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CASINOS AND THE OHIO ETHICS LAW Ethics Commission Information Sheet #9

To: Casino Control Commission
Members, Officials, and
Employees

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Executive Director

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I. Introduction

The Ohio Ethics Law and related statutes¹ prohibit public officials and employees from misusing their official positions for their own personal benefit or the benefit of their family members or business associates. The law protects the public by ensuring that public officials and employees make public decisions on an impartial and objective basis and are not influenced by their personal or business interests.

The Ethics Law is a uniform standard that applies to all people who serve as officials and employees for public agencies in Ohio. "Public agencies" include state departments, boards, and commissions, such as the Ohio Casino Control Commission, and every county, city, village, and township. All members and employees of the Ohio Casino Control Commission are public officials subject to the Ethics Law and related statutes. The law also applies to casinos, management companies, and other gaming-related industries.

II. Purpose of Information Sheet

The Ohio Ethics Commission was created to administer, interpret, and assist in the enforcement of the Ethics Law for all officials in the state, except members and employees of the General Assembly and judicial officers and employees.² The Commission wants to assure compliance with the Ethics Law during the initial planning and opening of Ohio's casinos and throughout their continued operation.

This information sheet was prepared to provide general information regarding existing and newly created Ethics Law restrictions that apply to the public officials charged with overseeing the casino industry. These include, but are not limited to, the members and employees of the Casino Control Commission and officials and employees of the political subdivisions where casinos will be operated. In this information sheet, the word "official" refers to any person who serves a public agency, whether elected, appointed, or employed.

This information sheet is not an advisory opinion and is not intended to provide advice on specific facts. Any person with specific questions about the application of the law should contact the Ethics Commission.

III. Am. Sub. H.B. 519

Amended Substitute House Bill 519, which became effective September 10, 2010, provides for Ohio casino gaming laws and implements the voters' decision to allow casinos in Ohio. Among the major provisions of the bill are the establishment of the Ohio Casino Control Commission and adoption of ethics, lobbying, and contribution restrictions.

Am. Sub. H.B. 519 creates new oversight duties for the Ohio Ethics Commission and enacts new restrictions in the Ethics Law.³ The new restrictions, discussed in Section VII of this information sheet, reinforce the existing Ethics Law standards and extend them further by creating specific requirements for Casino Control Commission officials and employees, and for those who interact with them, including casino operators and management companies.

IV. Financial Disclosure Requirement

Financial disclosure is a key element of the Ethics Law. There are two main purposes to financial disclosure:

- To assist public officials and employees in avoiding conflicts of interest related to their holdings; and
- To make information about the financial interests of public officials and employees available to the Commission and the public.

The Ethics Law requires that all members and the Executive Director of the Ohio Casino Control Commission, all the Commission's professional employees, and all the Commission's technical employees who perform an internal audit function to file annual disclosure statements.⁴

V. General Guidance

The Ethics Law and related statutes, which apply to all public officials and employees, existed prior to the enactment of Am. Sub. H.B. 519. These laws apply to officials and employees of the Casino Control Commission and to

individuals and organizations operating and managing casinos.

VI. Summary of the Law

Among other restrictions, the Ethics Law and related statutes prohibit Casino Control Commission officials and employees from:

- Taking actions to secure contracts for themselves, their family, or anyone with whom they have ongoing business relationships;
- Hiring, or using their positions to secure jobs or related benefits for, family members;
- Profiting from public contracts they authorized;
- Having an interest in Casino Control Commission contracts;
- Using their positions to secure things of substantial value for themselves, their family members, or those with whom they have ongoing business relationships;
- Soliciting or accepting things of substantial value for themselves or their family members from vendors, potential vendors, and regulated and interested parties;
- Accepting compensation to perform services on any matter before any state office, department, board, or commission;
- Disclosing or using confidential information;
- Soliciting or accepting any form of compensation from anyone other than the Commission for performing Casinos and the Ohio Ethics Law Commission services or to supplement their state compensation; and
- Representing others before any public agency in a matter in which the official or employee was involved.

These restrictions are more fully described in information sheets and advisory opinions available from the Commission and on its Web site.

VII. Specific Restrictions of Note

A. **Securing Anything of Value**

Casino Control Commission officials and employees are prohibited from voting, discussing, deliberating about, recommending, or otherwise taking any action, within the scope of the official's public authority, to secure benefits for the official or any of the official's close family members or business associates.⁵

Examples of Restriction

- A member of the Commission is prohibited from voting on a resolution that definitely and directly affects the Commission's private business.
- The Director of the Commission is prohibited from directing the work of employees on a matter that definitely and directly affects a business owned by the director's parents.
- A Commission member who also has private employment is prohibited from making recommendations to other Commission members on a matter that definitely and directly affects the employer.

B. **Soliciting and Giving Things of Value**

All public officials, including members and employees of the Casino Control Commission, are prohibited from soliciting or accepting things of value, such as gifts, employment, travel, meals, and lodging, entertainment, or discounts, for themselves, their business associates, or their family members from any person, including any casino operator, management company, or gaming-related vendor.⁶ R.C. 102.03(D) and (E) prohibit officials from soliciting, accepting, or using the authority of a public position to secure anything of value that could have a "substantial" and "improper" influence upon the officials in the performance of public duties.⁷

Furthermore, all casino operators, management companies, and other gaming-related vendors are prohibited from promising or offering

things of value to public officials charged with oversight or other duties related to the casino industry.⁸ R.C. 102.03(F) prohibits any person from promising or giving any public official or employee anything of value that could have a "substantial" and "improper" influence on the official or employee with respect to the performance of that person's duties.⁹

"Anything of value" includes money, goods and chattels, checks, realty, any promise of future employment, and every other thing of value.¹⁰ Examples include employment opportunities (whether full or part-time; permanent or temporary), personal service contracts, gifts (including small gifts with a substantial cumulative value), travel, meals and lodging, entertainment, major discounts, and other things of value that could benefit the official, the official's family members, or the official's business interests.¹¹

A thing of value could have substantial and improper influence on an official if it could impair the official's objectivity and independence of judgment with respect to the official's public duties.¹² It is unnecessary that the thing of value actually has a substantial and improper influence on the official provided that it is of such a character that it **could** have an influence.¹³

Some things of value—because of their source—could have an "improper" influence upon officials in the performance of their duties.¹⁴ A person or company, or other public or private entity, is an improper source of things of substantial value to officials of a public agency if the person, company, or entity is regulated by, interested in matters before, or doing or seeking to do business with, the agency.¹⁵

Some things of value—because of their nature—could have a "substantial" influence upon officials in the performance of their duties.¹⁶ Gifts, meals at expensive restaurants, discounts on major consumer items, travel, lodging, exclusive golf outings, and season tickets to a professional sports team, are of a substantial value.¹⁷

Compensation or other benefits for consulting services or outside employment also have a substantial value.¹⁸

Therefore, officials, employees, and agents of a casino operator, a management company or other gaming-related party are prohibited from promising, offering, or giving any state or local public official anything of substantial value, if the public agency the official serves has business, regulatory, or other dealings with that party. The prohibition applies even if the official is not required to file a financial disclosure statement or is not required to disclose the item on the financial disclosure statement.

A public official is also prohibited from soliciting or accepting things of substantial value from these improper sources for themselves, their business associates, or their family members.¹⁹

R.C. 2921.43 also prohibits a public official from accepting, and any source other than the public employer from giving, anything of value intended as compensation for some action, inaction, or decisions of the official in the performance of public duties.²⁰

Examples of Restrictions

- A casino management company is prohibited from offering an employee of the Casino Control Commission a part-time security job in a casino operating in the official's jurisdiction.²¹
- A local law enforcement official is prohibited from soliciting a security job in a casino operating in the officer's jurisdiction for a family member.
- A contractor hired to build a casino is prohibited from paying for the travel, meal, and lodging expenses for local officials to visit construction sites in order to view the contractor's work.²²
- A state tax official who supervises the employees that audit the casinos is prohibited from offering private accounting services to a casino operator or from soliciting a consulting contract for a private business partner.

VIII. New Ethics Law Restrictions

Three new laws were enacted in Am. Sub. H.B. 519: R.C. 102.03(A)(10), (L), and (M). These provisions create **additional** restrictions, within the Ethics Law, for board members, officials, and employees of the Ohio Casino Control Commission.

R.C. 102.03(A)(10) prohibits any present or former Ohio Casino Control Commission official, during public service or for **two** years thereafter, from:

- Representing a client or acting in a representative capacity on any matter in which the employee personally participated as a commission employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other substantial exercise of administrative discretion.

R.C. 102.03(L) prohibits a public official or employee with a casino gaming regulatory function from:

- Indirectly investing, by way of an entity the public official or employee has an ownership interest or control in, or directly invest in a casino operator, management company, holding company, casino facility, or gaming-related vendor.
- Directly or indirectly having a financial interest in, having an ownership interest in, being the creditor or hold a debt instrument issued by, or having an interest in a contractual or service relationship with a casino operator, management company, holding company, casino facility, or gaming-related vendor.

Any member or employee of the Casino Control Commission who is a partner or employee of a company should determine whether the company has contracts with or provides services to any casino operator, management company, holding company, casino facility, or gaming-related vendor. If the company does provide such services, the official should

seek further guidance from the Commission about the application of R.C. 102.03(L).

R.C. 102.03(M) prohibits a member, the executive director, and all employees of the Ohio Casino Control Commission from:

- Accepting a gift, gratuity, emolument, employment or other thing of value, from a casino operator, management company, or other person subject to the jurisdiction of the commission, or any officer, attorney, agent, or employee of one of these parties;
- Soliciting, suggesting, requesting, or recommending, directly or indirectly, to a casino operator, management company, or other person subject to the jurisdiction of the commission, or to an officer, attorney, agent, or employee of one of these parties the appointment of a person to an office, place, position, or employment;
- Participating in casino gaming or any other amusement or activity at a casino facility in Ohio or at an affiliate gaming facility of a licensed casino operator, wherever located.

Considered together with R.C. 2921.43(A), R.C. 102.03(M) results in a complete bar on the members, executive director, and employees of the Casino Control Commission from accepting anything of value, regardless of amount, from the sources discussed in R.C. 102.03(M).

These three prohibitions are first degree misdemeanors, punishable by up to six months in prison and a \$1000 fine. A person convicted of a

violation of R.C. 102.03(M) will **also** forfeit public office or employment.²³

IX. Penalties

The Ethics Law and related statutes are criminal laws. If a person is convicted of violating an ethics law, that person may receive a jail sentence and/or have a fine levied against him or her.

X. Conclusion

Visit the Commission's Web site at www.ethics.ohio.gov or contact the Commission if you have questions about this information sheet or the Ohio Ethics Laws. Copies of the Commission's formal advisory opinions and other information about the Commission and the law can be obtained from the Commission's Web site or:

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References:

¹ Ohio Revised Code Chapter 102. and Sections 2921.42 and 2921.43.

² The ethics agency with jurisdiction over ethics issues related to members and employees of the General Assembly is the Joint Legislative Ethics Committee. The ethics agency with jurisdiction over ethics issues related to judicial officers and employees is the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court.

³ R.C. 102.02(A); 102.03(A)(10), (L), and (M).

⁴ R.C. 102.02(A).

⁵ R.C. 102.03(D) and (E).

⁶ R.C. 102.03(D) and (E).

⁷ R.C. 102.03(D) and (E).

⁸ R.C. 102.03(F).

⁹ [Adv. Op. 2001-08](#)

¹⁰ R.C. 1.03.

¹¹ [Adv. Op. No. 86-003](#).

¹² [Adv. Ops. No. 91-010](#) and [95-001](#).

¹³ Id.

¹⁴ [Adv. Op. No. 86-011](#)

¹⁵ Id.

¹⁶ [Adv. Op. No. 86-011](#)

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¹⁷ [Adv. Ops. No. 2001-04](#), [2001-03](#), [95-001](#), [92-015](#), and [89-014](#).

¹⁸ [Adv. Op. No. 96-004](#).

¹⁹ [Adv. Op. No. 2009-06](#).

²⁰ R.C. 2921.43(A).

²¹ R.C. 102.03(M).

²² [Adv. Op. No. 90-001](#).

²³ R.C. 102.03(M).