

**LEVINE, STALLER, SKLAR, CHAN, BROWN & DONNELLY, P.A.**

a Professional Association

COUNSELLORS AT LAW  
3030 ATLANTIC AVENUE  
ATLANTIC CITY, NJ 08401-6380

TELEPHONE  
(609) 348-1300

FAX  
(609) 345-2473  
(609) 347-1166

E-MAIL  
MSKLAR@levinestaller.com

DAVID J. AZOTEA\*\*  
ARTHUR M. BROWN†  
PAUL T. CHAN\*\*\*\*  
MARY BETH CLARK  
BRIAN J. CULLEN†  
JOHN M. DONNELLY\*\*\*\*  
LEE A. LEVINE†\*\*\*\*  
E. ALLAN MACK†\*  
SCOTT J. MITNICK†\*  
ARTHUR E. SKLAR†  
MICHAEL D. SKLAR†  
ALAN C. STALLER†  
BENJAMIN ZELTNER\*\*

July 24, 2007

†LL.M. (Taxation)  
\*MEMBER NJ & PA BAR  
\*\*MEMBER NJ & FL BAR  
\*\*\*MEMBER NJ, NY & FL BAR  
\*\*\*\*MEMBER NJ & DC BAR

**Via FedEx Next Day Air Delivery**

Mickey Kane, Clerk  
Office of the Clerk  
Pennsylvania Gaming Control Board  
303 Walnut Street – Strawberry Square  
Verizon Tower, 5<sup>th</sup> Floor  
Harrisburg, PA 17101

**Re: HSP Gaming, L.P.  
Docket No.: 1356**

Dear Ms. Kane:

Please disregard the prior submission sent via email earlier this afternoon. Instead, enclosed for filing please find an original and three copies of HSP Gaming, L.P.'s Motion for an Extension of Time to Pay License Fee.

Respectfully Submitted,

  
MICHAEL D. SKLAR

MDS/mai  
Enclosures

cc: Frank Donaghue, Esquire  
R. Douglas Sherman, Esquire  
Greg Carlin



2. HSP should not be required to pay the License Fee while there remain unresolved issues (of which the Gaming Board is well aware) that prevent HSP from beginning construction of its casino facility. In particular, HSP requires additional time to obtain the permits and approvals necessary to begin such construction.

3. The Gaming Regulations provide that any deadline may be extended for good cause shown. 58 PA. CODE. § 497.5.<sup>2</sup>

4. Where a statute does not fix a specific deadline, an administrative agency has the inherent authority to grant extension of such deadline. *See Petition of Dwyer*, 486 Pa. 585, 594-95, 406 A.2d 1355, 1359-60 (1979); *Harwick v. Bd. of Supervisors of Tp. of Upper Saucon*, 663 A.2d 878, 882 (Pa. Commw. 1995).

5. Until HSP obtains the approvals that it needs to begin construction, it would be premature, prejudicial, and unfair for the Gaming Board to require HSP to pay the License Fee.

6. Given the unresolved issues that prevent HSP from beginning construction of its casino facility, HSP has good cause for an extension of the time for the payment of the License Fee, understanding that the Gaming Board will not issue a license until the License Fee is paid.

---

Pa.C.S. § 1102(3). Therefore, without prejudice to its position that the Gaming Board's decision is not final, binding, and nonappealable, HSP requests at this time an extension of time for payment of the License Fee for good cause, as set forth herein.

<sup>2</sup> Although the cited regulation was a temporary regulation that expired on July 5, 2007, the Gaming Board has adopted the identical language for proposed Gaming Board Rule 497a.5. *See* 37 Pa. Bull. 2298 (May 19, 2007).

**WHEREFORE**, for the foregoing reasons, HSP Gaming L.P. requests that the Gaming Board **GRANT** this Motion for an Extension and enter an Order:

- 1) Staying any and all obligation of HSP Gaming, L.P. to submit payment of the License Fee required pursuant to 4 Pa.C.S. § 1209 pending the disposition by the Gaming Board of this Motion for an Extension;
- 2) Extending the deadline for HSP Gaming, L.P. to submit payment of the License Fee required pursuant to 4 Pa.C.S. § 1209 until the earlier of:
  - (a) December 31, 2007, or
  - (b) Ten (10) days following the date upon which HSP Gaming, L.P. has received all final and unappealable federal, state and local (from the City of Philadelphia, including, without limitation, the City Council) permits, zoning approvals, and consents required for the commencement of construction, to enable HSP Gaming, L.P. to construct and operate its gaming facility at the subject property located along the Delaware River on Columbus Boulevard between Shackamaxon and North Ellen Streets;

Provided that in the event that the requirements described in subparagraph (b) above have not been satisfied prior to December 31, 2007, HSP Gaming, L.P. shall have the right to petition the Gaming Board for another extension until such time as HSP Gaming, L.P. has satisfied the requirements described in subparagraph (b) above;

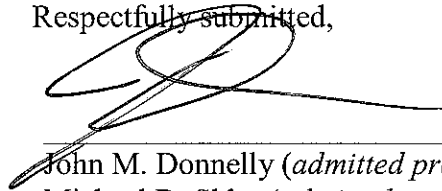
- 3) Modifying the previously signed Statement of Conditions to Category 2 Slot Operator License #F-1356 as follows:

Condition 58 shall be re-worded, as indicated immediately below, and renumbered, so that it immediately follows condition 47 under "Prior to Issuance of a Slot Machine Under §1301:" on page 7 of 8 and is placed before the section headed "Prior to Commencement of Slot Operations Under 58 Pa. Code § 467:"

*47A. To demonstrate to the Board's satisfaction, in such manner and in such form as the Board shall prescribe, that HSP Gaming, L.P. has received all Federal, State and local permits and approvals, including, without limitation, zoning approvals from the City of Philadelphia to enable HSP Gaming, LP to construct and operate its gaming facility at the subject property located along the Delaware River on Columbus Boulevard between Shackamaxon and North Ellen Streets.*

- 4) Providing that in the event that the provisions of the requested Order are in conflict with the provisions of any prior Order of the Gaming Board regarding the subject matter of this Order, the provisions of this Order shall govern and prevail.

Respectfully submitted,



John M. Donnelly (*admitted pro hac vice*)  
Michael D. Sklar (*admitted pro hac vice*)

**LEVINE, STALLER, SKLAR, CHAN,  
BROWN & DONNELLY, P.A.**

**Dated:** July 24, 2007

*Attorneys for HSP Gaming, L.P.*

**BEFORE THE  
PENNSYLVANIA GAMING CONTROL BOARD**

**IN RE: HSP GAMING, L.P.**

:  
: **Docket No. 1356**  
:  
:

**ORDER**

**AND NOW**, this \_\_\_\_ day of July, 2007, based upon the full and careful consideration of HSP Gaming, L.P.'s Motion for an Extension of Time for the Payment of the License Fee, the provisions of the Pennsylvania Race Horse Development and Gaming Act, and the Act's accompanying regulations:

**IT IS ORDERED THAT**, any and all obligation for HSP Gaming L.P. to submit payment of the License Fee required pursuant to 4 Pa.C.S. § 1209 is **STAYED** pending the disposition by the Gaming Board of HSP Gaming, L.P.'s Motion for an Extension of Time.

---

Pennsylvania Gaming Control Board

**BEFORE THE  
PENNSYLVANIA GAMING CONTROL BOARD**

**IN RE: HSP GAMING, L.P.**

:  
: **Docket No. 1356**  
:  
:

**ORDER**

**AND NOW**, this \_\_\_\_ day of July, 2007, based upon the full and careful consideration of HSP Gaming, L.P.'s Motion for Extension of Time for the Payment of the License Fee, the provisions of the Pennsylvania Race Horse Development and Gaming Act, and the Act's accompanying regulations,

**IT IS ORDERED THAT:**

- 1) The deadline for HSP Gaming, L.P. to submit payment of the License Fee required pursuant to 4 Pa.C.S. § 1209 is **EXTENDED** until the earlier of:
  - (a) December 31, 2007, or
  - (b) Ten (10) days following the date upon which HSP Gaming, L.P. has received all federal, state and local (from the City of Philadelphia, including, without limitation, the City Council) permits, zoning approvals, and consents required for the commencement of construction, to enable HSP Gaming, L.P. to construct and operate its gaming facility at the subject property located along the Delaware River on Columbus Boulevard between Shackamaxon and North Ellen Streets;

Provided that in the event that the requirements described in subparagraph (b) above have not been satisfied before December 31, 2007, HSP Gaming, L.P. shall have the right to file a motion with the Gaming Board for another extension of time until such time as HSP Gaming, L.P. has satisfied the requirements described in subparagraph (b) above;

- 2) The previously signed Statement of Conditions to Category 2 Slot Operator License #F-1356 is modified as follows:

Condition 58 shall be re-worded, as indicated immediately below, and renumbered, so that it immediately follows condition 47 under "Prior to Issuance of a Slot Machine Under §1301:" on page 7 of 8 and is placed before the section headed "Prior to Commencement of Slot Operations Under 58 Pa. Code § 467:"

*47A. To demonstrate to the Board's satisfaction, in such manner and in such form as the Board shall prescribe, that HSP Gaming, L.P. has received all Federal, State and local permits and approvals, including, without limitation, zoning approvals from the City of Philadelphia to enable HSP Gaming, LP to construct and operate its gaming facility at the*

*subject property located along the Delaware River on Columbus Boulevard between Shackamaxon and North Ellen Streets.*

- 3) In the event that the provisions of the requested Order are in conflict with the provisions of any prior Order of the Gaming Board regarding the subject matter of this Order, the provisions of this Order shall govern and prevail.

---

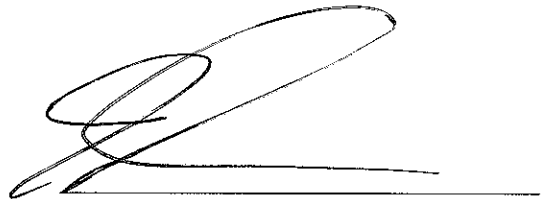
Pennsylvania Gaming Control Board



**VERIFICATION**

I, Michael D. Sklar, hereby state that the statements made in the foregoing Motion for Extension of Time are true and correct to the best of my knowledge, information and belief. I further understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: July 24, 2007

A handwritten signature in black ink, consisting of a large, stylized initial 'M' followed by a horizontal line extending to the right.

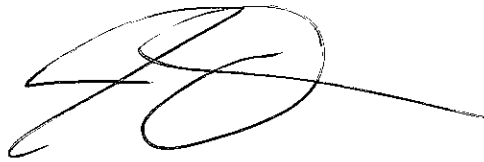
**PROOF OF SERVICE**

I hereby certify that I am this day serving a complete copy of the foregoing Motion for an Extension of Time upon the persons and in the manner indicated below:

Service by first FedEx overnight delivery, addressed as follows:

Mickey Kane, Clerk  
Office of the Clerk  
Pennsylvania Gaming Control Board  
303 Walnut Street – Strawberry Square  
Verizon Tower, 5<sup>th</sup> Floor  
Harrisburg, PA 17106-9060

(717) 346-8300

A handwritten signature in black ink, appearing to read 'Michael D. Sklar', written over a horizontal line.

Michael D. Sklar

Dated: July 24, 2007