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Internet Gaming Regulation: The Kahnawake Experience

*Frank Catania**

I. INTRODUCTION

In late winter 1999, shortly after my resignation as Director of the New Jersey Division of Gaming Enforcement (NJDE), the Mohawks of the Kahnawake Territory approached me to assist them with the development of regulations for Internet gaming. The idea of regulated Internet gaming from a location in North America intrigued me, as most discussion regarding Internet gaming regulation was taking place in Australia¹ and various nations throughout the Caribbean.²

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Frank Catania is the president of the International Masters of Gaming Law, an organization made up of attorneys specializing in gaming from jurisdictions worldwide. He is a former Director of the New Jersey Division of Gaming Enforcement (DGE), the regulatory and enforcement agency responsible for maintaining integrity and trust in all Atlantic City gaming operations. As division Director, he was a driving force in updating the New Jersey Casino Control Act by fine-tuning the balance between regulatory necessity and economic stewardship.

Mr. Catania served as the vice president in charge of compliance for Players International, Inc. where he was instrumental in resolving compliance issues the company had encountered prior to his appointment, allowing the company to be sold to Harrah's.

Frank Catania serves as Chair of the International Masters of Gaming Law, has served as the chair and vice chair of the International Association of Gaming Regulators (IAGR), and was a co-founder and past chairman of the Forum of American Casino Regulators (FACR). Prior to accepting Governor Whitman's appointment as Director of the DGE, he served in the New Jersey General Assembly as Deputy Speaker. He has been published on a wide variety of casino gaming and government-related topics in several national publications, regional newspapers, and trade publications. He is a graduate of Rutgers College and received his J.D. from Seton Hall University Law School.

¹ See Melanie Beeby, *Gaming Set For An Online Revolution*, AUSTL. FIN. REV., Jan. 8, 2000, at 16, available at 2000 WL 3974758.

² See Joseph M. Kelly, *Internet Gambling Law*, 26 WM. MITCHELL L. REV. 117, 124-31 (2000) (describing efforts to regulate and license Internet gaming in various Caribbean jurisdictions).

My first introduction to Internet gaming occurred a few years previous while serving with the NJDGE.³ Like many other gaming regulators, I had numerous concerns about this new and expanding form of gaming. Nevertheless, after careful consideration, I was convinced that a philosophy of strict regulation would provide a far better solution to my concerns than attempts at prohibition. In the end, I decided that the development of regulations for Internet gaming in the Kahnawake Territory was a challenge worth pursuing. But, before agreeing to work on these regulations it was important for me to gather information about the Kahnawake Mohawks, the tribal government, and their position as a sovereign government within the Province of Quebec.

Because the tradition and workings of the Kahnawake Mohawk government were an important consideration for me, I will briefly summarize the history of the Kahnawake Mohawks and their status within Canada before discussing the regulations and my opinions regarding well-regulated Internet gaming. The regulations discussed in this piece appear as an appendix.

II. THE KAHNAWAKE MOHAWKS

Kahnawake is a Mohawk Territory just across the St. Lawrence River from Montreal.⁴ It has approximately 7500 inhabitants and is governed by the elected Mohawk Council.⁵ Kahnawake has its own police force, court, schools, hospital, fire department, and social services.⁶ All of these services and others are funded, operated, and controlled, either directly or indirectly, by the Mohawk Council.⁷

In July 1994, a hotly contested referendum for a land-based casino was defeated by a slim margin.⁸ Despite this defeat, the Mohawk Council established the Kahnawake Gaming Commission (KGC) in 1996.⁹ The KGC's main purpose was to effectively

³ This introduction occurred at the International Association of Gaming Regulators conference in Puerto Rico where I was a panel member discussing Internet gaming.

⁴ See, e.g., Mohawk Council of Kahnawake, Map of Kahnawake, at <http://www.kahnawake.com/tourism/kahnawake.htm> (last visited Feb. 7, 2002).

⁵ The Mohawk Council is elected every two years and consists of one Grand Chief and eleven Chiefs; all Council members are full-time legislators. Mohawk Council of Kahnawake, Grand Chief and Council, at <http://www.kahnawake.com/council/chiefs/index.htm> (last visited Feb. 7, 2002).

⁶ See Mohawk Council of Kahnawake, Mohawk Council of Kahnawake, at <http://www.kahnawake.com/council/index.htm> (last visited Feb. 7, 2002).

⁷ Council oversight is implemented through a number of agencies that are accountable to the Mohawk Council. *Id.* The schools and hospital are under control of separate boards; however, the Council appoints the boards.

⁸ The casino proposal was defeated 724 votes to 627. *Kahnawake Casino Issue Over, Re-elected Chief Says*, TORONTO STAR, July 4, 1994, at A4, available at 1994 WL 7974843.

⁹ The Kahnawake Gaming Commission was established on June 10, 1996, pursuant to the provisions of the Kahnawake Gaming Law, MCR No. 26/1996-97. Kahnawake Gam-

regulate all gaming activities in the Territory.¹⁰ Therefore, when the Mohawks began to consider the Internet gaming idea, they gave the KGC the task of promulgating the necessary regulations.

The KGC is composed of three part-time commissioners, all Mohawks.¹¹ One commissioner serves as chairperson.¹² The KGC has a director that oversees the commission's daily operations, legal counsel, and support staff.¹³ The KGC enforces and applies the regulations with limited resources by using independent contractors to perform various duties, such as background and probity investigations of all applicants.¹⁴ The objective of the Mohawks has always been to regulate Internet gaming in the same manner as traditional "brick and mortar" casino jurisdictions.¹⁵ This was an important consideration for me as it proved that the Kahnawake Mohawk leadership and I shared a similar underlying opinion—for Internet gaming to be successful, it would require the same strict regulation as traditional casinos.

A. Indian Sovereignty and Canadian Law

Under Canada's Constitution Act of 1867, the federal government is assigned the power to legislate with respect to "Indians, and lands reserved for the Indians."¹⁶ The Indian Act purports to establish a regulatory scheme for all matters related to aboriginal peoples in Canada.¹⁷ Although it still exists, the Indian Act is in the process of being abolished and replaced with "government to government" agreements between Canada and aboriginal "First Nations."¹⁸ This process began with an amendment to the Canadian Constitution Act in 1982, which states, "The existing aborigi-

ing Commission, The Commission, at <http://www.kahnawake.com/gamingcommission/> (last visited Mar. 2, 2002) [hereinafter The Commission].

¹⁰ The goal of lawful regulation and control is expressed in the Kahnawake Gaming Commission Regulations. KAHNAWAKE GAMING COMMISSION, REGULATIONS CONCERNING INTERACTIVE GAMING § 4 (1999), available at 5 CHAP. L. REV. 224-280 (2002) [hereinafter KGC REGS.].

¹¹ At the time this piece was written, the three commissioners were Alan Goodleaf, Lindsay Leborgne, and Iris Rice. The Mohawk Council of Kahnawake appoints the commissioners. The Commission, *supra* note 9.

¹² Appointment of the KGC Chairperson is done by the KGC internally. Alan Goodleaf was appointed in August 2001.

¹³ Chuck Barnett is the first and current "Administrator" to the KGC. Generally, the Administrator is responsible for assisting the KGC in the various aspects of its operations: processing applications, fielding complaints, and ensuring fees are paid.

¹⁴ The National Fraud Center conducts the background investigations for the KGC.

¹⁵ "Brick and mortar" casinos are casinos that have a physical presence which players visit.

¹⁶ CAN. CONST. (Constitution Act, 1867) pt. VI (Powers of the Parliament) § 91(24).

¹⁷ Indian Act, R.S.C., ch. I-6 §§ 1-122 (2001) (Can.).

¹⁸ See generally Canada Kahnawake Relations, Canada Kahnawake Relations Information Site, at <http://www.kahnawake.com/ckr/default.htm> (last visited Mar. 23, 2002). Kahnawake has, for the past twelve years, been engaged in discussions with Canada to develop a new relationship that would acknowledge Kahnawake's jurisdiction in over twenty-five different areas, including gaming. A draft document called the Canada/

nal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.”¹⁹

The Canadian federal government acknowledged the right to self-government.²⁰ The federal government’s approach has been to discuss and reach practical, workable agreements with regard to self-government, rather than to try and define self-government in abstract terms.²¹ This process has been followed and discussions are held on a regular basis between the governments of Canada, Quebec, and Kahnawake.²² These discussions include Internet gaming, and, contrary to some published reports,²³ neither the federal government nor the government of Quebec is contemplating any imminent action that would disrupt Internet gaming currently originating from the Kahnawake Internet service site.²⁴ In fact, since the establishment of the Kahnawake Peacekeepers—resulting from the Tripartite Policing Agreement in 1995, when the Kahnawake Peacekeepers became the primary police force in the Territory—there has never been a time when another law enforcement agency has entered into the Kahnawake Territory without an invitation from the Kahnawake Peacekeepers.²⁵

The Mohawks have always asserted their sovereignty and jurisdiction in the Kahnawake Territory. They have neither been defeated in battle, nor have they ever waived or forfeited any of their sovereignty in a treaty with any government.²⁶ The Mohawks are proud of their history and let it be known to the world.²⁷

Kahnawake Umbrella Agreement is presently being vetted in the community of Kahnawake and in Ottawa.

¹⁹ CAN. CONST. (Constitution Act, 1982) pt. II (Rights of the Aboriginal Peoples of Canada), § 35.

²⁰ *Id.*

²¹ See, e.g., *Self Government Agreement Signed for BC Interior Indian Band*, CANADIAN PRESS NEWSWIRE, July 7, 2000, at J1 (reporting signing of agreement between Canadian federal government and the Westbank First Nation); see also Canada Kahnawake Relations, *Canada Kahnawake Relations Process: Keypoints*, at http://kahnawake.com/ckr/key-elements/CKR%20Process_key.htm (last visited Feb. 7, 2002) (discussing efforts by the Kahnawake Mohawks to establish government-to-government relations with the Canadian federal government).

²² See, e.g., Editorial, *Making Some Progress in Kahnawake*, TORONTO STAR, Oct. 21, 1998, available at 1998 WL 30719188 (regarding inter-governmental negotiations over tobacco taxes and highway intrusion).

²³ *Id.*

²⁴ I have been personally involved in some of the private meetings that have taken place.

²⁵ This has not occurred since June 1988. See John C. Mohawk, *Echoes of a Native Revitalization Movement in Recent Indian Law Cases in New York State*, 46 BUFF. L. REV. 1061, 1067-69 (1998) (detailing a raid by Quebec police on the Kahnawake territory).

²⁶ The Canada Kahnawake Relations website provides a brief history of the Mohawks, including their victory over the U.S. Army in the War of 1812. See Canada Kahnawake Relations, *History & Culture of the Mohawks of Kahnawake*, at <http://kahnawake.com/ckr/1812.htm> (last visited Feb. 7, 2002).

²⁷ *Id.*

B. The Creation of Mohawk Internet Technologies

To own property or to form a business in Kahnawake the principal owners must be Mohawks; no foreign companies can be established in the Territory.²⁸ Therefore, the Mohawk Council established a wholly-owned company, known as Mohawk Internet Technologies (MIT), for the operation of its Internet business in Kahnawake.²⁹ MIT was responsible for developing the infrastructure necessary to host all Internet businesses, including gaming sites, with the proceeds flowing to the Mohawks through MIT.³⁰ MIT, its officers, directors, and key personnel³¹ are required to be licensed, as would individual gaming operators.³² The company's responsibility focuses on the overall operation of a server farm;³³ it is not involved in the operation of gaming sites.

Again, the KGC believed that the only way to regulate Internet gaming was with the same strict regulations established for traditional casinos in jurisdictions throughout the world. The regulations had to possess four characteristics: comprehensive, to address the same issues as those facing traditional casino regulators; enforceable, to offer important protections to players; responsible, to assure that games are fair and honest; and capable of creating reputable operators, to ensure that players would be paid their winnings. The KGC members, Chairman Arnold Goodleaf, Chief Lindsay LeBorgne, Allan Goodleaf, attorney Murray Marshall, and I worked diligently to prepare a set of interactive

²⁸ Section 28(1) of the Indian Act provides:

Subject to subsection (2), a deed, lease, contract, instrument, document or agreement of any kind, whether written or oral, by which a band or a member of a band purports to permit a person other than a member of that band to occupy or use a reserve or to reside or otherwise exercise any rights on a reserve is void.

R.S.C., ch. I-6 § 28(1) (2001) (Can.). Section 29 of the Indian Act provides, "Reserve lands are not subject to seizure under legal process." *Id.* § 29.

²⁹ See Mohawk Internet Technologies, Mohawk Internet Technologies . . . Setting the Standard for Co-Location ISPs in the 21st Century, at <http://www.mohawk.ca/index.html> (last visited Feb. 7, 2002) [hereinafter Mohawk Internet Technologies]. MIT describes itself as a "professionally managed environment supporting e-business activities world wide." Mohawk Internet Technologies, Key Policies and Procedures, at <http://www.mohawk.ca/policies/policiesf.html> (last visited Mar. 23, 2002).

³⁰ See Mohawk Internet Technologies, *supra* note 29 (describing MIT as a "unique business initiative of the Mohawk Council of Kahnawake and its business partners").

³¹ See KGC REGS., *supra* note 10, § 7.

³² *Id.* §§ 9-14.

³³ The Lycos Tech Glossary defines "server farm" as follows:

A *server farm* is a group of networked servers that are housed in one location. A server farm streamlines internal processes by distributing the workload between the individual components of the farm and expedites computing processes by harnessing the power of multiple servers. The farms rely on load-balancing software that accomplishes such tasks as tracking demand for processing power from different machines, prioritizing the tasks and scheduling and rescheduling them depending on priority and demand that users put on the network. When one server in the farm fails, another can step in as a backup.

Lycos, Lycos Tech Glossary, at http://webopedia.lycos.com/TERM/S/server_farm.html (last visited Mar. 2, 2002).

gaming regulations that would be at least as effective as those used in other gaming jurisdictions.

The Mohawks' concept was unique. MIT would build the site and rent space to Internet gaming operators for a monthly fee.³⁴ The KGC would be responsible for licensing all those involved in the Internet gaming portion of their Internet enterprises, including MIT.³⁵ There would be no substitute for the requirement to submit to a suitability investigation. Nevertheless, a limited investigation is allowed if a company or person is currently licensed in a legitimate gaming jurisdiction because that company or person has already demonstrated the character, honesty, and integrity to be involved in gaming.³⁶

The server site established by MIT is situated in an old mattress factory that is within a few hundred yards of two major fiber optic trunk lines that run through the Kahnawake Territory.³⁷ Today, this server farm is one of the most technologically-advanced Internet gaming server farms in the world.³⁸

III. THE KAHNAWAKE REGULATIONS CONCERNING INTERACTIVE GAMBLING

A. The Kahnawake Advantage: Regulation and Licensing

Although the draft Kahnawake regulations were based on the interactive gaming regulations used in Queensland, Australia,³⁹ the structures differed.⁴⁰ Part I of the Regulations Concerning Interactive Gaming (KGC Regulations) specifically gives authority to the KGC to adopt and enforce their own regulations⁴¹ and also states that the adopted regulations are not dependent on ratification by any other jurisdiction or regulatory body.⁴² This language was an important acknowledgement of the Kahnawake Mohawk tradition of sovereignty. In addition, an important part of any Internet gaming regulation is the prohibition of all Internet gaming not licensed under those regulations. The Mohawks were aware

³⁴ See generally Mohawk Internet Technologies, *Services and Capabilities*, at <http://www.mohawk.ca/services/services.html> (last visited Mar. 2, 2002).

³⁵ This included some members of the governing Mohawk Council due to their involvement with MIT.

³⁶ See KGC REGS., *supra* note 10, § 32.

³⁷ The server farm has been described as an "unmarked gray building" and a "two-story fiber-optic jungle" closed to photographers. Marci McDonald, *Cybergambling on the Reservation*, U.S. NEWS & WORLD REP., Oct. 16, 2000, at 46.

³⁸ The high-tech equipment comprising the server farm cost an estimated \$2.5 million (U.S.). *Id.*

³⁹ Interactive Gambling (Player Protection) Regulation 1998, No. 286 (Queensl. Stat.).

⁴⁰ Kahnawake has one centralized location operated by MIT, while those in Australia can be in different locations. There is no tax in Kahnawake, only a monthly rental fee.

⁴¹ KGC REGS., *supra* note 10, §§ 1-3. Part I was enacted on July 8, 1999, pursuant to § 35 of the Kahnawake Gaming Law. *Id.* pmbl.

⁴² *Id.* § 3.

that legalizing Internet gaming in the Territory, without a prohibition against non-licensed Internet gaming sites, could result in other groups attempting to establish Internet gaming sites within the Kahnawake Territory.

The KGC also recognized that its regulatory scheme would be scrutinized by the world; it did not want to acquire the same negative reputation as several other Internet gaming jurisdictions, particularly the reputation of some loosely regulated jurisdictions in Central America and the Caribbean.⁴³ This intent is made clear in Part I of the KGC Regulations concerning economic development and player protection.⁴⁴ Thus, the games provided by the licensees must be fair and honest, winners have to be paid promptly, and player account information must be held in the strictest confidence.⁴⁵

B. Licensing Requirements

The KGC Regulations provide for two basic licenses⁴⁶ other than individual licenses for key persons: an Interactive Gaming License⁴⁷ and a Client Provider Authorization.⁴⁸ The Interactive Gaming License is the license held by MIT and it is not likely that any other Interactive Gaming Licenses will be issued. While the regulations do not set a limit on the number of Interactive Gaming Licenses, the requirement that they be established in Kahnawake limits licenses to only Mohawk companies.⁴⁹ A non-Mohawk can neither establish a business nor own any property in Kahnawake. Therefore, only a Kahnawake Mohawk with the resources to establish a company and build a facility within the territory could apply for a Gaming License.⁵⁰ A Gaming License applicant would additionally need to prove to the KGC that he or she possesses the qualifications to be issued an Interactive Gaming License. The drafters of the KGC Regulations provided the regulatory structure for the potential issuance of other Interactive Gaming Licenses, yet they knew the likelihood of another successful application for this kind of license was almost non-existent.

⁴³ See, e.g., Kelly, *supra* note 2, at 128-30 (providing a brief description of the problems arising from inadequate regulation of Internet gaming in Antigua).

⁴⁴ See KGC REGS., *supra* note 10, §§ 1-5.

⁴⁵ *Id.* § 4.

⁴⁶ License application forms can be reviewed online at the Kahnawake Gaming Commission web site and are similar in form and content to applications used by traditional casino jurisdictions. The information provided by the applicant is vital in providing the regulators a starting point to begin their field investigation. See Kahnawake Gaming Commission, *Interactive Gaming Regulations*, at <http://www.kahnawake.com/gamingcommission/> (select "Form 1") (last visited Mar. 2, 2002).

⁴⁷ KGC REGS., *supra* note 10, §§ 9-14.

⁴⁸ *Id.* §§ 15-26.

⁴⁹ *Id.* § 8.

⁵⁰ *Id.*

The primary license is the Client Provider Authorization. An Internet gaming company that wants to do business from Kahnawake must reach an agreement with MIT as to the terms and conditions of its operation and the amount to be paid for use of MIT's facility. Once a company reaches an operation agreement with MIT, the company must then apply to the KGC for a Client Provider Authorization.⁵¹ The agreement with MIT does not take effect until the license is granted by the KGC.⁵²

License fees are currently ten thousand dollars (Can.) per annum,⁵³ with an additional five thousand dollars placed on deposit with the KGC to cover the cost of the license investigation.⁵⁴ If the investigation is complex and involves more time, then costs can increase.⁵⁵ On the other hand, an applicant already licensed in a gaming jurisdiction that conducts an investigation comparable to that done by the KGC can be accepted after a cursory investigation of the applicant's current status in the jurisdictions where licensed.⁵⁶

The KGC employs an outside firm with extensive investigatory background and experience in the gaming industry to conduct the suitability investigations. To date, this procedure has been very successful and has provided the KGC with the proper facts to make an informed decision whether to grant or deny an applicant's license. The ten thousand dollar annual license fee collected from the Interactive License Holder and the Client Service Providers is the only revenue source for the KGC, from which it must pay all of its operating expenses.⁵⁷

C. Who Must Be Licensed and How to Qualify

All company applicants must file a Business Entity Information Form.⁵⁸ The company, as well as all partners, directors, shareholders with equity of ten percent or more, the chief executive officer, board members, and key employees,⁵⁹ must complete

⁵¹ *Id.* §§ 15-26.

⁵² *Id.* §§ 22-24.

⁵³ *Id.* § 182.

⁵⁴ *Id.* §§ 10-11.

⁵⁵ *Id.* § 18.

⁵⁶ *Id.* § 32.

⁵⁷ This amount is exclusive of the fees collected for license investigations.

⁵⁸ KGC REGS., *supra* note 10, § 10(a).

⁵⁹ "Key person" means a person who:

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to operations carried out under an Interactive Gaming License or Client Provider Authorization;
- (b) is in a position to control or exercise significant influence over the operations conducted under an Interactive Gaming License or Client Provider Authorization;
- (c) occupies or acts in a position designated in the license holder's or authorized client provider's approved control system as a key position;

an application and provide the information requested therein.⁶⁰ Again, this requirement is very similar to the requirements for the traditional casino industry, and indicates the desire of the Mohawks to regulate in the same manner as any other small gaming jurisdiction.

The KGC only grants licenses when it is satisfied the applicant possesses the good character, honesty, and integrity that the KGC considers necessary for holding a gaming license in Kahnawake.⁶¹ This is the same standard applied to gaming license applicants in states such as New Jersey, Nevada, and Michigan.⁶² To sustain its credibility, the KGC will not entertain the license application of anyone that does not possess any of the above requirements or has the propensity to associate with known criminals or persons of questionable character.⁶³

In addition to honesty, integrity, and good character, applicants must have the financial ability and technical capacity to operate an Internet gaming site.⁶⁴ The information provided on the application, as well as the results of the independent agency's investigation, must provide evidence of the applicant's ability to operate and manage a successful Internet gaming business.⁶⁵ Once the KGC accumulates all of the data, it makes one of three decisions: grant a license, deny a license, or request additional infor-

Subsections (a) and (b) apply to a position only if the position is designated by the Commission by written notice given to the license holder or authorized client provider as a key position.

Subsection (a) applies to functions only if the functions are designated by the Commission by written notice given to the license holder or authorized client provider as key functions.

Id. § 7. This definition is purposely broad to enable the KGC to declare a person a "key person" requiring licensing. Key persons must file according to the same procedures set forth in the licensing section of the regulations. The application is filed with a non-refundable deposit of \$2500 (Can.) to cover the cost of a suitability investigation. The same procedure is followed as in the licensing of Interactive Gaming Licenses and Client Provider Authorizations. Key licenses are subject to the same amendment, suspension, and revocation actions as set forth above, with the same types of procedures.

⁶⁰ *Id.* § 10.

⁶¹ *Id.* § 29(a).

⁶² In New Jersey, "[e]ach applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity." N.J. STAT. ANN. § 5:12-84(c) (West 2002). In Nevada, for example:

Any person who the commission determines is qualified to receive a license, . . . having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and the declared policy of this state, may be issued a state gaming license

NEV. REV. STAT. § 463.170(1) (2002). Similarly, Michigan law states that "[i]n determining whether to grant a casino license to an applicant, the board shall also consider . . . [t]he integrity, moral character, and reputation . . . of the applicant." MICH. COMP. LAWS ANN. § 432.206(5)(a) (West 2001).

⁶³ See KGC REGS., *supra* note 10, §§ 29-30.

⁶⁴ *Id.* § 29(b)-(d).

⁶⁵ *Id.* § 29(e).

mation determined necessary to make an informed decision.⁶⁶ This power provides the KGC with the latitude necessary to handle out-of-the ordinary applications.

The KGC's duty to determine license applicants' suitability is complex and of utmost importance; it is this process that excludes those not qualified to be part of the Internet industry and protects the public, as well as the entire Kahnawake Internet gaming industry. In some cases, the regulations provide for issuance of a temporary license when the KGC is satisfied that the applicant appears suitable and is likely to be issued a permanent license.⁶⁷ Thereafter, the KGC is not obligated to issue a permanent license if, during the course of the applicant's investigation, issuance does not appear justified.⁶⁸

D. License Renewals

Licenses are normally issued for a period not to exceed two years.⁶⁹ During the license period, it is the licensee's responsibility to inform the KGC of any new circumstances, such as large stock transfers, complaints filed in other jurisdictions against the licensee or any of the company's licensed employees, or any circumstance that could potentially affect the licensing of that entity or person.⁷⁰ Failure to report such a change in circumstances could result in the KGC taking punitive action against the licensee, including license revocation.⁷¹

Three months prior to the expiration of a license, the licensee must submit a renewal application to the KGC with the appropriate fees to cover the cost of updating the initial suitability investigation.⁷² The original license does not automatically qualify a licensee for renewal. Rather, the renewal application is scrutinized in the same manner as the original application.⁷³ Survival of a well-regulated Internet gaming jurisdiction depends on the demonstration by all licensees of impeccable integrity and the gaming regulators' reputation for enforcement.

E. Enforcement Authority: License Suspension and Revocation

The KGC Regulations give the KGC the authority to suspend or revoke a license where the license holder has been: 1) deemed no longer suitable to hold a license; 2) convicted of an offence

⁶⁶ *Id.* § 19.

⁶⁷ *Id.* § 38.

⁶⁸ *Id.* § 40.

⁶⁹ *Id.* § 23.

⁷⁰ *Id.* § 35.

⁷¹ *Id.* § 37.

⁷² *Id.* §§ 48-50.

⁷³ *Id.* § 54.

against the KGC Regulations or the regulations of another gaming jurisdiction; 3) indicted or convicted of a crime the KGC deems affects its ability to hold a license; 4) contravened a term or condition of the Interactive Gaming License or Client Provider Authorization; 5) failed to discharge its financial duties; or 6) declared bankrupt or insolvent, or is compelled to wind-up its business for any reason.⁷⁴

The KGC Regulations provide a “show cause” procedure that the KGC and licensees must follow.⁷⁵ Where the public is not in jeopardy, the KGC serves the licensee with written notice containing the proposed action, grounds for the proposed action, facts forming the basis for the proposed action, and proposed suspension period.⁷⁶ The KGC Regulations allow the licensee to respond to the KGC and show cause why the proposed action should not be taken.⁷⁷ The time within which a licensee must respond is determined by the KGC and is based upon the severity of the alleged infraction.⁷⁸ In cases that threaten damage to the public or to the KGC’s reputation, the KGC can impose an immediate suspension or revocation that will remain in effect until the matter is responded to or considered at the “show cause” hearing.⁷⁹ In all other cases, the licensee has the ability to first respond in writing within the time set forth in the order.⁸⁰

If the licensee elects a “show cause” hearing,⁸¹ the licensee has the opportunity to both respond in writing and present oral testimony regarding the issues raised in the “show cause” order.⁸² The KGC will consider the evidence and decide whether the acts or omissions are serious enough to adversely affect the integrity of the games, or are adverse to the public interest.⁸³ The KGC’s decision may include an amendment, suspension, or revocation of the licensee’s license.⁸⁴

F. Control Systems and Approved Equipment

Control system requirements have been part of the KGC Regulations since their adoption on July 8, 1999. These provisions give the KGC authority to establish rules and procedures to detect and prevent suspicious activities such as money laundering.⁸⁵ The

⁷⁴ *Id.* § 62.

⁷⁵ *Id.* §§ 63-69.

⁷⁶ *Id.* § 63.

⁷⁷ *Id.*

⁷⁸ *Id.* § 64.

⁷⁹ *Id.* § 68.

⁸⁰ *Id.* § 63(e).

⁸¹ *Id.* § 70.

⁸² *Id.* § 72.

⁸³ *Id.* § 73(b).

⁸⁴ *Id.* § 76.

⁸⁵ *Id.* § 111.

KGC Regulations require the licensees to know their customers and to report suspicious activities to the KGC or an appropriate law enforcement agency.⁸⁶ A description of the control systems must be submitted to the KGC. It must describe the computer software used to conduct the interactive games, explain the accounting system and procedures, and include a chart of accounts and administrative systems and procedures.⁸⁷ The control systems must also include operational standards for maintenance, security, storage and transportation of equipment used for the interactive games, and procedures for paying winnings and maintaining facilities.⁸⁸ The KGC examines the control systems and either approves them or recommends changes necessary to gain approval.⁸⁹

The KGC must approve all equipment and software the licensee uses.⁹⁰ The KGC is currently considering revisiting this area to allow for implementation of a set of technical standards that can be used by independent testing companies for the purpose of testing licensee systems and software.⁹¹ Under this new program, the KGC will provide the technical standards to which all gaming software must conform. The licensee must then submit a certification from an accredited testing lab indicating that the software met these standards. The licensee will be required to submit any proposed software modifications that affect the random number generator or the outcome of the game, but will not be required to submit certifications when only the graphic portion of the gaming software is changed. The costs will continue to be borne by the licensee and not by the Commission.

G. Player Protections and Age Requirements

The KGC Regulations place an emphasis on player protections and the duty of the KGC to uphold these protections. One protection includes the requirement that all authorized client providers provide games that are not obscene, indecent, or offensive.⁹² The KGC is adamant with regard to this provision and will not tolerate any obscenity on any of their licensees' sites. In fact, the KGC has the right to deny a license to an applicant that has obscene, indecent, or offensive sites, even if those sites are not re-

⁸⁶ *Id.*

⁸⁷ *Id.* § 116(a).

⁸⁸ *Id.* § 116(c), (d).

⁸⁹ *Id.* § 121.

⁹⁰ *Id.* § 128(a).

⁹¹ The KGC is working with BMM North America, a testing company located in Las Vegas, Nevada, to provide a set of technical standards for all of the games provided; they should be included in the KGC Regulations shortly.

⁹² KGC REGS., *supra* note 10, §§ 4, 142-43.

lated to gaming.⁹³ The KGC even requires that the licensee have controls in place to restrict players' attempts to use obscene, indecent, or offensive screen names.⁹⁴

Also for the player's protection, licensees cannot register a player unless that person produces evidence of identity, place of residence, and age.⁹⁵ A player's account is only accessible by that particular player, and he or she may only do so to obtain the balance or to withdraw funds paid into the account.⁹⁶ A player cannot play without sufficient funds in his account and must comply with all rules of the game being played.⁹⁷ The original KGC Regulations required a player to be at least twenty-one years old to participate.⁹⁸ However, a 2001 amendment reduced the minimum age to eighteen in conformance with many of the gaming laws in other parts of the world.⁹⁹

The licensee does not have access to the player's account, except to debit the account, and must remit funds to the player by check no later than the first business day after requested by the player.¹⁰⁰ Otherwise, license holders or client service providers can only access the account when the account shows no activity for more than ninety days.¹⁰¹ If the account is dormant for a period of ninety days, the balance of the funds in the account must be returned to the player. If the whereabouts of the player are unknown, the funds must be transmitted to a special account established by the KGC for this purpose.¹⁰² Another important player protection is the requirement that the licensee keep the names of all its players in confidence.¹⁰³ Exceptions to this regulation include a player's authorization necessary for the conduct of the games and administration and enforcement of the KGC Regulations.¹⁰⁴

The KGC Regulations also include an innovative feature that allows players to exclude themselves from play.¹⁰⁵ Once a player registers to be excluded, the exclusion cannot be changed without a cooling off period of seven days.¹⁰⁶ Furthermore, the KGC Regu-

⁹³ *Id.*

⁹⁴ *Id.* § 142.

⁹⁵ *Id.* § 145.

⁹⁶ *Id.* § 147.

⁹⁷ *Id.* §§ 148-49.

⁹⁸ *Id.* § 145(a)(iii).

⁹⁹ See generally I. Nelson Rose, *Gambling and the Law®: Minimum Legal Age to Place a Bet*, at <http://www.gamblingandthelaw.com/agechart.html> (last visited Feb. 7, 2002) (listing the minimum age requirements in various jurisdictions).

¹⁰⁰ KGC REGS., *supra* note 10, §§ 150, 152.

¹⁰¹ *Id.* §§ 152-53.

¹⁰² *Id.* § 153.

¹⁰³ *Id.* § 154.

¹⁰⁴ *Id.* § 155.

¹⁰⁵ *Id.* § 157.

¹⁰⁶ *Id.* § 159.

lations provide a player's family the right to seek an exclusion by application to the KGC.¹⁰⁷ Once a player's family submits an application, the player is provided an opportunity to respond. The KGC bases its decision on the family's application and the player's response.¹⁰⁸ A gaming addiction fund was also established in the territory, with all fines and monetary penalties deposited therein, along with any contributions made by licensees.¹⁰⁹

H. Compliance Requirements: Records, Audits, and Money Laundering

Another area of Kahnawake gaming regulation that is similar to traditional casino regulation includes rules regarding records, record storage, accounting, auditing controls, and money laundering.¹¹⁰ The KGC can request any and all records of the licensee without showing cause.¹¹¹ An unresponsive licensee is subject to fines, suspension, or revocation of its license.¹¹² Certain gaming records designated by the KGC must be kept in an approved place and not destroyed for a period of five years from the time of the gaming transaction.¹¹³ Accounts must be kept in the form of generally accepted accounting principles and must be available to the KGC at all times.¹¹⁴ Audits should be completed as soon as practical after the end of the licensee's fiscal year, but no later than three months after the close of its fiscal year.¹¹⁵

The KGC is currently reviewing proposed amendments that would require licensees to know their clients.¹¹⁶ Contrary to common belief, it is not easy for a player to launder money obtained by illegal means through an Internet gaming site.¹¹⁷ Most transactions are by credit card when the player signs on or registers to play.¹¹⁸ While players have the ability to wire funds, these funds are easily traceable and sending large amounts of cash is not feasible. The only party with means to launder money obtained

¹⁰⁷ *Id.* § 163(b).

¹⁰⁸ *Id.* § 164.

¹⁰⁹ *Id.* § 169.

¹¹⁰ *Id.* §§ 209-10.

¹¹¹ *Id.* § 220.

¹¹² *Id.* § 26.

¹¹³ *Id.* § 207.

¹¹⁴ *Id.* §§ 209-13.

¹¹⁵ *Id.* § 219(a).

¹¹⁶ The KGC is considering amending the KGC Regulations to deter those trying to launder monies received from illegal means. The policy of "knowing your customer" used in land-based casinos is among the amendments under consideration and will likely be included in the KGC Regulations within a short period of time.

¹¹⁷ See, e.g., Kristie Lu Stout, *Net Casinos Under Scrutiny for Money Laundering*, at <http://asia.cnn.com/2001/BUSINESS/asia/10/21/hk.ecasinolaundering/> (last visited Feb. 7, 2002).

¹¹⁸ See, e.g., Internet Gaming Commission, *Frequently Asked Questions*, at <http://www.internetcommission.com/faq.asp> (last visited Feb. 7, 2002).

through illegal activity is the licensee; however, money laundering by licensed casino owners is almost non-existent in a well-regulated environment where all licensees must be found suitable after an extensive background investigation.

IV. CONCLUSION

Internet gaming is a relatively new challenge for gaming regulators and policy makers throughout the world. The Internet has changed the way people go about their daily lives, and with this change comes the difficulty of adopting laws, rules, and regulations to meet new challenges. The Mohawks have established a regulatory scheme to protect people that participate in gaming entertainment over the Internet. This protection is achieved by assuring players that operators licensed by the KGC have passed a strict suitability investigation, including a financial check to assure that the operator has the resources to pay winning bets, and a technology check to ensure that the games are fair and honest.

The Kahnawake Mohawks have taken the lead regulating Internet gaming. The reality is that Internet gaming exists and continues to grow in popularity; the only way to monitor and control this new form of gaming is through strict regulation. Of course, there will be those who continue to seek prohibition of Internet gambling based on a belief that gambling is immoral or has adverse consequences on the moral fiber of society. This ongoing debate raises a fundamental question about the role of government—whether the state should protect the individual from himself by minimizing temptations. My only response to those who hold this position is that government-enforced morality has a consistent record of failure, as evidenced by our past failures.¹¹⁹

Internet gaming regulation will do far more to restrict the social ills that accompany problem gaming than will any attempt at prohibition. Moreover, unlike prohibition, strict regulation can work. The question to consider is not whether we will have on-line gaming—we already do, and it will continue unless we ban the Internet itself. Rather, the question is whether we should have well-regulated, on-line gaming or unregulated, underground, on-line gaming. To this end, the Kahnawake Mohawks have taken the lead, and I believe it is only a matter of time before others follow.

¹¹⁹ One of the most notable failures, the Volstead Act, 1919, ch. 85, 41 Stat. 305 (repealed 1933), which did little to stop the distribution and consumption of alcohol. *See, e.g.*, Eugene M. Christiansen, *Selected Materials On Social, Economic, and Technological Trends*, 1998 A.L.I. 489. “The noble experiment, as it is sometimes called, failed with disastrous consequences.” *Id.* at 504.

Appendix:
Kahnawake Gaming Commission
REGULATIONS CONCERNING
INTERACTIVE GAMING

These Regulations were enacted by the Kahnawake Gaming Commission (“the Commission”) on 8 July/Ohiarihkó:wa, 1999 pursuant to Section 35 of the *Kahnawake Gaming Law*.

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PART I – JURISDICTION

1. The Commission may, subject to the provisions of the *Kahnawake Gaming Law* (the “Law”) and Regulations enacted thereunder, issue a gaming licence (an “Interactive Gaming Licence”) to a person or persons, authorizing the conduct of authorized games by means of a telecommunication device, including the Internet. The Commission may also, in accordance with the provisions of these Regulations, authorize the holder of an Interactive Gaming Licence to host one or more client providers that will conduct authorized games (a “Client Provider Authorization”).
2. These Regulations apply to all interactive games conducted by or from premises situated within the Mohawk Territories of Kahnawake (the “Territories”), including interactive games involving players situated both within and outside the Territories.
3. These Regulations may serve as a basis for the harmonization of regulatory schemes concerning interactive gaming in other jurisdictions and for co-operation and mutual assistance between the Kahnawake Gaming Commission and other regulatory bodies. However, these Regulations are not dependent on the ratification or approval of any other jurisdiction or regulatory body.

PURPOSE

4. The purposes of these Regulations are:
 - (a) to provide a lawful basis for the regulation and control of interactive gaming and interactive gaming related activities conducted within and from the Territories as a means of promoting and preserving economic development, self-sufficiency and peace, order and good government within the Territories;
 - (b) to ensure that interactive gaming and interactive gaming related activities are conducted responsibly, fairly, honestly and in the best interests of Kahnawake and all other affected parties;
 - (c) to ensure that the operators of interactive games treat players fairly; that they pay winners promptly and that all information related to player accounts is held in the strictest confidence.

PROHIBITION

5. Except as permitted by these Regulations, interactive gaming and interactive gaming related activities from or within the Territories is prohibited.

DEFINITIONS

6. The definitions provided in the Law have the same meaning in these Regulations.

7. For the purposes of these Regulations:

“agency agreement” means an agreement between a licence holder or authorized client provider, and another person:

- (a) appointing the other person as an agent;
- (b) describing the agent’s authority;
- (c) stating the conditions under which the agent acts as, and remains, an agent of the licence holder or authorized client provider, and
- (d) stating other matters agreed between the agent and the licence holder or authorized client provider.

“agent” means a person who carries out any of the following functions, within or outside the Territories, for a licence holder or authorized client provider:

- (a) registering a player;
- (b) establishing a player’s account;
- (c) accepting deposits for, or authorizing withdrawals from, a player’s account, or
- (d) any other functions the Commission may classify as an agency function.

“applicant” means any person who on his or her own behalf or on behalf of another has applied for an Interactive Gaming Licence, a Client Provider Authorization, a temporary authorization or a renewal of an Interactive Gaming Licence or Client Provider Authorization;

“application” includes an application to the Commission for an Interactive Gaming Licence, a Client Provider Authorization, a temporary authorization and a renewal application;

“appropriate resources” means financial resources:

- (a) adequate, in the Commission’s opinion, to ensure the financial viability of operations conducted under an Interactive Gaming Licence or Client Provider Authorization, as the case may be; and
- (b) demonstrably available from a source that is not, in the Commission’s opinion, contrary to any law applicable within the Territories;

“appropriate services” means the services of persons who have appropriate experience to ensure the proper and successful conduct of interactive games;

“authorized client provider” means a person who has, by virtue of a Client Provider Authorization issued by the Commission, been

authorized to conduct interactive gaming and interactive gaming related activities within or from the Territories;

“authorized game” means an interactive game that a licence holder or an authorized client provider is permitted to conduct under the Law and these Regulations;

“control system” means a system of internal controls and administrative and accounting procedures for the conduct of interactive games by a licence holder or authorized client provider;

“decision” includes:

- (a) conduct engaged in to make a decision;
- (b) conduct related to making a decision, and
- (c) failure to make a decision.

“dishonest act” includes fraud, misrepresentation, theft and any other act or omission which the Commission deems to be a dishonest act;

“gaming records” means all records directly or indirectly related to the interactive games provided by a licence holder or authorized client provider, including but not limited to player account information, wagers placed and outcomes of games played;

“interactive game” means a game in which:

- (a) a prize consisting of money or something else of value is offered or can be won under the rules of the game;
- (b) a player:
 - (i) enters the game or takes any step in the game by means of a telecommunication device, including the Internet; and
 - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- (c) the winner of a prize is decided:
 - (i) wholly or partly by chance; or
 - (ii) by a competition or other activity in which the outcome is wholly or partly dependent on the player’s skill.

“interactive gaming” means wagering by means of interactive games accessible from the player’s premises in which the player participates through the Internet or other telecommunications medium;

“interactive gaming related activities” means any activity or business that the Commission considers reasonably related to interactive gaming or to the operation of interactive gaming, including any business that offers goods or services to persons who participate in interactive gaming conducted from or within the Territories;

“Kahnawakero:non” means a person identified as a Mohawk and a member of the community of Kahnawake pursuant to the Kahnawake Membership Law, as it may be amended from time to time;

“key person” means a person who:

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to operations carried out under an Interactive Gaming Licence or Client Provider Authorization;
- (b) is in a position to control or exercise significant influence over the operations conducted under an Interactive Gaming Licence or Client Provider Authorization;
- (c) occupies or acts in a position designated in the licence holder’s or authorized client provider’s approved control system as a key position;

Subsections (a) and (b) apply to a position only if the position is designated by the Commission by written notice given to the licence holder or authorized client provider as a key position.

Subsection (a) applies to functions only if the functions are designated by the Commission by written notice given to the licence holder or authorized client provider as key functions.

“key relationship” means a relationship between a licence holder or an authorized client provider and another person as a result of which the other person is a key person.

“licence holder” means a person to whom the Commission has issued an Interactive Gaming Licence;

“person” includes an individual, corporation, partnership, limited liability company and any other business entity recognized under the laws applicable within the Territories;

“player” means a person who has attained the full age of twenty-one (21) years and who participates in an interactive game ;

“player’s account” means an account:

- (a) in the name of the player:
 - (i) at a financial institution, or
 - (ii) with a body approved by the Commission, and
- (b) against which the licence holder or authorized client provider has a right to debit the amount of a wager;
- (c) that is established on a basis under which the player may only have direct recourse to the account:
 - (i) to ascertain the balance of funds in the account or to close the account;
 - (ii) to obtain the whole or part of an amount paid into the account as a prize in authorized game, or

- (iii) as authorized by the licence holder, authorized client provider or the Commission.

PART II – CERTIFIED PREMISES

8. The Commission will, by resolution, certify premises as suitable for the purpose of conducting interactive gaming or interactive gaming related activities, provided:

- (a) the premises are wholly situated within the Mohawk Territory of Kahnawake;
- (b) the owners or lessees of the premises satisfy all other eligibility criteria for a gaming licence provided in the Law;
- (c) the owners or lessees of the premises have established an Internet Service Provider (“ISP”), and all required support services which, in the Commission’s sole discretion, are capable of providing suitable and reliable Internet and telephonic services to the public;

APPLICATION FOR INTERACTIVE GAMING LICENCE

9. An application for an Interactive Gaming Licence must be submitted to the Commission in the form attached as Schedule “A” to these Regulations.

10. To be considered by the Commission, an application for an Interactive Gaming Licence must contain all of the information requested in the form attached as Schedule “A” and be accompanied by:

- (a) if applicable, a Business Entity Information Form attached as Schedule “B” to these Regulations;
- (b) Personal Information Forms attached as Schedule “C” to these Regulations for each director, shareholder with ten (10%) per cent or more ownership of or controlling interest in the applicant, partner and Chief Executive Officer of the applicant, and
- (c) a non-refundable deposit in the amount of Five Thousand (\$5,000.00) Dollars.

11. The applicant is responsible to the Commission for all costs incurred by the Commission related to the processing of the application. In the event these costs exceed the amount of the original deposit, the Commission will notify the applicant in writing to provide a further non-refundable deposit or deposits in such amounts as the Commission may determine. In the event the Commission does not receive payment of a further deposit within ten (10) days of the date of the Commission’s notice to the applicant, processing of the application will be suspended until the further deposit is received.

12. Subject to the foregoing section, the Commission will promptly consider the application and will:

- (a) grant the application and issue an Interactive Gaming Licence;
- (b) deny the application, or
- (c) return the application to the applicant with a request for additional information.

13. In the event an application is denied, the Commission will give its reasons for the refusal in writing to the applicant.

14. An Interactive Gaming Licence will not be granted for a period of time exceeding two (2) years.

APPLICATION FOR CLIENT PROVIDER AUTHORIZATION

15. The Commission may authorize a licence holder to host a client provider for the purpose of conducting interactive gaming and interactive gaming related activities on the premises of the certified establishment.

16. An application for a Client Provider Authorization must be completed by the proposed client provider and submitted to the Commission by the proposed client provider with the knowledge and consent of the relevant licence holder. The application must be in the form attached as Schedule "D" to these Regulations.

17. To be considered by the Commission, an application for a Client Provider Authorization must contain all of the information requested in the form attached as Schedule "D" and be accompanied by:

- (a) if applicable, a Business Entity Information Form attached as Schedule "B" to these Regulations;
- (b) Personal Information Forms attached as Schedule "C" to these Regulations for each director, shareholder with ten (10%) per cent or more ownership of or controlling interest in the proposed client provider, partner and Chief Executive Officer of the proposed client provider, and
- (c) a non-refundable deposit in the amount of Five Thousand (\$5,000.00) Dollars.

18. The applicant is responsible to the Commission for all costs incurred by the Commission related to the processing of the application. In the event these costs exceed the amount of the original deposit, the Commission will notify the applicant in writing to provide a further non-refundable deposit or deposits in such amounts as the Commission may determine. In the event the Commission does not receive payment of a further deposit within ten (10) days of the date of the Commission's notice to the appli-

cant, processing of the application will be suspended until the further deposit is received.

19. Subject to the foregoing section, the Commission will promptly consider the application and will:

- (a) grant the application and issue a Client Provider Authorization;
- (b) deny the application, or
- (c) return the application to the licence holder and the proposed client provider with a request for additional information.

20. The Commission will consider each application for a Client Provider Authorization independently from the Interactive Gaming Licence to which it is proposed to be appended and independently from any other Client Provider Authorization already appended to the Interactive Gaming Licence.

21. In the event an application is denied, the Commission will give its reasons for the refusal in writing to the licence holder and the proposed client provider.

22. In the event an application is granted, the Client Provider Authorization will be added as an addendum to the licence holder's Interactive Gaming Licence and a certified copy will be provided to the authorized client provider.

23. A Client Provider Authorization will not be granted for a period of time exceeding two (2) years.

24. A Client Provider Authorization is only valid and enforceable for so long as the Interactive Gaming Licence to which it is appended is in good standing.

25. A licence holder is responsible for supervising the activities of an authorized client provider and is jointly and severally liable with the authorized client provider for any and all acts or omissions of the authorized client provider.

26. Any breach of the Law or these Regulations by an authorized client provider may result in the immediate suspension or revocation of the Client Provider Authorization and of the Interactive Gaming Licence to which it is appended.

CONDITIONS FOR GRANTING OR DENYING APPLICATION

27. The Commission may grant an application for an Interactive Gaming Licence or a Client Provider Authorization only if the Commission is satisfied that:

- (a) the applicant is suitable to hold an Interactive Gaming Licence or Client Provider Authorization, and

- (b) each director, shareholder with ten (10%) per cent or more ownership of or controlling interest in the applicant, partner and Chief Executive Officer is suitable to be associated with an applicant's operations.

28. The Commission, in its sole discretion, may deny an application even if the Commission is satisfied of the matters mentioned in foregoing section.

SUITABILITY OF APPLICANTS

29. The Commission will consider an applicant suitable to hold an Interactive Gaming Licence or a Client Provider Authorization as the case may be, if the applicant can satisfy the Commission of the following:

- (a) the applicant's good character, honesty and integrity;
- (b) the applicant's good business reputation, sound current financial position and financial background;
- (c) the applicant has arranged, or is arranging, a satisfactory ownership, trust or corporate structure;
- (d) the applicant has, or is able to obtain, appropriate resources, services and technical ability to conduct interactive gaming;
- (e) the applicant has the ability to conduct interactive games under an Interactive Gaming Licence or Client Provider Authorization, and
- (f) any other matter prescribed under a law applicable within the Territories or which the Commission deems appropriate.

30. The Commission will consider each director, shareholder with ten (10%) per cent or more ownership of or controlling interest in the applicant, partner and Chief Executive Officer of the applicant suitable, if the Commission is satisfied of each person's:

- (a) good character, honesty and integrity;
- (b) good business reputation, sound current financial position and financial background, and
- (c) general suitability to be associated with a licence holder or authorized client provider.

31. The Commission, or such person as the Commission may appoint, will conduct a thorough investigation into the matters referred to in the foregoing sections to determine the applicant's suitability to hold an Interactive Gaming Licence or Client Provider Authorization and the suitability of each director, shareholder with ten (10%) per cent or more ownership of or controlling interest in the applicant, partner and Chief Executive Officer of the applicant to be associated with a licence holder or authorized client provider.

32. The Commission may consider proof that an applicant has been licensed to conduct gaming in another jurisdiction as *prima facie* evidence of the applicant's suitability to conduct interactive gaming within the Territories.

INTERACTIVE GAMING LICENCE AND CLIENT PROVIDER AUTHORIZATION

33. Interactive Gaming Licences and Client Provider Authorizations will be in the form prescribed by the Commission and will, in addition to any other matter which the Commission deems to be appropriate, specify:

- (a) the name, address, telephone number, fax number and e-mail address of the licence holder or authorized client provider;
- (b) the address of the certified premises from which the licence holder or authorized client provider will conduct interactive gaming and interactive gaming related activities;
- (c) the authorized games the licence holder or authorized client provider are permitted to conduct;
- (d) commencement and termination dates of the licence or authorization;
- (e) any other terms and conditions that are in the public interest and that the Commission, in its sole discretion, considers necessary or desirable for the proper conduct of interactive games;
- (f) a clause stating that the Commission and its members, employees and agents are not liable for any damages, losses, costs or liabilities incurred by a licence holder or authorized client provider, and
- (g) a clause stating that the licence holder or authorized client provider has agreed to indemnify the Commission against any claims, demands or actions and any resulting damages, awards or costs (including legal costs) brought by any third party against the Commission in relation to the acts or omissions of a licence holder or authorized client provider.

34. An Interactive Gaming Licence and a Client Provider Authorization:

- (a) subject to the provisions of these Regulations, may be amended, suspended or revoked for any breach of the Law, these Regulations, the terms and conditions of the Interactive Gaming Licence or Client Provider Authorization or any direction issued by the Commission;
- (b) are not valid unless and until the prescribed fees have been paid in full, and

- (c) may not be sold, transferred, mortgaged or assigned.

MATERIAL CHANGE REPORTS

35. Every licence holder, authorized client provider and holder of a temporary authorization, including every applicant, must report to the Commission any material change to the information provided to the Commission for the purposes of an application (a “material change report”).

36. A material change report must be in writing, must clearly identify the material change in question and must be received by the Commission not later than seven (7) days from the date on which the material change was effective.

37. Failure to report a material change to the Commission as required by this Part may result in the immediate amendment, suspension or revocation of the Interactive Gaming Licence, Client Provider Authorization or temporary authorization to which the change relates. In the case of an application, failure to report a material change is a sufficient grounds for denial of the application.

TEMPORARY AUTHORIZATIONS

38. After receiving an application for a Client Provider Authorization, accompanied by the required forms and non-refundable deposit, and pending the completion of the Commission’s investigations into the application and matters related thereto, the Commission may, at the request of the applicant, issue a temporary Client Provider Authorization (a “temporary authorization”).

39. The Commission will only issue a temporary authorization when it is satisfied that:

- (a) the applicant proposes to append its Client Provider Authorization, in the event it is granted, to an existing Interactive Gaming Licence and the relevant licence holder has indicated in writing that it has no objection to the issuance of a temporary authorization to the applicant;
- (b) the applicant appears to be suitable and is likely to be issued a Client Provider Authorization;
- (c) it is not contrary to the public interest to issue a temporary authorization.

40. The issuance of a temporary authorization does not impose any obligation on the Commission to issue an Interactive Gaming Licence or Client Provider Authorization.

41. A temporary authorization will specify each of the matters set out in section 33 and is subject to the provisions of section 34.

42. In the event an application for a temporary authorization is granted, the temporary authorization will be added as an addendum to the licence holder's Interactive Gaming Licence and a certified copy will be provided to the holder of the temporary authorization.

43. A licence holder is responsible for supervising the activities of the holder of a temporary authorization and is jointly and severally liable for any and all acts or omissions of the holder of a temporary authorization.

44. Any breach of the Law or these Regulations by the holder of a temporary authorization may result in the immediate suspension or revocation of the temporary authorization and of the Interactive Gaming Licence to which it is appended.

45. A temporary authorization will not be granted for a period exceeding six (6) months.

46. The provisions of these Regulations that apply to Client Provider Authorizations and authorized client providers also apply, adapted as required, to a temporary authorization and to the holder of a temporary authorization.

RENEWAL APPLICATIONS

47. An application to renew an Interactive Gaming Licence or Client Provider Authorization must be submitted to the Commission in a form approved by the Commission (a "renewal application").

48. To be considered by the Commission, a renewal application must contain all of the information requested in the form and be accompanied by a non-refundable deposit in the amount of Five Thousand (\$5,000.00) Dollars.

49. A renewal application must be received by the Commission not less than three (3) months prior to the termination date of the Interactive Gaming Licence or Client Provider Authorization.

50. The applicant is responsible to the Commission for all costs incurred by the Commission related to the processing of the renewal application. In the event these costs exceed the amount of the original deposit, the Commission will notify the applicant in writing to provide a further non-refundable deposit or deposits in such amounts as the Commission may determine. In the event the Commission does not receive payment of a further deposit within ten (10) days of the date of the Commission's notice to the applicant, processing of the renewal application will be suspended until the further deposit is received.

51. Subject to the foregoing section, the Commission will promptly consider the renewal application and will:

- (a) grant the renewal application and renew the Interactive Gaming Licence or Client Provider Authorization for a period of two (2) years;
- (b) deny the renewal application, or
- (c) return the renewal application with a request for additional information.

52. In the event an application is denied, the Commission will give its reasons for the refusal in writing to the applicant.

53. In deciding whether to grant a renewal application, the Commission will consider any complaints, concerns or problems that may have arisen in the previous licensing period related to the licence holder or authorized client provider and will deny the renewal application if, in the Commission's sole discretion, the complaints, concerns or problems are sufficiently serious or numerous.

54. An Interactive Gaming Licence or Client Provider Authorization that is renewed under this Part is subject to the all provisions of these Regulations concerning Interactive Gaming Licences or Client Provider Authorizations, adapted as required.

AMENDMENTS TO LICENCE OR AUTHORIZATION

55. The Commission may amend a condition or conditions of an Interactive Gaming Licence or Client Provider Authorization if the Commission considers it is necessary or desirable to make the amendment for the proper conduct of authorized games by the licence holder or authorized client provider or that the amendment is otherwise in the public interest.

56. If the Commission decides to amend a condition or conditions of an Interactive Gaming Licence or Client Provider Authorization, the Commission must promptly give the licence holder and, if appropriate, the authorized client provider, written notice (the "condition notice") of the change and the reasons for the change.

57. The power of the Commission under this section includes the power to add such new conditions as the Commission, in its sole discretion, deems appropriate.

58. Before amending a condition or conditions of an Interactive Gaming Licence or Client Provider Authorization, the Commission must follow the show cause procedures set out in these Regulations.

59. The licence holder or authorized client provider, as the case may be, must return the existing Interactive Gaming Licence or Client Provider Authorization to the Commission within seven (7) days of receiving the condition notice.

60. On receiving the Interactive Gaming Licence or Client Provider Authorization, the Commission will:

- (a) amend the licence or authorization in an appropriate way and return the amended licence or authorization to the licence holder or authorized client provider; or
- (b) if the Commission does not consider it is practical to amend the licence or authorization, issue a replacement licence or authorization, incorporating the amended conditions, to the licence holder or authorized client provider.

61. An amendment of conditions takes effect on the date set by the Commission.

SUSPENDING OR REVOKING A LICENCE OR AUTHORIZATION

62. The Commission may suspend or revoke an Interactive Gaming Licence or Client Provider Authorization on the following grounds:

- (a) the licence holder or authorized client provider is no longer suitable to hold an Interactive Gaming Licence or Client Provider Authorization;
- (b) the licence holder or authorized client provider has been convicted of an offence against the Law or these Regulations or a gaming act of another jurisdiction;
- (c) the licence holder or authorized client provider has been convicted of an indictable offence or other crime the Commission, in its sole discretion, deems to affect the suitability of a licence holder or authorized client provider;
- (d) the licence holder or authorized client provider has contravened a term or condition of the Interactive Gaming Licence or Client Provider Authorization;
- (e) the licence holder or authorized client provider has failed to discharge financial commitments for the licence holder's or authorized client provider's operations or the Commission has reason to believe that such failure is imminent;
- (f) the licence holder or authorized client provider is insolvent, has been petitioned into bankruptcy or has applied to take advantage of any bankruptcy law;
- (g) the licence holder or authorized client provider has a trustee, receiver, manager, liquidator or administrator appointed for it under the provisions of the laws of any jurisdiction;

- (h) the licence holder or authorized client provider applies for, or is compelled by any means or for any reason, for a discontinuance or winding-up;
- (i) the Interactive Gaming Licence or Client Provider Authorization was obtained by a materially false or misleading representation or in some other improper way, or
- (j) any other ground that the Commission, in its sole discretion, determines is material and sufficient for the purposes of this section.

SHOW CAUSE PROCEDURE

63. Before amending, suspending or revoking an Interactive Gaming Licence or Client Provider Authorization, the Commission must give the licence holder, and if appropriate, the authorized client provider a written notice (a “show cause notice”) that:

- (a) states the action (the “proposed action”) the Commission proposes taking;
- (b) states the grounds for the proposed action;
- (c) outlines the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the Interactive Gaming Licence or Client Provider Authorization, states the proposed suspension period, and
- (e) permits the licence holder, and if appropriate, the authorized client provider, to show within a stated period (the “show cause period”) why the proposed action should not be taken.

64. The show cause period will be established by the Commission and will be specified in the show cause notice.

65. The Commission must promptly serve a copy of the show cause notice on:

- (a) each person (an “interested person”) the Commission believes has an interest in the Interactive Gaming Licence or Client Provider Authorization if the Commission considers:
 - (i) the person’s interest may be affected adversely by the amendment, suspension or cancellation of the licence or authorization; and
 - (ii) it is otherwise appropriate in the circumstances to give copy of the notice to the person.

66. A person upon whom a copy of the show cause notice is served may make written representations about the matters raised in the notice to the Commission within the show cause period.

67. The Commission will consider all written representations (the “accepted representations”) made during the show cause period by:

- (a) the licence holder or authorized client provider; or
- (b) any interested person upon whom a copy of the show cause notice is served.

68. Notwithstanding any other provision of these Regulations, the Commission may amend, suspend or revoke an Interactive Gaming Licence or Client Provider Authorization immediately if the Commission believes:

- (a) a sufficient ground exists to amend, suspend or revoke the licence or authorization, and
- (b) the circumstances are so extraordinary that it is imperative to amend, suspend or revoke the licence immediately to ensure:
 - (i) the public interest is not affected in an adverse and material way; or
 - (ii) the integrity of the conduct of interactive games by the licence holder or authorized client provider is not jeopardized in a material way.

69. An immediate amendment, suspension or revocation:

- (a) must be effected by written notice served on the licence holder, and, if appropriate, the authorized client provider;
- (b) is effective from the moment the notice is served, and
- (c) continues in effect until the matters set out in the show cause notice are decided by the Commission.

HEARING

70. A licence holder or authorized client provider who has received a show cause notice, may, within the show cause period, request a hearing before the Commission to respond to the matters raised in the show cause notice.

71. Upon receiving a request for a hearing, the Commission will set a date for the hearing (the “hearing date”) and will immediately notify the licence holder or authorized client provider in writing of the hearing date.

72. At the hearing, the licence holder or authorized client provider will have the opportunity to bring written and oral evidence to respond to the matters raised in the show cause notice.

DECISION

73. If, after considering the accepted representations, or in the case of a hearing, all the evidence adduced before it, the Commission finds that:

- (a) a ground or grounds exist to amend, suspend or revoke the Interactive Gaming Licence or Client Provider Authorization and/or;
- (b) the act, omission or other item constituting the ground is of a serious and fundamental nature and either:
 - (i) the integrity of the conduct of interactive games by the licence holder or authorized client provider may be jeopardized in a material way, or
 - (ii) the public interest may be affected in an adverse or material way;

the Commission may amend or revoke the Interactive Gaming Licence or Client Provider Authorization or suspend the licence or authorization for such period of time and on such conditions of re-instatement as the Commission deems appropriate.

74. If the Commission directs the licence holder or authorized client provider to rectify a matter and the licence holder or authorized client provider fails to comply with the direction within the time allowed for compliance, the Commission may revoke the Interactive Gaming Licence or Client Provider Authorization or suspend the licence or authorization for such period of time and on such conditions for re-instatement as the Commission deems appropriate.

75. The Commission must promptly serve written notice of the decision to amend, suspend or revoke a licence or authorization on the licence holder and, if appropriate, on the authorized client provider.

76. A decision to amend, suspend or revoke a licence or authorization takes effect on the date specified by the Commission.

77. If an Interactive Gaming Licence or Client Provider Authorization is under suspension, the Commission may, at the request of the licence holder or authorized client provider, reconsider the duration of the suspension.

78. The Commission must promptly serve written notice of its decision on the licence holder or authorized client provider.

PART III – KEY PERSONS

79. A person must not accept employment as a key person, or agree to carry out as an employee the duties of a key person, unless the person is a key person licensee.

80. A licence holder or authorized client provider must not employ a person to carry out the functions of a key person, unless the person is a key person licensee.

81. If the Commission reasonably believes a person, other than a key person licensee, is a key person, the Commission may, by written notice given to the person, with copies to the licence holder or authorized client provider with whom the key relationship exists, require the person either to apply for a key person licence or to terminate the relevant key relationship, within seven (7) days of receiving the notice.

82. The person must comply with the requirement within seven (7) days of receiving the notice or such other period of time that the Commission may specify in the notice.

83. If the Commission does not approve an application for a key person licence made by a person of whom a requirement has been made under the foregoing section, the Commission may, by written notice given to the person, with copies to the licence holder or authorized client provider with whom the key relationship exists, require the person to terminate the relevant key relationship within the time stated in the notice and the person must comply with the requirement within the time stated in the notice.

84. A person does not incur any liability as a result of action taken to comply with a notice under this section.

85. If a requirement is made of a person under the foregoing sections and the person fails to comply with the requirement, the Commission may, by written notice given to the licence holder or authorized client provider with whom the key relationship exists, require the licence holder to take any necessary action to terminate the key relationship within the time stated in the notice and the licence holder or authorized client provider must comply with the requirement.

86. A licence holder or authorized client provider does not incur any liability because of action taken to comply with a notice under this section.

APPLICATION FOR KEY PERSON LICENCE

87. An application for a key person licence must be made to the Commission in the form attached as Schedule “E” to these Regulations.

88. An application for a key person licence must be accompanied by:

- (a) a letter from the licence holder or authorized client provider addressed to the Commission confirming the existence or proposed existence of the key relationship;
- (b) a Personal Information Form attached as Schedule “C” to these Regulations completed by the proposed key person;

- (c) a non-refundable deposit in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars.

89. The applicant is responsible to the Commission for all costs incurred by the Commission related to the processing of the application for a key person licence. In the event these costs exceed the amount of the original deposit, the Commission will notify the applicant in writing to provide a further non-refundable deposit or deposits in such amounts as the Commission may determine. In the event the Commission does not receive payment of a further deposit within ten (10) days of the date of the Commission's notice to the applicant, processing of the application will be suspended until the further deposit is received.

90. The Commission may, by written notice given to an applicant for a key person licence, require the applicant to give the Commission further information or a document that is necessary and reasonable to help the Commission consider and decide the application.

91. Subject to receiving the required non-refundable deposits, the Commission will consider an application for a key person licence and either grant or deny the application.

92. The Commission is required to consider and decide an application only if the applicant agrees to having the applicant's photograph and fingerprints taken.

93. The Commission will consider an applicant suitable to hold a key person licence, if the applicant can satisfy the Commission of the following:

- (a) the applicant's good character, honesty and integrity;
- (b) the applicant's good business reputation, sound current financial position and financial background;
- (c) the applicant's general suitability to carry out functions for a licence holder or authorized client provider as a key person.

94. The Commission will investigate an applicant for a key person licence to help the Commission decide whether the applicant is suitable to hold a key person licence.

95. Written notice of the Commission's decision to grant or deny an application for a key person licence must be given to the applicant and the licence holder or authorized client provider.

96. If the Commission denies an application for a key person licence, the written notice will include reasons for the decision.

KEY PERSON LICENCE

97. A key person licence will be in the form prescribed by the Commission and will include the following:

- (a) the key person licensee's name;
- (b) a recent photograph of the key person licensee;
- (c) the date of issue of the licence;
- (d) the conditions of the licence;
- (e) other conditions or particulars the Commission deems to be appropriate.

98. A key person licence will not be issued for a period exceeding two (2) years.

99. A key person licence may be renewed by the Commission in accordance with the procedures for renewing an Interactive Gaming Licence or Client Provider Authorization as provided in these Regulations.

A key person licence lapses if there has been no key relationship between the key person licensee and a licence holder or authorized client provider for a continuous period of one (1) year.

100. The Commission may issue a key person licence:

- (a) on conditions the Commission considers necessary or desirable for the proper conduct of interactive games; and
- (b) on other conditions the Commission considers necessary or desirable in the public interest.

Amendments to the conditions of a key person licence will be governed by the principles and procedures provided in these Regulations for amending the conditions of an Interactive Gaming Licence or Client Provider Authorization, adapted as required.

SUSPENDING OR REVOKING A KEY PERSON LICENCE

101. Each of the following is a ground for suspending or revoking a key person licence of a key person licensee:

- (a) the licensee is not, or is no longer, suitable to hold a key person licence;
- (b) the licensee has been convicted of an indictable offence;
- (c) the licensee has contravened a condition of the licence;
- (d) the licensee has contravened a provision of the Law, these Regulations or the provision of a gaming act of any other jurisdiction;
- (e) the licence was obtained by a materially false or misleading representation or declaration or in some other improper way; or

- (f) any act, omission or conduct the Commission finds adversely affects the integrity of the interactive games or affects the public interest in an adverse and material manner.

102. If the Commission believes a ground exists to suspend or revoke a key person licence, the Commission will apply the principles and procedures provided in these Regulations for suspending or revoking an Interactive Gaming Licence or Client Provider Authorization, adapted as required.

PART IV – AGENTS AND AGENCY AGREEMENTS

103. A licence holder or authorized client provider may only appoint a person as an agent for the licence holder or authorized client provider if:

- (a) the person is, in the case of an individual, at least twenty-one (21) years of age; and
- (b) the appointment is made under an agency agreement:
 - (i) in a form approved by the Commission;
 - (ii) stating the agent's place of operation; and
 - (iii) including any other provisions required by the Commission.

104. The Commission must not require the inclusion of a provision in an agency agreement unless the Commission believes on reasonable grounds that the inclusion of the provision is reasonably necessary to ensure:

- a) that the integrity of the conduct of interactive games is not jeopardized, or
- b) the public interest is not adversely affected.

105. Within seven (7) days after entering into an agency agreement, the licence holder or authorized client provider must give the Commission a copy of the agreement.

106. An agency agreement may only be amended with the written approval of the Commission.

107. The Commission may withhold approval of a proposed amendment only if it is necessary to do so in the public interest or to protect proper standards of integrity in the conduct of interactive games.

108. A licence holder or authorized client provider must at least once every six (6) months, give a return to the Commission providing a certified list of the licence holder's or authorized client provider's current agents.

109. Each of the following is a ground for directing the termination of an agency agreement:

- (a) the agent is not, or is no longer, suitable to be an agent;
- (b) the agent has been convicted of an offence against the Law or these Regulations, or the gaming Act of any other jurisdiction;
- (c) the agent has been convicted of an indictable offence;
- (d) the agent has contravened a provision of the Law, these Regulations or a corresponding law, being a provision a contravention of which does not constitute an offence, or
- (e) any other grounds the Commission, in its sole discretion, deems appropriate.

110. If the Commission believes a ground exists to suspend or revoke an agency agreement, the Commission will apply the principles and procedures provided in these Regulations for suspending or revoking an Interactive Gaming Licence or Client Provider Authorization, adapted as required.

PART V – CONTROL SYSTEMS

111. The Commission will establish specific rules and procedures for licence holders and authorized client providers for the purpose of anticipating and preventing suspicious activities whereby monies obtained by illegal means are deposited into and removed from players' accounts, which will include:

- (a) provisions for the licence holder or authorized client provider to 'know their players';
- (b) protocols for licence holders and authorized client providers to recognize, address and prevent suspicious activities concerning players' accounts;
- (c) requirements for licence holders and authorized client providers to monitor and report to the Commission suspicious activities concerning players' accounts;

112. A licence holder and authorized client provider may conduct an authorized game only if:

- (a) the licence holder has an approved control system; and
- (b) the game is conducted under the system.

113. A licence holder and authorized client provider may change the approved control system only:

- (a) if directed by, or with the approval of, the Commission; and
- (b) in the way directed or approved by the Commission.

CONTROL SYSTEM SUBMISSION

114. A licence holder or authorized client provider may make a submission (a "control system submission") to the Commission for

approval of the licence holder's or authorized client provider's proposed control system.

115. A control system submission must be made in writing:

- (a) at least ninety (90) days before the licence holder or authorized client provider proposes to start conducting interactive games; or
- (b) if the Commission in its sole discretion deems it appropriate, at a later date to be determined by the Commission.

116. A control system submission must describe and explain the licence holder's proposed control system and in particular must include:

- (a) for the conduct of interactive games:
 - (i) accounting systems and procedures and a chart of accounts;
 - (ii) administrative systems and procedures, and
 - (iii) computer software;
- (b) the general procedures to be followed for the conduct of interactive games;
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of interactive games;
- (d) the procedures for recording and paying prizes won in interactive games; and
- (e) the procedures for using and maintaining security facilities.

CONTROL SYSTEM CHANGE SUBMISSION

117. A licence holder or authorized client provider may make a submission (a "control system change submission") to the Commission for approval to change the licence holder's or authorized client provider's approved control system.

118. A control system change submission must be made in writing:

- (a) at least ninety (90) days before the licence holder or authorized client provider proposes to start conducting interactive games under the approved control system as proposed to be changed, or
- (b) if the Commission, in its sole discretion, deems it appropriate, at a later date to be determined by the Commission.

119. A control system change submission must contain particulars of the proposed changes of the licence holder's or authorized client provider's approved control system.

CONSIDERATION OF CONTROL SYSTEM SUBMISSIONS

120. The following sections apply to a control system submission or control system change submission made to the Commission by a licence holder or authorized client provider.

121. The Commission will consider the submission and will, within a reasonable period of time:

- (a) approve the proposed control system or proposed change of the approved control system;
- (b) refuse to approve the proposed control system or proposed change of the approved control system, or
- (c) request such additional information as the Commission may require to either approve or refuse the submission.

122. In considering the submission, the Commission may submit the proposed control system, or the approved control system as proposed to be changed, to testing by the appropriate services retained by the Commission.

123. In considering whether to give an approval, the Commission will consider:

- (a) whether the submission satisfies the requirements under this Part for the submission;
- (b) whether the licence holder's or authorized client provider's proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the conduct of interactive games.

124. The Commission must promptly serve the licence holder or authorized client provider with a written notice of the Commission's decision to approve or to refuse to approve a control system submission or submission to change a control system.

125. If the Commission refuses to approve a submission under this section, the written notice must state the reasons for the decision and, if the Commission believes the submission can easily be rectified to enable the Commission to give an approval, the notice must also:

- (a) explain how the submission may be changed; and
- (b) invite the licence holder or authorized client provider to resubmit the submission after making the appropriate changes.

126. The Commission may, by written notice, direct the licence holder or authorized client provider to change its approved control system within the time, and in the manner stated in the notice and the licence holder or authorized client provider must comply with the direction within thirty (30) days of the date on which the

notice is received or such other period of time as the Commission may specify.

127. If the licence holder or authorized client provider does not comply with the Commission's direction, the approval for either or both the licence holder's or the authorized client provider's control system will be terminated.

PART VI – APPROVED EQUIPMENT

128. A licence holder or authorized client provider will apply to the Commission:

- (a) for approval of the interactive gaming equipment proposed to be used in the conduct of authorized games by the licence holder or authorized client provider, or
- (b) for approval to modify regulated interactive gaming equipment used in the conduct of authorized games by the licence holder or authorized client provider.

129. The applicant must be accompanied by a non-refundable deposit in the amount of Five Thousand (\$5,000.00) Dollars.

130. The applicant is responsible to the Commission for all costs incurred by the Commission related to the processing of the application. In the event these costs exceed the amount of the original deposit, the Commission will notify the applicant in writing to provide a further non-refundable deposit or deposits in such amounts as the Commission may determine. In the event the Commission does not receive payment of a further deposit within ten (10) days of the date of the Commission's notice to the applicant, processing of the application will be suspended until the further deposit is received.

131. Subject to the foregoing section, the Commission will:

- (a) consider the application;
- (b) submit the equipment to the appropriate services retained by the Commission to evaluate the equipment, or the equipment as proposed to be modified, to decide the application, and
- (c) after completing the consideration of the application and carrying out the necessary evaluation, approve or refuse to approve the equipment or modification.

132. The Commission must promptly serve the licence holder or authorized client provider with written notice of the Commission's decision.

133. If the Commission decides to refuse to give an approval, the notice must state the reasons for the decision.

134. A licence holder or authorized client provider must not use any interactive gaming equipment in conducting an authorized

game unless the equipment is approved interactive gaming equipment.

135. An agent of a licence holder or authorized client provider must not use any interactive gaming equipment for the conduct of an authorized game by the licence holder or authorized client provider unless the equipment is approved interactive gaming equipment.

136. A licence holder, authorized client provider or agent must not modify approved interactive gaming equipment unless the modification is approved by the Commission in writing.

LOCATION OF APPROVED EQUIPMENT

137. A licence holder and an authorized client provider must ensure that all approved interactive gaming equipment used by the licence holder and authorized client providers for the conduct of authorized games is situated at:

- (a) the premises of the certified establishment; or
- (b) a place approved by the Commission.

PART VII – MANDATORY PROVISIONS

138. The provisions in this Part apply to all Interactive Gaming Licences, Client Provider Authorizations and temporary authorizations issued by the Commission.

139. A licence holder or authorized client provider must not allow a player under the full age of twenty-one (21) years to participate in operations related to the conduct of authorized games.

140. A person involved in the conduct of an authorized game must not allow a player under the full age of twenty-one (21) years to participate as a player in an authorized game.

141. A prize won by a player under the full age of twenty-one (21) years by participation in an authorized game contrary to the foregoing subsection is forfeited to the Commission. The Commission will disburse any such forfeited prizes to charitable community organizations within the Territories.

NO OBSCENITY

142. A person must not participate in an authorized game under a name or designation that is obscene, indecent or offensive.

143. A licence holder or authorized client provider may refuse to register a person as a player in an authorized game under a name that is obscene, indecent or offensive.

PLAYER REGISTRATION

144. Licence holders and authorized client providers may only register a person as a player on receipt of an application for registration in a form approved by the Commission.

145. A person is not eligible for registration as a player unless the person produces evidence of a kind acceptable to the Commission:

- (a) of the person's:
 - (i) identity;
 - (ii) place of residence; and
 - (iii) evidence that the person has attained the full age of twenty-one (21) years.

146. A licence holder or authorized client provider must not allow a registered player to participate in an authorized game until the player's identity has been authenticated under the licence holder's or authorized client provider's approved control system.

PLAYER ACCOUNTS

147. A player's account must be established in manner that the player may only have direct recourse to funds in the account:

- (a) to obtain the balance of funds in the account and close the account; or
- (b) to obtain the whole or part of the amount paid into the account as a prize in an authorized game; or
- (c) as authorized by the licence holder or the Commission.

148. A licence holder or authorized client provider must not accept a wager from a player in an authorized game unless a player's account has been established in the name of the player and there are adequate funds in the account to cover the amount of the wager.

149. A player who participates in an authorized game must comply with rules of the game as notified to the player under the conditions on which the game is authorized.

150. A licence holder or authorized client provider must, at the request of the registered player in whose name a player's account is established, remit funds standing to the credit of the account as directed by the player no later than the first business day after the request is received.

151. A licence holder or authorized client provider must not provide credit to a player or a player's account or act as agent for a credit provider to facilitate the provision of credit to a player or a player's account.

152. A licence holder or authorized client provider must not have recourse to funds in a player's account except as follows:

- (a) to debit to the account, a wager made by the player or an amount the player indicates the player wants to wager in the course of an authorized game the player is playing or is about to play;
- (b) to remit funds standing to the credit of the account to the player at the player's request;
- (c) as otherwise authorized under these Regulations.

153. If no transaction has been recorded on a player's account for more than ninety (90) days, the licence holder must remit any remaining balance to:

- (a) the player; or
- (b) if the player cannot be located, an account established by the Commission and designated as the account to which payments are to be made under this section.

CONFIDENTIALITY OF PLAYER INFORMATION

154. A licence holder, authorized client provider or an employee or other person engaged in duties related to the conduct of an authorized game must not, without authorization under the following section:

- (a) disclose information about the name, or other identifying particulars, of a player; or
- (b) use information about a player for a purpose other than the purpose for which the information was given.

155. The disclosure of information, or its use for a purpose other than the purpose for which it was given, is authorized if the disclosure or use is:

- (a) authorized by the player;
- (b) reasonably necessary for the conduct of authorized games; or
- (c) required for the administration or enforcement of the Law or these Regulations.

RESPONSIBLE GAMING

156. A registered player may, by written notice to a licence holder or authorized client provider, set a limit on the amount on each individual wager or total amount over a specific period of time, that the player may wager.

157. To prevent himself or herself from engaging in authorized games conducted by the licence holder or authorized client provider, the player may set the limit at zero.

158. A player who has set a limit under this section may change or revoke the limit by written notice given to the licence holder or authorized client provider.

159. A notice increasing or revoking the player's limit will not have effect until seven (7) days from receipt of the notice by the licence holder or authorized client provider provided the player has not notified the licence holder or authorized client provider of an intention to withdraw the notice.

160. A notice reducing the limit has effect on its receipt by the licence holder or authorized client provider.

161. A licence holder or authorized client provider must not accept a wager from a player contrary to a limit set for the player under this section.

162. An application may be made to the Commission in the approved form for an order:

- (a) prohibiting a person from participating in authorized games; or
- (b) revoking an order under paragraph (a).

163. An application may only be made under this section by:

- (a) a person who seeks a prohibition or the revocation of a prohibition against himself or herself; or
- (b) a person who satisfies the Commission of a close personal interest in the welfare of the person against whom the prohibition is sought.

164. If the application is made by a person other than the person against whom the prohibition is sought or has been imposed (the "affected person"), the Commission must:

- (a) give the affected person written notice of the application and the reasons for it; and
- (b) invite the affected person to make representations to the Commission about the application within a reasonable time stated in the notice.

165. The Commission must consider representations from the applicant, and if the applicant is not the affected person, the affected person.

166. If the Commission is satisfied the order sought in the application should be made in the interests of the affected person and the public interest, the Commission may make the order.

167. The Commission must:

- (a) serve written notice on the applicant and, if the affected person is not the applicant, the affected person:
 - (i) stating the Commission's decision and the reasons for it, and
 - (ii) in the case of a written notice given to an applicant whose application has been refused, stating that the

- applicant may appeal against the decision to the Court of Kahnawake, and
- (iii) in the case of a written notice given to a person who is not the applicant but is affected by an order made on the application, stating that the affected person may appeal against the decision to the Court of Kahnawake, and
- (b) if an order is made on the application, serve copies of the order on:
- (i) the affected person, and
 - (ii) all licence holders and authorized client providers within the Territories.

168. A licence holder or authorized client provider to whom a copy of an order imposing a prohibition has been given must not accept a wager from a person, or allow a person to participate in any other way in an authorized game, contrary to the prohibition.

GAMING ADDICTION FUND

169. The Commission will establish and maintain at a financial institution in or near the Territories, a fund (the “Gaming Addiction Fund”) to be used for the purpose of treating and assisting persons who may be suffering from an addiction related to gaming.

170. The Commission will determine the programs and services to be funded by the Gaming Addiction Fund and will administer the funds provided to those programs and services.

171. The funds held in the Gaming Addiction Fund will not be used to reimburse players for monies they may have lost through gaming activities.

172. The Gaming Addiction Fund will consist of:

- (a) all fines and penalties imposed by, and paid to, the Commission pursuant to these Regulations;
- (b) contributions from licence holders and authorized client providers.

173. The Commission may establish incentive programs to encourage licence holders and authorized client providers to contribute to the Gaming Addiction Fund.

PART VIII - INVESTIGATIONS AND MONITORING

174. The Commission will investigate licence holders, authorized client providers, key persons and agents to assist it in determining whether the licence holder, authorized client provider, key person or agent is suitable to hold, or to continue to hold, an Interactive

Gaming Licence or a Client Provider Authorization issued by the Commission.

175. The Commission may at any time investigate a licence holder, authorized client provider, key person or agent only if the Commission reasonably suspects the licence holder, authorized client provider, key person or agent is not, or is no longer, suitable to hold a licence or authorization issued by the Commission.

176. In investigating a licence holder, authorized client provider, key person or agent the Commission may, by written notice given to the person, require the person to give the Commission information or documentation the Commission considers relevant to the investigation and the person must comply with the requirement.

MONITORING PROGRAM

177. The Commission may approve a program for the ongoing monitoring of licence holders, authorized client providers, key persons and agents.

178. The Commission is responsible for ensuring that investigations under an approved monitoring program are conducted in accordance with the program.

179. A licence holder, authorized client provider, key person or agent must, at the request of the Commission, do anything reasonably necessary to allow an Inspector to monitor the person's operations.

180. The Commission may take whatever action is necessary under this section to ensure the integrity of the conduct of an authorized game.

181. The Commission may, by written notice given to a licence holder or authorized client provider, restrict the licence holder or authorized client provider from the conduct of an authorized game unless an Inspector is present and the licence holder or authorized client provider must comply with the direction.

PART IX – LICENCE FEES

182. A licence holder must pay an annual licence fee as required under the conditions of a Interactive Gaming Licence in the amount of Ten Thousand (\$10,000.00) Dollars.

183. An authorized client provider must pay the authorization fees as required under the conditions of a Client Provider Authorization in the amount of Ten Thousand (\$10,000.00) Dollars.

184. A licence holder or authorized client provider must pay to the Commission a penalty on the amount of a licence or authorization

fee outstanding (the “unpaid amount”) as at the end of the period allowed for payment.

185. The penalty is ten (10%) per cent per annum of the unpaid amount calculated on a per diem basis from the date the fee was due until it is paid in full.

186. A licence holder is jointly liable for the payment of an authorized client provider’s annual fees, including penalties, for any authorized client provider for which the licence holder is responsible.

187. The amount of a licence fee, authorization fee or penalty payable under this Part is a debt payable to the Commission and may be recovered by action in a court of competent jurisdiction.

188. A licence holder or authorized client provider must not evade the payment of an amount payable by the licence holder or authorized client provider as a licence or authorization fee.

COSTS INCURRED BY THE COMMISSION

189. A licence holder or authorized client provider is responsible to pay all costs incurred by the Commission related to a particular Interactive Gaming Licence or Client Provider Authorization (the “costs incurred by the Commission”), including the following:

- (a) applications for an Interactive Gaming Licence or Client Provider Authorization, and all matters related thereto;
- (b) investigations and monitoring of or related to an Interactive Gaming Licence, Client Provider Authorization or Key Person Licence;
- (c) complaints received against a particular licence holder or authorized client provider, and
- (d) any other matter related to a particular Interactive Gaming Licence or Client Provider Authorization in regard to which the Commission incurs costs.

190. Costs incurred by the Commission are due and payable on the date the licence holder or authorized client provider receives a statement of account from the Commission detailing the costs in question (the “statement of account”).

191. A licence holder or authorized client provider must pay to the Commission a penalty on the amount of a statement of account outstanding (the “unpaid amount”) more than thirty (30) days after the date of receipt.

192. The penalty is ten (10%) per cent per annum of the unpaid amount calculated on a per diem basis from the date the statement of account was due until it is paid in full.

193. A licence holder is jointly liable for the payment of the full amount of any statement of account received by an authorized client provider, including penalties, for any authorized client provider for which the licence holder is responsible.

194. The amount of a statement of account or penalty payable under this Part is a debt payable to the Commission and may be recovered by action in a court of competent jurisdiction.

195. A licence holder or authorized client provider must not evade the payment of a statement of account payable by the licence holder or authorized client provider.

196. Failure to pay a statement of account may result in the amendment, suspension or revocation of an Interactive Gaming Licence or Client Provider Authorization.

PART X – COMPLIANCE REQUIREMENTS

197. The Commission will establish rules concerning:

- (a) the conduct of authorized games by licence holders or authorized client providers;
- (b) prizes in authorized games conducted by licence holders or authorized client providers;
- (c) such other matters for which it is appropriate to make rules for the purposes of the Law and these Regulations.

198. The Commission will provide copies of all rules it establishes to licence holders and authorized client providers.

199. Licence holders and authorized client providers will post copies of all rules established by the Commission on their Internet sites.

200. Licence holders and authorized client providers will ensure that their key persons, agents and employees have a good working knowledge of all rules established by the Commission.

201. A licence holder or an authorized client provider may make submissions to the Commission about a rule or proposed rule.

202. A licence holder or an authorized client provider must comply with the rules established by the Commission.

203. Licence holders and authorized client providers must ensure that:

- (a) their agents and the persons with whom they have a key relationship are aware of the rules established by the Commission, and
- (b) their agents and the persons with whom they have a key relationship, comply with the rules and any relevant directions.

PART XI – GAMING RECORDS

204. The Commission may, by written notice given to a licence holder or an authorized client provider:

- (a) approve a place (the “approved place”) nominated by the licence holder or authorized client provider as a place for keeping the licence holder’s or authorized client provider’s gaming records;
- (b) specify a gaming record of the licence holder or authorized client provider (an “exempt gaming record”) that is not required to be kept at the approved place;
- (c) specify a gaming record of the licence holder or authorized client provider that may be kept temporarily at a place other than the approved place, and the period for which, or the circumstances in which, the record may be kept at the other place;
- (d) approve the keeping of information contained in a gaming record in a way different from the way the information was kept when the record was being used by the licence holder or authorized client provider; or
- (e) approve the destruction of a gaming record the Commission considers need not be kept.

205. A gaming record mentioned in subsection 204 (c) is also an “exempt gaming record”:

- (a) for the period stated in the notice; or
- (b) while the circumstances stated in the notice exist.

206. The Commission may specify a gaming record for subsection 204 (b) only if the Commission considers there is sufficient reason for the record to be kept at a place other than the approved place.

207. Unless the information previously contained in the gaming record is kept in another way under an approval of the Commission, a licence holder or authorized client provider must keep a gaming record for five (5) years after the end of the transaction to which the record relates.

208. The foregoing section does not apply to a gaming record that has been destroyed under an approval of the Commission.

ACCOUNTING RECORDS

209. A licence holder or authorized client provider must:

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licence holder’s or authorized client provider’s operations conducted under the Interactive Gaming Licence or Client Provider Authorization; and
- (b) keep the accounting records in a way that allows:

- (i) true and fair financial statements and accounts to be prepared from time to time; and
- (ii) the financial statements and accounts to be conveniently and properly audited.

210. A licence holder or authorized client provider must prepare financial statements and accounts as required by this section giving a true and fair view of the licence holder's or authorized client provider's financial operations conducted under the Interactive Gaming Licence or Client Provider Authorization.

211. The financial statements and accounts must include the following:

- (a) trading accounts, if applicable, for each financial year;
- (b) profit and loss accounts for each financial year, and
- (c) a balance sheet as at the end of each financial year.

212. A licence holder or authorized client provider must give reports to the Commission as required by this section about the licence holder's or authorized client provider's operations under the Interactive Gaming Licence or Client Provider Authorization.

213. The reports must be given at the times stated in a written notice given to the licence holder or authorized client provider by the Commission and must be in a form approved by the Commission.

214. The Commission may, by written notice given to a licence holder or authorized client provider, require the licence holder or authorized client provider to give the Commission further information about a report within the time stated in the notice to help the Commission acquire a proper appreciation of the licence holder's or authorized client provider's operations and the licence holder or authorized client provider must comply with the requirement within the time stated in the notice.

215. A licence holder and an authorized client provider must not give the Commission a report containing information, or further information about a report, the licence holder or authorized client provider knows to be false, misleading or incomplete in a material way.

FINANCIAL INSTITUTION ACCOUNTS

216. A licence holder or authorized client provider must keep a financial institution account, or financial institution accounts, approved by the Commission for use for all banking or similar transactions for the operations conducted under the Interactive Gaming Licence or Client Provider Authorization.

217. A licence holder or authorized client provider must not use a financial institution account approved by the Commission other than for a purpose for which it is approved.

AUDITS

218. As soon as practical after the end of a financial year, a licence holder or authorized client provider must, at the licence holder's or authorized client provider's own expense, cause the books, accounts and financial statements for the operations conducted under the Interactive Gaming Licence or Client Provider Authorization for the financial year to be audited by a certified public accountant (the "auditor").

219. The auditor must:

- (a) complete the audit within three (3) months after the end of the financial year; and
- (b) immediately after completion of the audit, give a copy of the audit report to the Commission and to the licence holder or authorized client provider.

220. On receiving a copy of the audit report, the Commission may, by written notice given to the licence holder or the authorized client provider, require the licence holder or authorized client provider to give the Commission further information about a matter relating to the licence holder's or authorized client provider's operations mentioned in the audit report and the licence holder or authorized client provider must comply with a requirement within the time stated in the notice.

PART XII – PRIZES

221. If a player in an authorized game conducted by a licence holder or authorized client provider wins a monetary prize, the licence holder or authorized client provider must immediately credit the amount of the prize to the player.

222. If a player in an authorized game conducted by a licence holder or authorized client provider wins a non-monetary prize the licence holder or authorized client provider must:

- (a) have the prize delivered personally or by certified mail to the player; or
- (b) give the player written notice of an address in the Territories at which the prize may be collected.

223. In the event a non-monetary prize in an authorized game conducted by a licence holder or authorized client provider is not collected within three (3) months after notification of the place at which it may be collected, the licence holder or authorized client provider:

- (a) may dispose of the prize by public auction or tender or in some other way approved by the Commission;
- (b) may pay for the disposal from the proceeds of sale; and
- (c) must:
 - (i) pay the remainder of the proceeds into the relevant player's account;
 - (ii) if there is no current player's account, remit the remainder of the proceeds to the former player, or
 - (iii) if there is no current player's account and the licence holder or authorized client provider is unaware of the whereabouts of the former player, pay the remainder of the proceeds into an account established by the Commission and designated as the account to which payments are to be made under this subparagraph.

224. If a claim for a prize in an authorized game is made to a licence holder or authorized client provider within five (5) years after the end of the game, the licence holder or authorized client provider must:

- (a) immediately try to resolve the claim; and
- (b) if the licence holder or authorized client provider is not able to resolve the claim, by written notice (a "claim result notice") given to the claimant, promptly inform the claimant:
 - (i) of the licence holder's or authorized client provider's decision on the claim; and
 - (ii) that the claimant may, within ten (10) days of receiving the notice, ask the Commission to review the decision.

225. If the claim is not resolved, the claimant may ask the Commission to review the licence holder's or authorized client provider's decision on the claim, or if the claimant has not received a claim result notice, to resolve the claim.

226. A request to the Commission under the foregoing section:

- (a) must be in the approved form; and
- (b) if the claimant received a claim result notice, must be made within ten (10) days after receiving the notice.

227. If a request is made to the Commission, the Commission or a claims committee appointed by the Commission, must carry out investigations the Commission considers necessary to resolve matters in dispute and render a decision in writing to the claimant and the affected licence holder or authorized client provider.

228. If a prize is not claimed within five (5) years after the end of the authorized game in which the prize was won, the entitlement to the prize is extinguished and the prize is forfeited to the Com-

mission. The Commission will disburse any such forfeited prizes to community organizations within the Territories.

PART XIII – ABORTED GAMES

229. If, after making a wager in an authorized game conducted by a licence holder or authorized client provider, a player's participation in the game is interrupted by a failure of an operating or telecommunication system that prevents the player from continuing with the game, the licence holder or authorized client provider must refund the amount of the wager to the player as soon as practical.

230. If an authorized game conducted by a licence holder or authorized client provider is started but is not successfully completed because of human error or failure of an operating or telecommunication system, the licence holder or authorized client provider:

- (a) must immediately inform the Commission of the circumstances of the incident, and
- (b) must not conduct a further game if the game is likely to be affected by the same error or fault.

231. After investigating the incident, the Commission may, by written notice to the licence holder or authorized client provider, direct the licence holder or authorized client provider to:

- (a) refund the amounts wagered in the game to the players; and
- (b) if a player has an accrued credit at the time the game miscarries, pay to the player the monetary value of the credit; or
- (c) give the licence holder or authorized client provider such other directions the Commission considers appropriate in the circumstances and the licence holder or authorized client provider must comply with the directions.

232. If a licence holder or authorized client provider has reason to believe that the result of an authorized game has been affected by an illegal activity or malfunction of equipment, the licence holder or authorized client provider may withhold a prize in the game.

233. If a licence holder or authorized client provider withholds a prize under this section, the licence holder or authorized client provider:

- (a) must immediately inform the Commission of the circumstances of the incident; and
- (b) must not conduct a further game if a recurrence of the illegality or malfunction is likely.

234. After investigating the incident, the Commission may, by written notice to the licence holder or authorized client provider:

- (a) direct the licence holder or authorized client provider to pay the prize; or
- (b) confirm the licence holder's or authorized client provider's decision to withhold the prize, but direct the licence holder or authorized client provider to refund amounts wagered in the game and the licence holder or authorized client provider must comply with the direction.

PART XIV – ADVERTISING

235. A person must not advertise an interactive game in the Territories unless the game is an authorized game.

236. A person must not advertise an authorized game in the Territories without approval of the relevant licence holder or authorized client provider.

237. A person who advertises an authorized game must ensure the advertisement:

- (a) is not indecent or offensive;
- (b) is based on fact, and
- (c) is not false, deceptive or misleading in a material way.

238. If the Commission reasonably believes an advertisement about an authorized game does not comply with the foregoing sections, the Commission may direct the person appearing to be responsible for authorizing the advertisement to take the appropriate steps:

- (a) to stop the advertisement being shown; or
- (b) to change the advertisement.

239. The direction must:

- (a) be in writing;
- (b) state the grounds for the direction; and
- (c) if it is a direction to change the advertisement, state how the advertisement is to be changed.

and the person to whom a direction is given must comply with the direction.

PART XV – COMPLAINTS

240. A licence holder or authorized client provider must inquire into:

- a) a complaint made to the licence holder or authorized client provider by a person about:
 - (i) the conduct of an authorized game by the licence holder or authorized client provider;

- (ii) the conduct of an agent of the licence holder or authorized client provider in operations related to an authorized game; or
- b) a complaint referred to the licence holder or authorized client provider by the Commission under section 243.

241. Within twenty-one (21) days after the complaint is received by, or referred to, the licence holder or authorized client provider, the licence holder or authorized client provider must give written notice of the result of the inquiry to:

- (a) the complainant; and
- (b) if the complaint was referred to the licence holder or authorized client provider by the Commission, to the Commission.

242. The Commission's address, telephone number, fax number and e-mail address must be prominently displayed on the licence holder's or authorized client provider's Internet site with a notification that complaints may be addressed directly to the Commission.

243. If a complaint is made to the Commission about the conduct of an authorized game, or the conduct of an agent in operations related to an authorized game, the Commission must promptly:

- (a) inquire into the complaint; or
- (b) if the Commission considers it appropriate, refer the complaint to the licence holder or authorized client provider who conducted the game.

244. The Commission must promptly advise the complainant of:

- (a) the result of the Commission's inquiry; or
- (b) the Commission's decision to refer the complaint to the licence holder or authorized client provider.

245. A complaint must:

- (a) be in writing;
- (b) state the complainant's name, address, telephone number and e-mail address; and
- (c) give appropriate details of the complaint.

PART XVI – DUTY TO REPORT DISHONEST OR UNLAWFUL ACTS

246. In the event a licence holder or authorized client provider, or an agent of a licence holder or authorized client provider, becomes aware, or reasonably suspects, that:

- (a) a person, by a dishonest or unlawful act affecting the conduct or playing of an authorized game in the Territories, has obtained a benefit for the person or another person; or

- (b) there has been an unlawful act affecting the conduct or playing of an authorized game,

within twenty-four (24) hours of becoming aware of, or suspecting, the dishonest or unlawful act, the licence holder, authorized client provider or agent must give the Commission a written notice advising the Commission of all facts known about the matter.

GAMING OFFENCES

247. A person must not, in relation to an authorized game, dishonestly obtain a benefit by any act, practice or scheme or otherwise dishonestly obtain a benefit through the use of any device or item.

248. For the purposes of the foregoing section, a person obtains a benefit if the person obtains for themselves or another person, or induces a person to deliver, give or credit to the person or another person, any money, benefit, advantage, valuable consideration or security.

249. A person must not, directly or indirectly:

- (a) forge or alter a gaming record; or
- (b) knowingly use or attempt to use a forged or altered gaming record.

250. A person must not impersonate a licence holder or authorized client provider, an agent, a key person, a member of the Commission or anyone acting in an official capacity under the Law or these Regulations.

251. Members of the Commission and anyone acting in an official capacity under the Law or these Regulations must not ask for, receive or obtain, or agree to receive or obtain, any money, property or benefit of any kind for himself or another person for an improper purpose.

252. A person must not give, confer or obtain, or promise or offer to give, confer or obtain, any money, property or benefit of any kind to, on or for a Member of the Commission and anyone acting in an official capacity under the Law or these Regulations for an improper purpose.

253. For the purposes of the foregoing sections, "improper purpose" includes:

- (a) for the official to forego or neglect the official's functions under the Law or these Regulations;
- (b) for the official to use, or take advantage of, the official's office improperly to gain a benefit or advantage for, or facilitate the commission of an offence against the Law or these Regulations, or

- (c) to influence the official in the performance of the official's functions under the Law or these Regulations.

254. An employee, whether a key person or not, of a licence holder or authorized client provider must not take part in an authorized game if directly involved in functions related to the conduct of the game.

255. Any prize won by a person by participation in an authorized game contrary to the foregoing sections is forfeited to the Commission. The Commission will disburse any such forfeited prizes to community organizations within the Territories.

PART XVII – INDEPENDENCE OF THE COMMISSION AND OFFICIALS

256. Members of the Commission and anyone acting in an official capacity under the Law or these Regulations must not take part in any authorized game.

257. Members of the Commission and anyone acting in an official capacity under the Law or these Regulations must not:

- (a) accept or solicit employment from a licence holder, an authorized client provider or an agent;
- (b) be an employee in any capacity of a licence holder, an authorized client provider or an agent; or
- (c) knowingly have, directly or indirectly, a business or financial association with a licence holder, an authorized client provider or an agent.

258. A person must not, for one (1) year after ceasing to be a Member of the Commission and anyone acting in an official capacity under the Law or these Regulations, without the Commission's approval:

- (a) accept or solicit employment from a licence holder, an authorized client provider or an agent;
- (b) be an employee in any capacity of a licence holder or an authorized client provider or an agent; or
- (c) knowingly have, directly or indirectly, a business or financial association with a licence holder, an authorized client provider or an agent.

259. In the event a Member of the Commission or anyone acting in an official capacity under the Law or these Regulations knowingly has, directly or indirectly, a business or financial association or interest with another person who is an applicant for an Interactive Gaming Licence or Client Provider Authorization, immediately after the Member of the Commission and anyone acting in an official capacity under the Law or these Regulations becomes aware that the other person is an applicant for an Interactive

Gaming Licence or Client Provider Authorization, the Member or official must give written notice of the Member or official's association or interest to the Commission and the Commission will by written notice given to the Member or official, direct the Member or official to end the association, or give up the interest, within the time stated in the notice. Failure to comply with such direction will result in the immediate termination of the Member's position on the Commission or the official's employment by the Commission.

PART XVIII – INSPECTORS

260. The following persons are Inspectors for the purposes of these Regulations:

- (a) Members of the Commission;
- (b) A person holding an appointment as an Inspector under this Part (an "Appointed Inspector");
- (c) A person who holds an appointment as an Inspector under a corresponding law and is authorized in writing by the Commission to act as an Inspector under these Regulations (an "External Inspector").

QUALIFICATIONS FOR APPOINTMENT

261. The Commission may appoint a person as an Inspector if:
- (a) the Commission considers that the person has the necessary expertise to be an Inspector and;
 - (b) the Commission considers the person to be suitable to be an Inspector in consideration of:
 - (i) the person's character; and
 - (ii) the person's current financial position and financial background.

INVESTIGATION OF INSPECTORS

262. The Kahnawake Peacekeepers may investigate a person to help the Commission decide whether the person is suitable to be an Inspector.

263. The Commission may approve a program for investigating Appointed Inspectors at any time in order to verify whether or not the person is suitable to be an Inspector.

CRIMINAL RECORD REPORTS FOR INVESTIGATION

264. If the Commission conducts an investigation with regard to an appointment of a person as an Inspector or the verification of an Appointed Inspector, the Commission may request a criminal background check to be provided by the Kahnawake Peacekeepers

or such other agency as the Commission may deem to be appropriate.

POWERS OF INSPECTORS

265. An Inspector has the powers given under these Regulations.

266. An Inspector is subject to the directives of the Commission in exercising those powers.

267. An Inspector's powers may be limited:

- (a) as a condition of the Inspector's appointment or;
- (b) by written notice given by the Commission to the Inspector.

IDENTIFICATION CARDS

268. The Commission must issue each Inspector an Identification Card which:

- (a) includes a recent photograph of the Inspector;
- (b) is signed by the Inspector and a Member of the Commission;
- (c) includes an expiry date;
- (d) identifies the person as an Inspector under these Regulations.

269. A person who ceases to be an Inspector must return the person's Identification Card to the Commission as soon as practical, but no later than fifteen (15) days after the date on which he or she ceased to be an Inspector.

PRODUCTION OF IDENTITY CARD

270. An Inspector may exercise a power in relation to someone else only if the Inspector either produces the Inspector's Identification Card for the other person's inspection or has the Identification Card displayed so it is clearly visible to the other person.

271. If for any reason it is not practical to comply with the foregoing section before exercising the power, the Inspector must produce the Identification Card for the other person's inspection at the first reasonable opportunity.

PART XIX – THE POWER TO ENTER PLACES WITHOUT CONSENT OR WARRANT

272. An Inspector may, without the consent of the occupier of a premises or a warrant issued by a court of competent jurisdiction enter:

- (a) a public place;

- (b) a place where an authorized game is being, or is about to be conducted, or
- (c) a place where a licence holder, an authorized client provider or an agent carries on business at any time when the place is open for carrying on business or otherwise open for entry.

ENTRY WITH CONSENT OR WARRANT

273. Unless an Inspector is authorized to enter a place under the foregoing section, an Inspector may enter a place only if its occupier consents to the entry or if the entry is authorized by a warrant issued by the Court of Kahnawake or other competent authority.

CONSENTS AND WARRANTS FOR ENTRY

274. This section applies if an Inspector intends to ask an occupier of a place to consent to the Inspector or another Inspector entering the place. Before asking for the consent, the Inspector must tell the occupier:

- (a) the purpose of the entry and;
- (b) that the occupier is not required to consent.

275. If the consent is given, the Inspector may ask the occupier to sign an acknowledgement of the consent (the "Consent Acknowledgment").

276. The Consent Acknowledgement must state that the occupier has been told:

- (a) the purpose of the entry;
- (b) that the occupier is not required to consent;
- (c) the occupier gives the Inspector consent to enter the place and exercise powers under this Part, and
- (d) the time and date consent was given.

277. If the occupier signs the Consent Acknowledgement, the Inspector must promptly give a copy to the occupier and to the Commission.

APPLICATION FOR A WARRANT

278. An Inspector may apply to the Court of Kahnawake or other competent authority for a warrant. The application must be sworn and state the grounds on which the warrant is sought.

ISSUANCE OF A WARRANT

279. The Court of Kahnawake or other competent authority may issue a warrant only if it is satisfied there are reasonable grounds for suspecting:

- (a) there is a particular item or activity that may provide evidence of an offence against the Law, these Regulations or other law applicable within the Territories and;
- (b) the evidence is at the place or may be at the place within the next seven (7) days.

280. The warrant must state:

- (a) that an Inspector may with necessary and reasonable help and force enter the place and exercise the Inspector's powers under this Part and;
- (b) the offence for which the warrant is sought;
- (c) the evidence that may be seized under the warrant;
- (d) the hours of the day or night when the place may be entered, and
- (e) the date, within fourteen (14) days after the warrant's issue, the warrant ends.

GENERAL POWERS OF INSPECTORS AFTER ENTERING PLACES

281. For monitoring or enforcing compliance with the Law or these Regulations or any other law applicable within the Territories, the Inspector may:

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place;
- (c) take an item, or a sample of or from an item, at the place for analysis or testing;
- (d) copy a document at the place;
- (e) access, electronically or in some other way, a system used at the place for conducting an authorized game or other interactive game or for administrative purposes related to the conduct of an authorized game or other interactive game;
- (f) take into or onto the place any person, equipment and materials the Inspector reasonably requires for exercising a power under this Part;
- (g) require the occupier of the place, or a person at the place, to give the Inspector reasonable help to exercise the Inspector's powers under paragraphs (a) to (f), or
- (h) require the occupier of the place, or a person at the place, to give the Inspector information to help the Inspector ascertain whether the Law, these Regulations or any other law applicable within the Territories is being complied with.

FAILURE TO HELP INSPECTOR

282. When making a requirement mentioned in subsection 281 (g) or (h), the Inspector must warn the person it is an offence to fail to comply with the requirement.

283. A person required to give reasonable help under subsection 281 (g) must comply with the requirement.

284. A person of whom a requirement is made under section 281 must comply with the requirement.

SEIZING DOCUMENTS OR ITEMS AT PLACES THAT MAY
BE ENTERED WITHOUT CONSENT OR WARRANT

285. An Inspector who enters places that may be entered under this Part without the consent of the occupier and without a warrant, may seize documents or items at the places if the Inspector reasonably believes the documents or items are evidence of an offence against the Law, these Regulations or any law applicable within the Territories.

SEIZING DOCUMENTS OR ITEMS AT PLACES THAT MAY
ONLY BE ENTERED WITH CONSENT
OR WARRANT

286. If the Inspector enters the place with the occupier's consent, the Inspector may seize any document or item at the place if:

- (a) the Inspector reasonably believes the document or item is evidence of an offence against the Law, these Regulations or any law applicable within the Territories; and
- (b) seizure of the document or item is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

287. If the Inspector enters the place with a warrant, the Inspector may seize the documents or items for which the warrant was issued.

288. The Inspector may also seize any other documents or items at the place if the Inspector reasonably believes:

- (a) the documents or items relate to an offence against the Law, these Regulations or any law applicable within the Territories; and
- (b) the seizure is necessary to prevent the documents or items being:
 - (i) hidden, lost or destroyed; or
 - (ii) used to continue, or repeat, the offence.

289. The Inspector may seize documents or items at the place if the Inspector reasonably believes they are being, have been, or are

about to be, used in committing an offence against the Law, these Regulations or any law applicable within the Territories.

SECURING DOCUMENTS OR ITEMS AFTER SEIZURE

290. Having seized documents or items, an Inspector may:
- (a) move the documents or items from the place where they were seized (the “place of seizure”) to a secure location under the exclusive control of the Commission, or
 - (b) leave the documents or items at the place of seizure but take reasonable action to restrict access to them.

TAMPERING WITH DOCUMENTS OR ITEMS SUBJECT TO SEIZURE

291. If an Inspector restricts access to documents or items subject to seizure, a person must not tamper, or attempt to tamper with the documents or items, or any means used to restrict access to the documents or items, without an Inspector’s approval.

POWERS TO SUPPORT SEIZURE

292. To enable documents or items to be seized, an Inspector may require the person in control of them:
- (a) to take them to a stated reasonable place by a stated reasonable time; and
 - (b) if necessary, to remain in control of them at the stated place for a reasonable time.
293. The requirement:
- (a) must be made by notice in the approved form; or
 - (b) if for any reason it is not practical to give the notice, may be made orally and confirmed by notice in the approved form as soon as practical.
294. A further requirement may be made under this section about the same documents or items if it is necessary and reasonable to make the further requirement.

RECEIPTS TO BE GIVEN ON SEIZURE

295. As soon as practical after an Inspector seizes documents or items, the Inspector must give a receipt for them to the person from whom they were seized.
296. However, if for any reason it is not practical to comply with the foregoing section, the Inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

297. The receipt must describe generally each document or item seized and its condition.

298. This section does not apply to documents or items if it is impractical or would be unreasonable to give the receipt, given the nature, condition and value of the documents or items.

FORFEITURE

299. Documents or items that have been seized under this Part are forfeited to the Commission if the Inspector who seized the documents or items:

- (a) cannot find their owner, after making reasonable inquiries;
- (b) cannot return them to their owner, after making reasonable efforts; or
- (c) reasonably believes it is necessary to retain the documents or items to prevent them from being used to commit an offence against the Law, these Regulations or any law applicable within the Territories.

300. In applying the foregoing section:

- (a) subsection 299 (a) does not require the Inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
- (b) subsection 299 (b) does not require the Inspector to make efforts if it would be unreasonable to make efforts to return the documents or items to their owner.

301. If the Inspector decides to forfeit documents or items under section 299, the Inspector must tell the owner of the decision by written notice.

302. Section 301 does not apply if:

- (a) the Inspector cannot find the owner, after making reasonable inquiries; or
- (b) it is impractical or would be unreasonable to give the notice.

303. The notice must state:

- (a) the reasons for the decision;
- (b) that the owner may appeal against the decision to the Commission within twenty-eight (28) days;
- (c) how the appeal may be made; and
- (d) that the owner may apply for a stay of the decision if the owner appeals against the decision.

304. In deciding whether inquiries or efforts are to be made or notice given about a document or item, the document or item's nature, condition and value must be considered.

RETURN OF DOCUMENTS OR ITEMS THAT HAVE BEEN SEIZED

305. If documents or items have been seized but not forfeited, the Inspector must return them to their owner:

- (a) at the end of six (6) months; or
- (b) if a proceeding for an offence involving the documents or items is started within six (6) months, at the end of the proceeding or any appeal from the proceeding.

306. A document or item must be returned to its owner once the Inspector determines its evidentiary value has ceased.

ACCESS TO DOCUMENTS OR ITEMS THAT HAVE BEEN SEIZED

307. Until documents or items that have been seized are forfeited or returned, an Inspector must allow their owner to inspect them and, if it is a document, to copy it unless it is impractical or would be unreasonable to allow the inspection or copying.

PART XX – DIRECTION TO STOP USING AN ITEM

308. This section applies if an Inspector reasonably believes:

- (a) an item used in the conduct of an authorized game is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the item may:
 - (i) jeopardize the integrity of the conduct of authorized games; or
 - (ii) adversely affect the public interest.

309. The Inspector may direct the person who has, or reasonably appears to have, authority to exercise control over the item to stop using the item, or allowing the item to be used, in the conduct of authorized games.

REQUIREMENTS ABOUT STOP DIRECTIONS

310. A direction given to a person under the foregoing section (a “Stop Direction”) may be given orally or by written notice (a “Stop Notice”).

311. However, if the direction is given orally, it must be confirmed by written notice (also a “Stop Notice”) given to the person as soon as practical.

312. A Stop Direction may be given for an item at a place occupied by a licence holder, an authorized client provider, an agent or other person involved within the Territories in the conduct of an authorized game.

313. A Stop Direction does not apply to a use of an item carried out for repairing or testing the item.

314. A Stop Notice must state:

- (a) the grounds on which the Inspector believes the item is unsatisfactory; and
- (b) the circumstances, if any, under which the Stop Direction may be cancelled.

315. A person to whom a Stop Direction is given must comply with the direction.

PART XXI – POWER TO OBTAIN INFORMATION

316. This section applies if:

- (a) an Inspector finds a person committing an offence against the Law, these Regulations or any law applicable within the Territories; or
- (b) an Inspector finds a person in circumstances that lead, or has information that leads, the Inspector reasonably to suspect the person has just committed an offence against the Law, these Regulations or any law applicable within the Territories.

317. The Inspector may require the person to state the person's name and residential address.

318. When making the requirement, the Inspector must warn the person that it is an offence to fail to state the person's name or residential address.

319. The Inspector may require the person to give evidence of the correctness of the stated name or residential address if the Inspector reasonably suspects the stated name or address to be false.

320. A person of whom a requirement is made under the foregoing section must comply with the requirement.

POWER TO REQUIRE PRODUCTION OF DOCUMENTS

321. An Inspector may require (a "Document Production Requirement") a person to produce or make available for inspection by the Inspector at a reasonable time and place nominated by the Inspector:

- (a) a document issued to the person under the Law, these Regulations or any law applicable within the Territories;
- (b) a document required to be kept by the person under the Law, these Regulations or any law applicable within the Territories;
- (c) if the person is a licence holder or authorized client provider, a document kept by the licence holder or authorized

client provider about the conduct of authorized games by the licence holder or authorized client provider; or

- (d) if the person is an agent, a document kept by the agent about the conduct of authorized games by the licence holder or authorized client provider by whom the agent is appointed.

322. The Inspector may retain the original of the document or, in his sole discretion, copy it and return the original to the owner of the document.

323. If the Inspector copies the document, or an entry in the document, the Inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

POWER TO REQUIRE ATTENDANCE OF PERSONS

324. An Inspector may require a person, or an executive officer of a corporation, of whom a Document Production Requirement has been made to appear before the Inspector to answer questions or give information about the document to which the Document Production Requirement relates.

325. An Inspector may require any of the following persons to appear before the Inspector to answer questions or give information about the operations of a licence holder or authorized client provider:

- (a) the licence holder or authorized client provider or, if the licence holder or authorized client provider is a corporation, an executive officer of the licence holder or authorized client provider;
- (b) an employee of the licence holder or authorized client provider;
- (c) an agent for the licence holder or authorized client provider or, if the agent is a corporation, an executive officer of the corporation;
- (d) an employee of an agent mentioned in paragraph (c);
- (e) another person associated with the operations or management of:
 - (i) the licence holder or authorized client provider; or
 - (ii) an agent mentioned in paragraph (c).

326. An Inspector may require any of the following persons to appear before the Inspector to answer questions or give information about an agent's operations:

- (a) the agent or, if the agent is a corporation, an executive officer of the agent;
- (b) an employee of the agent;

- (c) the authorized client provider that is the agent's principal or, if the principal is a corporation, an executive officer of the corporation;
- (d) another person associated with the operations or management of:
 - (i) the agent; or
 - (ii) the authorized client provider that is the agent's principal.

327. A requirement made of a person under this section must:

- (a) be made by written notice given to the person; and
- (b) state a reasonable time and place for the person's attendance.

328. When making the requirement, the Inspector must warn the person that it is an offence to fail to comply with the requirement.

FAILURE TO COMPLY WITH REQUIREMENT ABOUT ATTENDANCE

329. A person of whom a requirement is made under this Part must not:

- (a) fail to appear before the Inspector at the time and place stated in the notice imposing the requirement; or
- (b) when appearing before the Inspector:
 - (i) fail to comply with a requirement to answer a question or give information; or
 - (ii) state anything the person knows to be false or misleading.

POWER TO REQUIRE FINANCIAL RECORDS

330. This section applies to a person who is the manager or other principal officer at a place of business of a financial institution at which:

- (a) a licence holder or authorized client provider keeps an account in relation to the operations of the licence holder or authorized client provider; or
- (b) an agent keeps an account in relation to the agent's operations.

331. An Inspector may, by written notice given to the person, require the person to give to the Inspector, within the time stated in the notice, not to be less than seven (7) days:

- (a) a statement of account for the account; or
- (b) copies of cheques or other records relevant to the account;
or
- (c) other particulars or documents relevant to the account stated in the notice.

332. An Inspector may make a requirement under the foregoing section (a “Financial Records Requirement”) only with the written approval of the Commission.

EFFECT OF COMPLIANCE WITH FINANCIAL RECORDS REQUIREMENT

333. No liability for breach of trust or on any other basis attaches to a person who is the manager or other principal officer at a place of business of a financial institution merely because the person complies with a Financial Records Requirement.

334. No liability for breach of trust or on any other basis attaches to a financial institution merely because a person who is the manager or other principal officer at a place of business of the institution complies with a Financial Records Requirement.

335. A person of whom a Financial Records Requirement is made must comply with it within the time stated in the relevant notice, unless the person has a reasonable excuse.

PART XXII – FORFEITURE ON CONVICTION

336. On conviction of a person for an offence against these Regulations, the Court may order the forfeiture to the Commission of:

- (a) anything used to commit the offence; or
- (b) anything else which is the subject of the offence.

337. The Court may make the order:

- (a) whether or not the item has been seized; and
- (b) if the item has been seized, whether or not the item has been returned to its owner.

338. The Court may make any order to enforce the forfeiture it considers appropriate.

DEALING WITH FORFEITED ITEMS

339. On the forfeiture of a item to the Commission, the item becomes the Commission’s property and may be dealt with by the Commission as the Commission considers appropriate.

340. Without limiting the generality of the foregoing section, the Commission may destroy the forfeited item or sell the forfeited item at public auction and disburse the net proceeds to community organizations within the Territories.

PART XXIII – NOTICE OF DAMAGE

341. This section applies if:

- (a) an Inspector damages something when exercising or purporting to exercise a power; or

- (b) a person acting under the direction of an Inspector damages something.

342. The Inspector must promptly give written notice of particulars of the damage to the person who appears to the Inspector to be the owner of the item.

343. If the Inspector believes the damage was caused by a latent defect in the item or circumstances beyond the Inspector's control, the Inspector may state that belief in the notice.

344. If, for any reason, it is impractical to comply with the foregoing section, the Inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

345. This section does not apply to damage the Inspector reasonably considers trivial.

PROTECTING OFFICIALS FROM LIABILITY

346. In this section: "Official" means:

- (a) a Member of the Commission;
- (b) an Inspector; or
- (c) a person acting under the direction of an Inspector.

347. An Official is not civilly liable for an act done, or omission made, honestly and without negligence under these Regulations.

GENERAL ENFORCEMENT OFFENCES

348. A person must not state anything to an Inspector the person knows to be false or misleading.

349. A person must not give an Inspector a document containing information the person knows to be false, misleading or incomplete.

350. Section 349 does not apply to a person if the person, when giving the document:

- (a) tells the Inspector, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information and gives the correct information.

351. A person must not make an entry in a document required or permitted to be made or kept under these Regulations knowing the entry to be false, misleading or incomplete.

352. A person must not obstruct an Inspector in the exercise of a power or someone helping an Inspector in the exercise of a power.

DECISIONS NOT SUBJECT TO APPEAL OR REVIEW

353. A decision of the Commission made, or appearing to be made, under the Law or these Regulations about an Interactive Gaming Licence or Client Provider Authorization, a person with an interest or potential interest in an Interactive Gaming Licence or Client Provider Authorization, the authorization or revocation of the authorization of an interactive game:

- (a) is final and conclusive;
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, and
- (c) is not subject to any writ or order of any court, a tribunal or another entity on any ground.

PROCEEDINGS FOR OFFENCES

354. An offence against sections 247, 249, 250, 251 or 252 (dishonestly obtaining a benefit, forgery, impersonation or bribery) is an indictable offence.

355. Any other offence against these Regulations is a summary conviction offence.

356. A proceeding for an indictable offence or a summary conviction offence under these Regulations shall be heard at the Court of Kahnawake.

357. If a Business Entity commits an offence against a provision of these Regulations, each of the Business Entity's key persons and directors also commits an offence, namely, the offence of failing to ensure that the Business Entity complies with the provision.

358. Evidence that the Business Entity has been convicted of an offence against a provision of these Regulations is evidence that each of the Business Entity's key persons and directors committed the offence of failing to ensure that the Business Entity complies with the provision.

359. However, it is a defence for a key person or director to prove:

- (a) if the key person or director was in a position to influence the conduct of the Business Entity in relation to the offence-the key person or director exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the key person or director was not in a position to influence the conduct of the Business Entity in relation to the offence.

360. A person who attempts to commit an offence against the Law or these Regulations commits an offence.

SERVICE

361. Service of any notice provided for in these Regulations may be effected by personal service, registered mail, facsimile transmission or e-mail to the licence holder, authorized client provider or their agent. Except as otherwise provided in these Regulations, other than for personal service, service is effective from the moment the notice is sent. Personal service is effective from the moment the notice is received by the licence holder or authorized client provider.

CONFIDENTIALITY OF INFORMATION

362. A person who is, or was, an Inspector, officer, employee or Member of the Commission, must not disclose information gained by the person in performing functions under these Regulations.

363. The foregoing section does not apply to the disclosure of information by a person:

- (a) for a purpose under the Law, these Regulations or any other law applicable within the Territories;
- (b) with a lawful excuse; or
- (c) under an approval of the Commission.

364. Before giving an approval for disclosure of information, the Commission must:

- (a) give written notice of the proposed approval to any person whom the Commission considers likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity of making a submission about the proposed approval within the time stated in the notice, not to be less than fourteen (14) days.

FORMS

365. The Commission may approve forms for use under these Regulations.