



Pro Bono Representation in the Gaming Employee Registration Process

By Scott Scherer

This year, the Gaming Law Section (“GLS”) began a new program to offer pro bono legal assistance to gaming employees who have had an objection to their employee registrations lodged by the Enforcement Division of the State Gaming Control Board (“GCB”). Formerly known as “work permits” or “sheriff’s cards,” employee registrations are required for all gaming employees (as defined in NRS 463.0157), pursuant to NRS 463.335 and NGC Regulation 5.101.

The Enforcement Division conducts a basic background investigation of each applicant for registration and may object to the registration of a gaming employee based upon the criteria set forth in NRS 463.335 (12) and NGC Regulation 5.104.

These criteria include committing, attempting or conspiring to commit any crime of moral turpitude, larceny, embezzlement, or violation of any law pertaining to gaming. If the Enforcement Division objects to an employee’s registration, the employee has a right to a hearing before a hearing examiner, who makes a recommendation to the GCB with regard to whether the objection should be sustained, reversed, or reversed with conditions.

Working with the GCB, the State Bar of Nevada, Legal Aid Center of Southern Nevada, Washoe Legal Services and Volunteer Attorneys for Rural Nevadans, attorneys from the GLS will offer to represent gaming employees qualifying for pro bono services in the gaming employee registration appeal process. The GCB agreed to modify its standard objection letter to advise applicants not only that they were entitled to be represented by counsel in the appeal process, but also that if they desired an attorney but could not afford to retain counsel, they could contact the State Bar of Nevada’s Lawyer Referral Service.

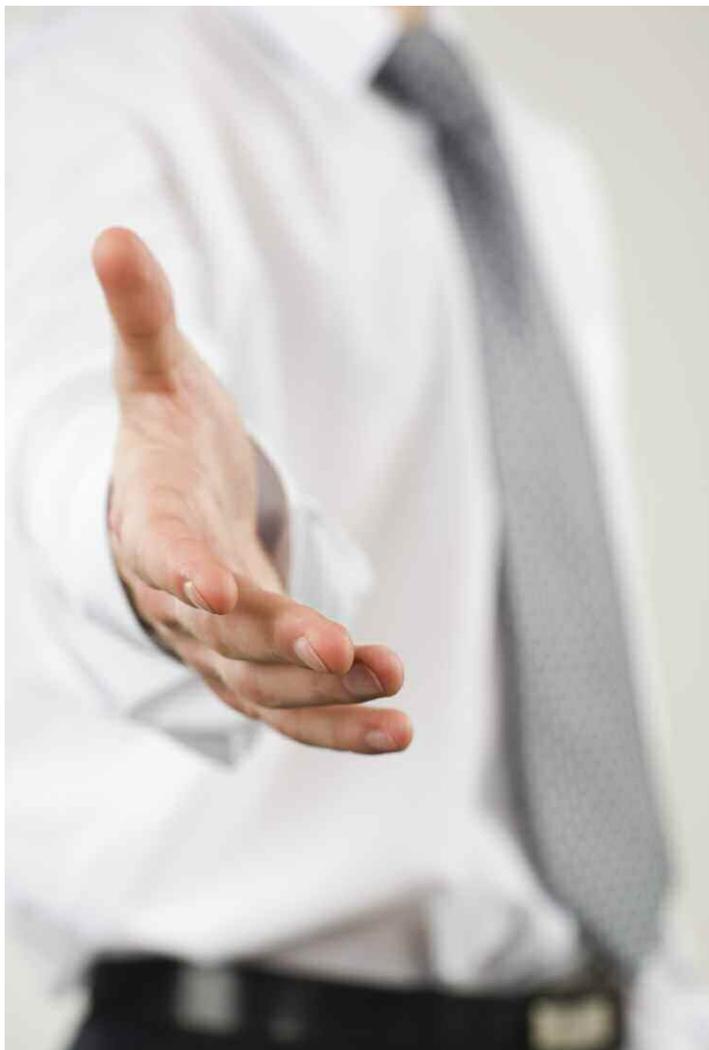
The State Bar agreed to have the Lawyer Referral Service determine where the employee resides and to refer him or her to the appropriate local pro bono agency. Each of the local pro bono agencies agreed to screen applicants to determine whether they qualify for pro bono representation, and the GLS agreed to provide volunteer attorneys to represent the qualified applicants.

We believe that this is a great way for GLS members with their specialized practices to give back to the community and provide pro bono service. In addition to providing needed advice and assistance to gaming employees, the involvement of GLS members has the potential to streamline and improve the administration of justice in the gaming employee registration process.

For example, pursuant to NGC Regulation 5.109(1), after a failure to appeal or an unsuccessful appeal, a gaming employee may not seek reconsideration of the GCB’s objection to his or

her registration for one year from the date of the final administrative or judicial action. Unsuccessfully seeking reconsideration of the objection thereafter could result in a further bar to reconsideration for up to five years, pursuant to NGC Regulation 5.109(5).

It is important, therefore, for attorneys to understand the facts resulting in the objection, as well as any mitigating factors, and advise clients whether they should seek reconsideration of the objection or whether they should first take certain proactive steps to demonstrate that the issues that resulted in the objection are behind them and that they deserve another opportunity to work as a gaming employee. For a person whose crimes resulted from an addiction to narcotics, such steps might include completion of an appropriate rehabilitation program before seeking reconsideration of the objection.



Providing this type of advice might be the most valuable service that pro bono gaming attorneys can provide to employee registration applicants.

The program is now under way. The Enforcement Division is using the revised objection letter and the Legal Aid Center of Southern Nevada has received and assigned its first case. We would like to thank GCB Member Shawn Reid, GCB Chairman Mark Lipparelli, Enforcement Division Chief Jerry Markling, Deputy Chief Teresa Zellhoefer, Hearing Examiner Richard DeGuise, Lori Wolk from the State Bar of Nevada, Melanie Kushnir and Barbara Buckley from the Legal Aid Center of Southern Nevada, Volunteer Attorneys for Rural Nevadans, Washoe Legal Services and the Gaming Law Section members who have volunteered so far to assist with the program.

If you are interested in participating in the program, please contact Section Chairman Jeff Rodefer at jeffreyrodefer@boydgaming.com, or Executive Board Member Scott Scherer at sscherer@hollandhart.com. At the Section's annual *Gaming Law Conference* on November 16, 2012, at The Orleans Hotel and Casino in Las Vegas, we will be presenting a panel on the employee registration process for those who would like more information.

Scott Scherer practices primarily in the area of regulatory and administrative law with special emphasis on gaming matters. He was previously General Counsel and Chief of Staff to Governor Kenny C. Guinn and a member of the State Gaming Control Board. While with the Board, he also served as Chair of the International Association of Gaming Regulators.

Scherer's career highlights also include serving as a supervising deputy attorney general in the gaming division of the Nevada Attorney General's Office, a two-term Nevada Assemblyman and a member of the Nevada Commission on Ethics. Scherer's corporate experience includes serving as associate general counsel and executive director of corporate development for International Game Technology (IGT) and acting managing director of IGT Africa.

A native Nevadan, Scherer received his undergraduate degree from The Johns Hopkins University and his law degree from the University of Washington School of Law.