting.

**b. Upcoming tasks for this period:**

- i. Continue drafting regulations.
- ii. Continue to analyze the impact of legislation passed during the Second Special Session, and assist Staff in meeting additional resulting responsibilities.

**c. Issues:**

- i. N/A