

## **HOUSE TESTIMONY DAILY FANTASY SPORTS LEGISLATION**

- **Mr. Chairman, members of the committee, good morning**
- **My name is Paul Gaynor, I am appearing on behalf of Midwest Gaming & Entertainment, LLC, doing business as Rivers Casino**
- **For 10 years, I was a senior staff member for the Illinois Attorney General**
- **During my tenure at the AG's office, I was the Illinois Gaming Board's lead trial counsel in the successful Emerald Casino license revocation case**
- **At the outset, we want to commend the current effort to propose thoughtful and comprehensive sports betting legislation**
- **We understand the importance of getting this done so that the State of Illinois can start reaping the revenue benefits**
- **But we also want to be mindful that this effort is done carefully and vigilantly maintains the integrity of gaming**
- **It is critical that the new sports betting licenses be awarded in a process that prevents corruption and promotes public confidence**
- **The Emerald case demonstrates what happens when bad actors get involved in the gaming industry and ignore the law**
- **This current effort must be done in a manner that does not reward companies or individuals who are or have been operating outside of the law**
- **We want to express our strong concerns about the passing sports betting legislation which does not contain language to exclude bad actors from procuring a sports betting license in Illinois**

- It must be remembered that in 2015, the **Illinois Attorney General**, the **chief legal officer** for the State of IL, **explicitly found that: Daily Fantasy Sports is illegal gambling that violates the State's criminal laws**

### **Illegal Operators**

- **After the 2015 AG legal opinion, DFS operators such as Daily MVP ceased operations in Illinois**
- **Moreover, other potential market entrants stayed out of the market** due to the AG opinion
- **Out of State companies Draftkings and Fanduels, on the other hand, have completely ignored that opinion and continued to operate**
- **For 3 years DK and FD failed to pass legislation to legalize their operations**
- DraftKings and Fanduel have **continued to operate in IL** with the **goal of capturing market share** confident that **it will be legalized and they will have benefitted from their illegal conduct**
- This was **no accident**. It was a **strategic plan**. This behavior **should not be rewarded**
- **Without a legislative remedy, DK and FD will have a duopoly** in IL as a result of their illegal actions
- **That's what they did in New Jersey**
- In **January 2019, DK and FD booked 85% of all bets in NJ**
- This **unfair advantage** in NJ was the **result of years of illegal operations in NJ**

- Such a result would also harm innovation and efficiencies as a result of a less robust market
- Without language barring bad actors from the licensing process, the **proposed legislation** would ignore DK's and FD's **pattern of criminal conduct** and **reward bad actors** who, **to this day, refuse to comply** with the laws
- Under the **existing Gambling Act**, anyone who **conducts a gambling operation without a license**, is subject, **at the very least** to a **civil penalty** equal to the **amount of gross receipts** from the **illegal gambling**, as well as **forfeiture of all equipment used** in the conduct of the illegal gambling
- DK and FD **should not be allowed to keep all of the ill-gotten gains** they have collected up to now
- They should not be allowed to keep the **illegally obtained market share**
- And, they should not be allowed to have done this **without any consumer protections**
- If we **allow this to happen in Illinois, DK and FD**, under the proposed legislation, **would pay \$20M for 85-90% of the market**, leaving a mere 10-15% of the market
- This **will result in less competition** because the remaining existing land-based casinos and race tracks cannot be expected to pay \$15million for just 15-20% of the market
- As a result of this **lack of competition, IL will not receive the maximum tax revenue** collections
- **There is an appropriate analogy to such a result:** As we sit here, there is **a lot of discussion about legalizing recreational cannabis---**but **no one thinks** that **illegal drug dealers** who have been **criminally selling cannabis for years** should be

rewarded with a license to dispense cannabis and **benefit from their illegal drug sales and gain market share advantage**

- Why **treat illegal gambling operators** differently?
- Had the **legal and highly regulated brick and mortar casinos engaged in such illegal conduct**, they would have lost their licenses
- Bad actor language **is not unique**.
- In fact, when **Senate President Cullerton** proposed internet gaming legislation in the 98<sup>th</sup> GA, it explicitly provided that : **“No internet gaming license shall be granted to any applicant who has accepted wages via the Internet in contravention of this Section or United States law in the 10 years preceding the application date.”**
- **Similarly, the video gaming act contains bad actor language that prohibits prior illegal operators to obtain a license:**  
“The Board shall not grant a license to a person who has facilitated, enabled, or participated in the use of coin-operated devices for gambling purposes or who is under the significant influence or control of such a person.”

### **Midwest Gaming**

- Midwest Gaming, a good corporate citizen and IL based company, paid **\$125M for** its casino license
- Midwest has paid over a **\$1B to the state and local communities**
- **In conclusion:**
- The **proposed legislation** would **reward bad actors** that have **flaunted** state and federal laws.
- It would allow these **bad actors** to continue to **reap the fruits** of their **illegal conduct** at the **expense** of **law abiding potential**

**competitors** who have **sat on the side lines** and **played by the rules**

- **Thank you**

“No sports wagering operator license or Internet sports wagering vendor license shall be granted to an applicant that has accepted, that has or had an affiliate that has accepted, or that has officers or directors who are or have been officers or directors of another party that has accepted wagers through the Internet in contravention of any United States law, Illinois law, or any substantially similar laws of any other jurisdiction before the application date pursuant to a final determination of a court or an unequivocal official pronouncement from a government authority or chief law enforcement officer.”