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INFORMATION SHEET: ADVISORY OPINION NO. 2012-02
PARTICIPATING IN AMUSEMENT OR ACTIVITIES AT CASINOS

What is the question in the opinion?

Can members and employees of the Ohio Casino Control Commission participate in gaming, attend concerts, eat at restaurants, or take part in other amusements or activities at Ohio casinos?

What is the answer in the opinion?

No. The Ethics Law prohibits members and employees of the Ohio Casino Control Commission, in their personal capacities for their own enjoyment, from participating in these, or any other amusements or activities, at casinos in Ohio or affiliated gaming facilities located outside the state.

However, the Ethics Law does not prohibit members or employees of the Casino Control Commission from taking part in these activities if participation is necessary for them to perform the functions and exercise the authority of the Commission. For example, an employee of the Commission who is required to be on-site at a casino all day could purchase a meal, at full cost, at a restaurant located at the casino.

To whom do these restrictions apply?

The restrictions in the Ethics Law that are discussed in the opinion apply to all members and employees of the Ohio Casino Control Commission.

What prompted this opinion?

The opinion was prompted by a request for advice.

When did the conclusions in the opinion become effective?

The opinion became effective on February 6, 2012, after it was approved by the Commission.

For More Information, Please Contact:

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ADVISORY OPINION NO. 2012-02 IS ATTACHED.**

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Advisory Opinion
Number 2012-02
February 6, 2012
**PARTICIPATING IN AMUSEMENTS
OR ACTIVITIES AT CASINOS**

Syllabus by the Commission:

- (1) R.C. 102.03(M)(1) states that a member of the Ohio Casino Control Commission, the Executive Director, and any employee of the Commission, shall not “participate in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located.”
- (2) Participating in “any other amusement or activity” means engaging in any entertainment or activity, other than “casino gaming,” that occurs at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator located outside the state. Participating in “any other amusement or activity” means engaging in any pursuit, pastime, or action at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator located outside the state. Examples include:
 - (a) Wagering outside Ohio’s definition of “casino gaming”;
 - (b) Attending concerts, sporting events, theatrical shows, or grand openings;
 - (c) Consuming food or beverages at food service facilities;
 - (d) Using athletic facilities, such as golf courses or tennis courts; or
 - (e) Obtaining personal services at spas, salons, or similar providers.
- (3) R.C. 102.03(M)(3) prohibits any member or employee of the Casino Control Commission from participating in “any other amusement or activity” in his or her personal capacity, at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator, wherever located.
- (4) R.C. 102.03(M)(3) does not prohibit a member or employee of the Casino Control Commission from participating in “any other amusement or activity,” at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator, wherever located, when participation is necessary for those officials to perform the functions and exercise the authority of the Commission.

* * *

The Ohio Ethics Commission has been asked for an advisory opinion about the application of a new provision of the Ethics Law that applies to any member, the executive director, and any employee of the Ohio Casino Control Commission.

Statutory Limits on Members and Employees of the Casino Control Commission

Division (M)(3) of R.C. 102.03 is one of the new provisions of the law enacted to govern members and employees of the Casino Control Commission. It provides:

- (M) A member of the Ohio casino control commission, the executive director of the commission, or an employee of the commission shall not
- (3) Participate in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located.¹

This statute sets forth mandatory statutory limits on Casino Control Commission members and employees in addition to the general conflicts of interest restrictions.²

“Casino gaming” is defined in R.C. 3772.01(D), and includes any type of slot machine or table game wagering. The Commission need not more fully define this term because the General Assembly has given it a clear and precise meaning.

However, the Commission has been asked to interpret the phrase “any other amusement or activity.” A primary rule of statutory construction is that words used in a statute must be construed according to rules of grammar and common usage.³ The word “amusement” is defined as “a means of amusing or entertaining.”⁴ The word “activity” is defined as “a pursuit in which a person is active” and “a form of organized, supervised, often extracurricular recreation.”⁵

The Commission concludes that participating in “any other amusement” means engaging in any entertainment, other than “casino gaming,” that occurs at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator located outside Ohio. Participating in “any other . . . activity,” in the view of this Commission, covers a broader range of leisure pastimes as described later in this opinion.

Therefore, R.C. 102.03(M)(3) prohibits any member or employee of the Casino Control Commission from participating in “any other amusement or activity,” within this definition, in his or her personal capacity.

Examples

Casinos offer a wide range of entertainment and pastimes for their guests and customers. In addition to casino gaming, Ohio casino operators, management companies, and others are

permitted to “provide non-gaming amenities within casino facilities.”⁶ All of these, whether available at no cost or for a fee or admission charge, fall within the definition of “any other amusement or activity.” Examples of participating in “any other amusement or activity” at an Ohio casino facility or at an affiliate gaming facility of a licensed operator, would include:

- (a) Wagering outside Ohio’s definition of “casino gaming” that is permitted at casinos in Ohio or at casinos in other states⁷;
- (b) Attending concerts, sporting events, theatrical shows, galas, grand openings, and other productions or leisure activities offered at a casino;
- (c) Consuming food or beverages at casino food service facilities;
- (d) Using golf or other athletic and recreational facilities; and
- (e) Obtaining personal services at spas, salons, or similar providers.

Members and employees of the Casino Control Commission are prohibited from taking part in these pursuits for their own enjoyment, even if they pay the full fair market value for the activity.

Performing the Functions and Exercising the Authority of the Commission

However, there will be situations when members and employees of the Casino Control Commission are required to be in casino facilities, and to interact with casino employees, in order to perform the functions and exercise the authority of the Commission. For example, the Commission has promulgated a rule requiring that each licensed casino operator must provide secure and segregated rooms at their respective facilities for the use of Commission employees.⁸ Casino Control Commission employees will use these offices, on the casino grounds, to engage in surveillance, monitoring, interviewing, and other regulatory activities.

The Commission concludes that R.C. 102.03(M)(3) does not prohibit members or employees of the Casino Control Commission from participating in casino gaming or other amusements or activities at casinos in Ohio but only on the condition that their participation is necessary for those officials to perform the functions and exercise the authority of the Commission. Therefore, while performing the functions and authority of the Commission, Casino Control Commission members or employees are not participating in “any other amusement or activity” if they are engaged in such things as:

- (a) Attending a bona fide educational event, conference, or meeting related to the functions and authority of the Casino Control Commission that is held in a casino facility (such as a meeting of gaming regulators), provided that they pay the full admission for the event;
- (b) Staying overnight at a hotel connected to a casino, and accessing the amenities of the hotel that are made available for other hotel patrons, if the hotel is the location of a bona fide educational event, conference, or meeting related to the function and authority of the Casino Control Commission, provided that the Commission if they pay the full price the facility charges any other customer for the room and for any amenities accessed;

- (c) Engaging in regulatory activity that is authorized by the Casino Control Commission;
- (d) Engaging in any investigations that are authorized by the Casino Control Commission; or
- (e) Consuming food or beverages at a casino food service facility if they pay the full price the casino charges any other customer.

The Casino Control Commission and its Executive Director must carefully monitor these activities and ensure that they are necessary. It is particularly important that, if any official or employee of the Casino Control Commission is engaged in any regulatory activity or investigation that would include casino gaming or other activities at a casino facility, the Commission, Executive Director, and other appropriate management employees of the Commission are fully informed about, authorize, and supervise the activities.

Example

An organization of gaming regulators schedules an educational conference at a casino hotel in another state. The casino is an affiliate gaming facility of a licensed casino operator in Ohio.

An employee of the Casino Control Commission wants to attend the conference. The employee's supervisor and the Executive Director have determined that the conference is a legitimate expenditure and approved the employee's request to attend the conference.

In this scenario, even though the conference will be held at an affiliate gaming facility of a licensed casino operator in Ohio, R.C. 102.03(M)(3) would not prohibit the person from attending the conference. However, the Commission or employee must pay, at the same rate the hotel charges all other guests, any necessary expenses incurred in the employee's stay in the hotel.

Conclusion

This advisory opinion is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code, and does not purport to interpret other laws or rules.

Therefore, it is the opinion of the Ohio Ethics Commission, and the Commission advises that: R.C. 102.03(M)(1) states that a member of the Ohio Casino Control Commission, the Executive Director, and any employee of the Commission, shall not "participate in casino gaming or any other amusement or activity at a casino facility in this state or at an affiliate gaming facility of a licensed casino operator, wherever located." The Commission concludes that participating in "any other amusement or activity" means engaging in any entertainment or activity, other than "casino gaming," that occurs at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator located outside the state. Participating in "any other amusement or activity" means engaging in any pursuit, pastime, or action at a casino facility in

Ohio or at an affiliate gaming facility of a licensed casino operator located outside the state. Examples include: (a) Wagering outside Ohio's definition of "casino gaming"; (b) Attending concerts, sporting events, theatrical shows, or grand openings; (c) Consuming food or beverages at food service facilities; (d) Using athletic facilities, such as golf courses or tennis courts; or (e) Obtaining personal services at spas, salons, or similar providers. R.C. 102.03(M)(3) prohibits any member or employee of the Casino Control Commission from participating in "any other amusement or activity" in his or her personal capacity, at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator, wherever located. Finally, R.C. 102.03(M)(3) does not prohibit a member or employee of the Casino Control Commission from participating in "any other amusement or activity," at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator, wherever located, when participation is necessary for those officials to perform the functions and exercise the authority of the Commission.

Merom Brachman

Merom Brachman, Chair
Ohio Ethics Commission

¹ R.C. 102.03(M)(3) is a first-degree misdemeanor, with penalties provided in R.C. 102.99. In addition, whoever violates R.C. 102.03(M)(3) forfeits the individual's office or employment.

² The restriction in R.C. 102.03(M)(3) was reiterated by the Casino Control Commission in the Code of Conduct it adopted to govern its members and employees. Ohio Casino Control Commission Code of Conduct Sec. B(4)(c).

³ See R.C. 1.42.

⁴ <http://www.britannica.com/bps/dictionary?query=amusement>.

⁵ <http://www.britannica.com/bps/dictionary?query=activity>.

⁶ R.C. 3772.08(B).

⁷ The Ohio Constitution includes within the definition of casino gaming "any type of slot machine or table game wagering . . . authorized in any of the states of Indiana, Michigan, Pennsylvania, or West Virginia," as of September 2009 and as subsequently authorized. Ohio Constitution Article XV, Section 6(C)(9). However, casinos in other states may have a wider range of gaming activity available.

⁸ Ohio Adm.Code 3772-19-01(C) and (G).