

Ken Lawson, Secretary

Rick Scott, Governor

October 28, 2016

To Whom It May Concern:

Please be advised that the final order in DOAH Case No. 16-1009 was filed on October 26, 2016. The purpose of this letter is to make you aware of the administrative law judge's conclusions and findings in this matter, which dealt with how designated player games ("DPGs") have been conducted throughout the state.

Administrative Law Judge Suzanne Van Wyk ("ALJ Van Wyk") determined that the DPGs at issue were being played in a banking manner:

"The basic tenant of the cardroom statute is that authorized games are not casino gaming because the participants 'play against each other.' As currently operated, the designated player is a player in name only. The existing operation of the games does no more than establish a bank against which participants play." (Page 44, Paragraph 119)

"The [DPGs] ... were not operated in a manner in which the players play against each other. The designated players were not playing the games at all. The designated players merely served as warm bodies to do no more than watch over the chips from which winnings were paid and to which losses were credited...In essence, the designated players were the keepers of the bank against which the other players were playing." (Page 33, Paragraph 90)

ALJ Van Wyk also found that the cardroom's policies prevented the rotation of the button around the table:

"[The cardroom's] operation of [DPGs] is no more than a systematic banking of games in the cardroom. The corporate application requirements, combined with the dual-rake structure, are disincentives to the rotation of the button and participation in the game by truly interested designated players. The result is game play in which employees from an outside corporate designated player sit either idly at racks of chips, or alternately, organize the chips for the convenience of the dealer ..."

(Page 38, Paragraph 105)

"...the games [were] operated with a single corporate designated player at each table, with no opportunity for the designated player position to rotate, and with a built-in disincentive for the position to rotate." (Page 41, Paragraph 113)

ALJ Van Wyk concluded that "given the strict statutory prohibition against gambling, the intricate regulatory scheme imposed, and the narrow carve out for cardrooms, the [DPGs] cannot be allowed to continue to operate **in the current manner**" (emphasis added) (Paragraph 119, Page 44).

Please note that authorized games are a game or series of games of poker or dominoes which are played in a **nonbanking manner**. See §849.086(2)(a), Fla. Stat.

The final and recommended orders for this case can be found on the Division of Administrative Hearings website. Thank you for your attention to this matter.

Sincerely,

Anthony J. Glover, Director
Division of Pari-Mutuel Wagering