

**STATE OF ILLINOIS
ILLINOIS GAMING BOARD**

RANDI M. WAGNER d/b/a WAGNER'S)	
LOUNGE (License no. 120700535),)	
)	
Petitioner,)	No. 19-UP-024
)	
v.)	
)	
ACCEL ENTERTAINMENT GAMING, LLC,)	
)	
Respondent.)	
)	

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 *Randi M. Wagner d/b/a Wagner’s*, (“Wagner’s”) (License no. 130705213) *v. Accel Entertainment Gaming, LLC, Respondent*, (“Accel”) *Re: Agreement with Gold Rush Amusements, Inc. d/b/a Gold Rush Gaming* (“Gold Rush”), including the Petition filed, all other pleadings and documents received, and the Administrator’s Recommended Decision.

On May 17, 2019 the Board notified Accel of Wagner’s Petition asking the Board to find a use agreement (“UA”) Wagner’s entered into with Gold Rush was valid and enforceable against a competing UA Accel had with the same establishment. Among other things, Wagner’s requested the Board to: (1) invalidate Accel’s UA for having expired in 2018; and (2) direct Accel to remove its video gaming terminals (“VGTs”) from inside Wagner’s and allow Gold Rush to replace Accel as the establishment’s terminal operator. On April 13, 2020 the Board received from Gold Rush a Revenue Sharing Agreement signed by Accel and Gold Rush regarding Wagner’s. Because that agreement settled the dispute regarding the competing UAs, Board Administrator Marcus D. Fruchter issued an Administrator’s Recommended Decision on December 13, 2021 dismissing Wagner’s Petition as moot. No exceptions were filed.

CONCLUSIONS OF LAW

Pursuant to the VGA, 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 further 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 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.*

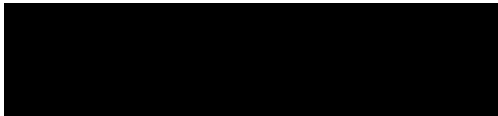
The Board’s receipt of the Revenue Share Agreement between terminal operators whereby Gold Rush agreed to provide VGTs to Wagner’s and split its share of net terminal income with Accel is sufficient for the Board to conclude this matter. In *Doxsie v. Ill. Gaming Bd.*, 2021 IL App (1st) 191875, the Appellate Court affirmed the Board’s authority to interpret and administer the Rules. *Doxsie* at ¶ 17. In this matter, Petitioner Wagner’s sought to replace Accel with Gold Rush. Because Wagner’s requested relief has been realized through the parties’ own efforts, there is no justiciable controversy under Rule 320 for the Board to resolve. Wagner’s gained the terminal operator it was seeking. In keeping with the Board’s authority to interpret and administer the Rules, we find dismissing this 320 Petition as moot because an agreement separate from the contested UA obviates the need for further proceedings to be a proper exercise of the Board’s authority under Rule 320 to decide matters.

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

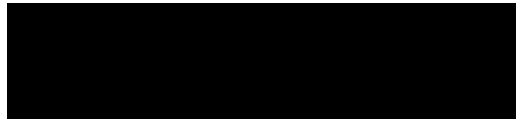
- (1) Adopts the Administrator’s Recommended Decision;
- (2) Dismisses Wagner’s Petition;
- (3) Makes no findings of facts or conclusions of law on the merits of Wagner’s Petition; and
- (4) Closes the Petition regarding Accel’s UA.

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.

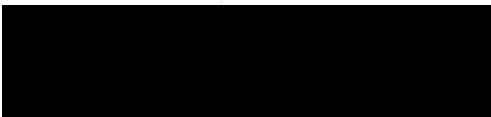
VOTED THIS THE TWENTY-SEVENTH DAY OF JANUARY 2022



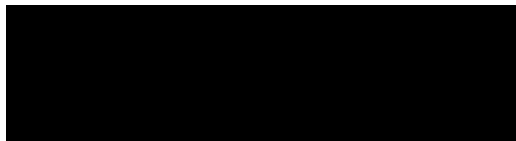
Charles Schmadeke, Chairman



Dionne R. Hayden



Anthony Garcia



Marc E. Bell

**STATE OF ILLINOIS
ILLINOIS GAMING BOARD**

RANDI M. WAGNER d/b/a WAGNER’S LOUNGE (License no. 120700535),)	
)	No. 19-UP-024
)	
Petitioner,)	
)	
ACCEL ENTERTAINMENT GAMING, LLC,)	
)	
Respondent.)	
)	
RE: Agreement with GOLD RUSH AMUSEMENTS, INC., d/b/a GOLD RUSH GAMING)	
)	

ADMINISTRATOR’S 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).

Randi M. Wagner d/b/a Wagner’s Lounge (“Wagner’s”) brought the above-captioned Rule 320 Petition against Respondent Accel Entertainment Gaming, LLC (“Accel”) to contest the validity and enforceability of an agreement it signed with Gold Rush Amusements, Inc. d/b/a Gold Rush Gaming (“Gold Rush”) which Wagner’s claims controls the placement and operation of video gaming terminals (“VGTs”) against a competing agreement with Accel. On April 13, 2020, Gold Rush notified the Board it entered into a revenue sharing agreement with Accel regarding Wagner’s. Because the terminal operators’ agreement settled the dispute regarding VGTs at the licensed location, the Petition is moot as Wagner’s gained the terminal operator that it was seeking.

As such, the Board should dismiss Wagner’s Petition as moot thereby closing this matter and allow the existing UA between Gold Rush and Wagner’s to continue in operation according to its terms. For the foregoing reasons, I recommend that the Board enter an Order:

1. Dismissing the Petition in the above-captioned matter; and

2. Directing that all further proceedings shall be cancelled, and the matter 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: DECEMBER 13, 2021

RESPECTFULLY SUBMITTED,

A solid black rectangular box redacting the signature of Marcús D. Fruchter.

**MARCÚS D. FRUCHTER
ILLINOIS GAMING BOARD ADMINISTRATOR**

SERVICE LIST

Pursuant to Board Rules 1800.320(b)(2)(A), 1800.320(b)(12), and 1800.140, this Final Order is being served via e-mail upon all parties of record to

Accel Entertainment Gaming, LLC
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20W267 101st Street, Unit C
Lemont, IL 60439

Compliance Officer
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IGB-mailings@goldrushgaming.com
5277 Trillium Boulevard
Hoffman Estates, IL 60192

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Office of General Counsel
IGB.320@igb.illinois.gov
Illinois Gaming Board
160 North LaSalle Street, Suite 300
Chicago, IL 60601

CERTIFICATE OF SERVICE

I, James Jozefowicz, certify that I served a copy of the attached Final Order by email on February 4, 2022, to all parties of record in the following matter: *Randi Wagner d/b/a Wagner's Lounge* (License No. 120700535) *Petitioner v. Accel Entertainment Gaming, LLC, Respondent, Re: Agreement with Gold Rush Amusements, Inc.* 19-UP-024—at the following addresses:

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c/o Derek Harmer
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Compliance Officer
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5277 Trillium Boulevard
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