



STATE OF ARIZONA
DEPARTMENT OF LIQUOR LICENSES AND CONTROL

Douglas A. Ducey
GOVERNOR

John Cocca
DIRECTOR

April 26, 2016

To: All Private Clubs with a Series #14 Arizona Liquor License

Re: Illegal Gambling in Liquor Licensed Establishments

Dear Licensee,

The Arizona Department of Liquor Licenses & Control (“Department”) has received information indicating that several private clubs continue to operate gaming equipment that likely violates Arizona Revised Statutes (“A.R.S.”) § 4-244(26), which prohibits licenses from “knowingly permitting unlawful gambling on the premises.” The Arizona Court of Appeals recently affirmed a decision by the Department to cite one of its club licensees under this statute. *Benevolent & Protective Order of Elks #2656*, No. 1 CA-CV 14-0793 (Jan. 21, 2016). The Court held that the operation at issue constituted illegal gambling, that ignorance of the illegality was not a defense, and that the operation did not qualify for an exception to the general prohibition against gambling.

The Department has received a copy of the attached letter dated February 11, 2016, which was apparently distributed to many licensed clubs. The letter suggests that the above referenced case is less-than-final or that the legality of such operations is in doubt. PLEASE BE ADVISED that the Department’s position has not changed and has been affirmed twice on appeal. Courts from around the country have also determined that similar operations constituted gambling, despite the operators’ and equipment providers’ attempts to defeat gambling statutes or qualify for exceptions thereto.

Promotion of gambling, which includes merely providing assistance to the operation, is not only a violation of Title IV liquor laws, but it is also a class 5 felony. A.R.S. § 13-3303. The Department may take serious action against any of its licensees that are found to have operated or permitted the operation of an illegal gambling operation including imposing civil penalties, license suspension, or even revocation or the refusal to renew a license.

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Individuals requiring special accommodations please call (602)542-9051

The purpose of this letter is to warn licensed clubs that the Department can and will enforce A.R.S. § 4-244(26) while the above referenced case is on appeal, and to stress that clubs who attempt to claim ignorance of the law or who rely on representations like those in the attached letter will still face discipline from the Department.

This letter is to assist you with your compliance with Arizona liquor and gaming laws. This letter does not constitute legal advice. Clubs seeking to determine the legality of a gaming operation in place or planned for the future should seek independent legal advice.

Sincerely,

A handwritten signature in black ink, appearing to read "John Cocca". The signature is fluid and cursive, with the first name "John" and the last name "Cocca" clearly distinguishable.

John Cocca, Director
Arizona Department of Liquor Licenses & Control

(attachment)

NON-PROFIT SWEEPSTAKES LITIGATION UPDATE

February 11, 2016

TO: All Arizona Non-Profit Sweepstakes Participants

As you know a civil suit titled *The Benevolent and Protective Order of Elks # 2656 v. State of Arizona Department of Liquor Licenses and Control* (the Elks case) has, for the last couple of years, been working its way through the Arizona courts. The main issue before the court in the Elks case is the question of whether or not our sweepstakes constitute illegal gambling under Arizona law.

The facts of the case, the history of the litigation and the arguments of both sides are set out in an opinion rendered by the the Arizona Court of Appeals on January 21, 2016. A copy of the court's opinion is attached for your review. Unfortunately, the Court held that the sweepstakes constitute illegal gambling under Arizona law. We strongly disagree with the opinion, and the Elks have asked the Court to reconsider its ruling. A copy of the brief filed in support of Elks reconsideration request is also attached for your review. We are hopeful the court will reconsider; however, if they do not it is the intent of the Elks to appeal the ruling to the Arizona Supreme Court.

We maintain that if our "sweepstakes" is somehow found to be gambling, it is legal nonetheless because it meets all criteria for a legal raffle under Arizona law. In that regard please review the court's comments at the bottom of page 6 and page 7 of the opinion. The court indicates that our sweeps product meets two of the three criteria for a valid raffle but rules against us because Patriots somehow "...participates in the operation of the raffle." Patriots does not "participate" in the raffle; however, the court thinks otherwise. We are addressing these concerns by working with our lawyers to put together a revised agreement that will make it abundantly clear that Patriots is not "...participating in the raffle...". If we are successful in doing so we will effectively transform the current sweepstakes to a legal raffle, fully compliant with Arizona law.

I will keep you up to date as the Elks case works its way toward final resolution at the Arizona Supreme Court. If you have any questions, please send me an email or call me on my cell @ 202-538-7417. I would also appreciate it if you would email me your name/email address so as appropriate I can provide future updates via email. Thanks!

Larry W. Rivers

Patriots Land Group LLC * Cell: 202-538-7417 * Email: lrivers@patriotslandgrp.com