

**STATE OF ILLINOIS
ILLINOIS GAMING BOARD**

| | | |
|---|---|----------------------|
| ACCEL ENTERTAINMENT GAMING, LLC, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 18-UP-003 |
| |) | |
| MIDWEST ELECTRONICS GAMING, LLC, |) | |
| <i>et al.,</i> |) | |
| Respondent. |) | |
| |) | |

RE: K. D. Taverns Inc. d/b/a Hey Carl's (License No. 120708203)

FINAL BOARD ORDER

This matter comes before the Illinois Gaming Board (the "Board" or "IGB") pursuant to the Video Gaming Act (the "VGA"), 210 ILCS 40, and Section 1800.320(b) of the Board's Adopted Rules for Video Gaming (the "Rules"). 11 Ill. Adm. Code 1800.320(b).

FINDINGS OF FACT

The Board has before it the entire record of *Accel Entertainment Gaming, LLC*, ("Accel") v. *Midwest Electronics Gaming, LLC, Respondent*, ("Midwest") *Re: K. D. Taverns Inc. d/b/a Hey Carl's* ("K. D. Taverns") (License No. 120708203), including the filed Petition, all other pleadings received, and the Administrator's Recommended Decision.

On February 8, 2018, Accel filed the above-captioned Rule 320 Petition against Midwest to contest the validity and enforceability of an agreement purporting to control the placement and operation of video gaming terminals ("VGTs") at K. D. Taverns. On January 25, 2022, Accel notified the Board and all parties it wished to withdraw the Petition. On January 25, 2022, Board Administrator Marcus D. Fruchter issued an Administrator's Recommended Decision that the Board grant Accel's request to withdraw the above-captioned Petition. No exceptions were filed.

CONCLUSIONS OF LAW

Pursuant to the VGA, the Rules, and *J&J Gaming Ventures, LLC v. Wild, Inc.*, 2016 IL 119870, the Board has exclusive and original jurisdiction over agreements that purport to control the placement and operation of video gaming terminals. In *Wild*, the Illinois Supreme Court affirmed the long-established rule that there is no common law right to profit from gambling. *Wild* at ¶ 32. The Court also held that the VGA's legalization of video gaming is an exception to the general prohibition on gambling, that video gaming is allowed only as authorized by the VGA or the Rules, and that by "legalizing the use of video gaming terminals for commercial gambling purposes, the legislature enacted a comprehensive statutory scheme, creating rights and duties that have no counterpart in common law or equity." *Id.*

Accel's request to withdraw its Petition is sufficient to conclude this matter. In *Doxsie v. Ill. Gaming Bd.*, 2021 IL App (1st) 191875, the Appellate Court affirmed the Board's authority to interpret and administer the Rules. *Doxsie* at ¶ 17. While the Rules do not specifically contemplate a Petitioner's ability to withdraw its Petition, in keeping with our authority to interpret and administer the Rules, the Board finds that it may grant a Petitioner's request to withdraw its Rule 320 Petition. Moreover, in this instance the Board finds it is not a proper use of the limited time and resources of all involved to continue this matter.

Therefore, after careful review and consideration of the entire record, the Board hereby:

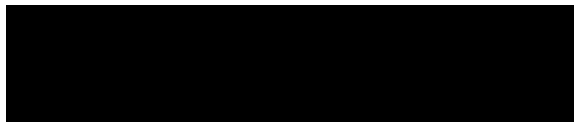
- (1) Adopts the Administrator's Recommended Decision to the extent it recommends granting the withdrawal and concluding the Petition;
- (2) Grants Accel's January 25, 2022 request to withdraw its above-captioned Petition regarding Foss Park District;
- (3) Makes no findings of fact or conclusions of law on the merits of Accel's Petition; and
- (4) Closes this Petition.

This is a Final Order subject to judicial review under the Administrative Review Law pursuant to 230 ILCS 10/17.1. The Rules of the Illinois Gaming Board do not permit motions or requests for reconsideration of this Order.

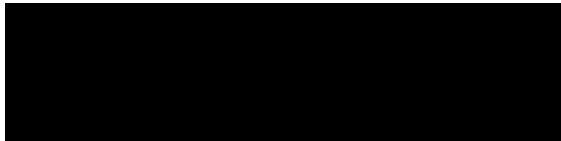
VOTED THIS THE TWENTY-EIGHTH DAY OF APRIL 2022



Charles Schmadeke, Chairman



Dionne R. Hayden



Anthony Garcia

Marc E. Bell

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RE: K. D. Taverns Inc. d/b/a Hey Carl's (License No. 120708203)

ADMINISTRATOR'S COMBINED RECOMMENDED DECISION

This dispute comes before the Illinois Gaming Board (the "Board" or "IGB") under Section 1800.320(b) of the Board's Adopted Rules (the "Rules"). 11 Ill. Adm. Code 1800.320(b). This Recommendation issues under Rule 320(b)(6). 11 Ill. Adm. Code 1800.320(b)(6).

Accel Entertainment Gaming, LLC ("Accel") brought the above-captioned Rule 320 Petition against Respondent Midwest Electronics Gaming, LLC ("Midwest") to contest the validity and enforceability of a use agreement ("UA") that purports to control the placement and operation of video gaming terminals ("VGTs") at K. D. Taverns Inc. d/b/a Hey Carl's ("Hey Carl's"). Accel subsequently sought leave from the Board to withdraw its Petition. I recommend the Board grant Accel's request to withdraw.

I. JURISDICTION

The Video Gaming Act (the "VGA") confers jurisdiction and authority upon the Board to supervise all video gaming operations in Illinois. 230 ILCS 40/78; *J&J Gaming Ventures, LLC v. Wild, Inc.*, 2016 IL 119870 ¶¶ 3, 39-40. The Board has all powers necessary and proper to effectively execute the VGA, including authority to adopt regulations for the purpose of administering the VGA and

“provide for the prevention of practices detrimental to the public interest and for the best interests of video gaming.” *Wild*, 2016 IL 119879 ¶ 3. The VGA provides “a comprehensive statutory scheme that vests jurisdiction over video gaming operations” with the Board. *Id.* ¶ 42. The Board’s broad authority over all aspects of video gaming includes the “exclusive, original jurisdiction” to determine the validity and enforceability over agreements that “purport to control placement and operation of video gaming terminals.” *Id.*; *see also*, 11 Ill. Adm. Code 1800.320(b)(1).

II. RELEVANT BACKGROUND AND DISCUSSION

On February 8, 2018, Accel filed a Petition asking the Board to find its UA with Hey Carl’s valid and enforceable. Midwest timely filed its response. In December 2020, Hey Carl’s informed the Board it did not support Accel’s Petition and Accel filed a request to withdraw on January 25, 2022. Accepting Accel’s representations that it no longer wishes to proceed with its Petition, there no is justiciable controversy under Rule 320 for the Board to resolve. As such, I recommend that the Board permit Accel to withdraw the Petition thereby closing the matter.

III. CONCLUSION

For the foregoing reasons, I recommend that the Board enter an Order:

1. Granting Accel’s request to withdraw its Petition in the above-captioned matter; and
2. Directing that all further proceedings shall be cancelled, and the matters concluded.

Pursuant to Rule 320(b)(7), any party to this Petition wishing to file exceptions must do so no later than 14 days after receipt of the Recommended Decision.

DATED: January 25, 2022

RESPECTFULLY SUBMITTED,


MARCUS D. FRUCHTER
ILLINOIS GAMING BOARD ADMINISTRATOR