



Mille Lacs Band of Ojibwe Indians
Gaming Regulatory Authority
Detailed Gaming Regulations

GAMING REGULATORY BOARD APPEAL POLICIES

Document No. DGR – 2

Effective: April 28, 2016

I. APPEAL OF COMPLIANCE RECOMMENDATIONS TO GAMING REGULATORY BOARD

Section 1. Scope. This section refers to Determinations Hearings before the Gaming Regulatory Board (hereinafter “GRA Board”) (or a Hearing Examiner Appointed by the Board) for Compliance Recommendations Only. The Director of the Office of Gaming Regulation and Compliance (hereinafter “Director”) shall be responsible for all Compliance Recommendations. The GRA Board (or Hearing Examiner) shall make all Compliance Determinations. The process for appealing Compliance Recommendations involving license denials, suspensions or revocations *directly to the Court of Central Jurisdiction* is more fully described in Section II of this policy. The process for appealing GRA Board Compliance *Determinations* to the Court of Central Jurisdiction is more fully described in Section III of these policies.

Section 2. Definitions. For the purposes of these policies, the following definitions shall apply:

- A. “Act” means, for the purposes of this section, the Mille Lacs Band Gaming Regulatory Act, codified at Title 15 of Mille Lacs Band Statutes Annotated (MLBSA).
- B. “Appellant” means, for the purposes of this section, a person appealing either a negative Compliance Recommendation by the Director or Compliance Determination by the GRA Board.
- C. “Applicant” means an individual or entity that applies for a Band gaming license or certification.
- D. “Background Investigation” has the meaning given in 25 C.F.R. part 556.4.
- E. “Band” means the Mille Lacs Band of Ojibwe.
- F. “Compliance Determination” has the meaning given in 15 MLBSA § 308 of the Act.
- G. “Compliance Recommendation,” for the purposes of this section, means any of the following actions by the Director:
 - 1. A recommendation to suspend, revoke or not to renew an existing gaming employee, gaming supplier, or vendor license;
 - 2. A recommendation to deny licensure to a gaming employee or gaming supplier applicant;
 - 3. A recommendation regarding claims made by a patron who refuses a Final Best Offer made by Gaming Enterprise Management or Mille Lacs Corporate Ventures;
 - 4. A recommendation regarding contract claims made by a gaming supplier or vendor who refuses a Final Best Offer made by Gaming Enterprise Management or Mille Lacs Corporate Ventures; or
 - 5. A recommendation to include a person on the Exclusion list prepared pursuant to 15 MLBSA § 312.
- H. “Corporate Commissioner” Commissioner of Corporate Affairs for the Mille Lacs Band of Ojibwe and the Chief Operating Officer (COO) of Mille Lacs Corporate Ventures.
- I. “Court of Central Jurisdiction” means the Court of Central Jurisdiction of the Mille Lacs Band of Ojibwe Indians as established by 5 MLBSA Section 1 et seq.
- J. “Director” means the Director of the Office of Gaming Regulation and Compliance as described in 15 MLBSA § 401.
- K. “Final Best Offer Letter” means the official written communication sent by Mille Lacs Corporate Ventures to a patron, gaming supplier or vendor regarding a patron or vendor contract dispute. Such a letter must clearly be identified as Mille Lacs Corporate Venture’s



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Final Best Offer, and the receipt of such letter shall trigger a twenty (20) day period during which such patron or vendor may file a written Notice of Appeal requesting a Compliance Recommendation with the Director of the Office of Gaming Regulation and Compliance, a member of the GRA Board, or a member of the Compliance Department staff. All Final Best Offer letters shall contain prominent written notice of the twenty (20) day time limit for filing of appeals.

- L. “GRA Board” means the Gaming Regulatory Authority Board created by Title 15 of Mille Lacs Band Statutes.
- M. “Immediate Family Member” means persons who are the subject individual’s spouse, including parents, siblings, or children (either adopted or biological).
- N. “Mille Lacs Corporate Ventures or MLCV” means Mille Lacs Corporate Ventures of the Mille Band of Ojibwe Indians as established by 16 MLBSA § 101 *et seq.*

Section 3. Persons or Entities Permitted to Appeal Compliance Recommendations: Any of the following may appeal:

- A. A gaming employee or gaming supplier/vendor licensee who has had a license suspended, revoked or non-renewed;
- B. A gaming employee or gaming supplier license applicant who has been denied licensure;
- C. A patron who is dissatisfied with a Compliance Recommendation by the Director regarding his/her claim against Gaming Enterprise management;
- D. A vendor/gaming supplier who is dissatisfied with a Compliance Recommendation by the Director regarding his/her/its claim against Gaming Enterprise management; or
- E. A person recommended for exclusion from a Mille Lacs Gaming Enterprise by the Director pursuant to 15 MLBSA § 312.

Section 4. Compliance Recommendation Appeal Timelines. Pursuant to 15 MLBSA § 402(b)(2), all Compliance Recommendations shall contain a notice of the date, time and location of the hearing at which the GRA Board (or Hearing Examiner) shall consider such recommendation prior to the issuance of a Compliance Determination. Such hearing shall constitute the only Determination Hearing before the GRA Board, unless the GRA Board, in its discretion, continues a hearing until the next available hearing date in the interest of fairness and equity.

- A. The GRA Board (or Hearing Examiner appointed by the Board) shall convene to consider all Compliance Recommendations within ten (10) days of receipt of the Compliance Recommendation from the Director unless, for issues of licensing only, the GRA Board has received notice of intent to appeal directly to the Court of Central Jurisdiction [see Section II of these Policies for more information on the requirements for timely notice of appeal of a Compliance Recommendation directly to the Court of Central Jurisdiction and notice to the GRA Board of intent to file such appeal].
- B. Any person who wishes to appeal a Compliance Recommendation, including any patron or vendor who wishes to appeal a dispute that the patron or vendor believes was unresolved at the Gaming Facility level, must appeal such recommendation at the next meeting of the GRA Board scheduled to hear the Compliance Recommendation, or on the hearing date established for the Hearing Examiner to hear such Compliance Recommendation. For good cause shown, the GRA Board may grant an extension to the ten-day deadline at the request of the appellant, or in the interest of fairness and equity.



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Section 5. Limitations on Patron and Vendor Contract Disputes. Pursuant to 15 MLBSA § 305(a)(10) and 15 MLBSA § 307(j), the GRA Board may resolve gaming related disputes involving patrons and vendors of any Gaming Enterprise, after all potential remedies available from management at the Gaming Enterprise are exhausted and a Final Best Offer has been issued, subject to the following limitations:

- A. Patron Limits. All claims by patrons against a Gaming Enterprise resolved either by the GRA Board or Court of Central Jurisdiction shall be limited to a maximum recovery of \$10,000 per claim and a cumulative limit of \$20,000 per patron per year regardless of the number of claims.
- B. Vendor Limits. All claims by Vendors or Gaming Suppliers against a Gaming Enterprise resolved either by the GRA Board or Court of Central Jurisdiction shall be limited to the amount of the contract between the vendor or Gaming Supplier and the Gaming Enterprise that is the subject matter of the claim. However, this provision is subject to the existence of an effective waiver of sovereign immunity pursuant to Band statutes. Under no circumstances shall punitive or other damages, costs or fees be recoverable.

Section 6. Patron/Vendor Deadline for Filing Appeal with GRA Board. Any patron or vendor who wishes to appeal an unresolved gaming or contract dispute must file a Notice of Appeal with the GRA Board, the Director or his/her designee within twenty (20) days of receiving an unsatisfactory Final Best Offer from Gaming Enterprise.

- A. The Notice of Appeal must be in writing and transmitted to a GRA Board member, the Director or his/her designee.
- B. The Notice of Appeal must contain a copy of all information in the possession of the appellant and submitted to the Gaming Enterprise to justify the claim.
- C. The Director shall issue a Compliance Recommendation concerning each dispute within five (5) days of receiving all relevant material, and the GRA Board (or the Hearing Examiner) shall hold a Compliance Determination hearing within ten (10) days of receiving the Compliance Recommendation to consider the dispute.
- D. The Gaming Enterprise shall be responsible for providing to the Director all information relied upon to deny the patron or vendor's claim within two (2) business days of being notified that the Director has received a properly filed Notice of Appeal. Either party may seek to supplement the record at the Determination Hearing, which the GRA Board may permit in the interest of fairness and equity.
- E. GRA Board Compliance Determinations regarding patron or vendor disputes may be appealed to the Court of Central Jurisdiction.

Section 7. Director Review of Patron and Vendor Contract Disputes. The Director, in making his/her Compliance Recommendation to the GRA Board (or Hearing Examiner), may review the Gaming Enterprise record of the patron or vendor contract dispute, and any other material supplied by either party. Neither party may supplement the GRA Board record once it is established at the Determination Hearing. Such record shall constitute the GRA Board record for appeals to the Court of Central Jurisdiction.

Section 8. Special Rules for Suspensions Mandated by the NIGC. In all cases where the National Indian Gaming Commission directs the GRA Board to suspend a gaming license pursuant to 25 C.F.R. § 558.5, the Director shall:

- A. immediately suspend the license;



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- B. notify the licensee of the reason(s) for the suspension and proposed revocation; and
- C. notify the licensee of the time and date for the hearing on the proposed revocation.

The notice provided to the licensee shall clearly state that the license suspension was mandated by the National Indian Gaming Commission. At the revocation hearing, the GRA Board (or a Hearing Examiner) may revoke or reinstate the gaming license. The GRA Board shall notify the NIGC of such decision. For all suspensions mandated by the NIGC pursuant to this section, the GRA Board (or a Hearing Examiner) shall hold the required hearing within fifteen (15) days of the issuance of the notice of suspension by the Director. License revocations pursuant to this subsection may be appealed to the Court of Central Jurisdiction according to the regulations prescribed in Section III of these Policies.

II. APPEAL OF COMPLIANCE RECOMMENDATIONS DIRECTLY TO COURT OF CENTRAL JURISDICTION

Section 1. Scope. ONLY a person (as defined in 15 MLBSA § 3(rr)) who has received a Compliance Recommendation from the Director that recommends a license denial, suspension or revocation may bypass appeal to the GRA Board and appeal directly to the Court of Central Jurisdiction.

Section 2. Waiver of Right to GRA Board Compliance Determination. Any person electing to appeal directly to the Court of Central Jurisdiction shall waive any right to receive a Compliance Determination from the GRA Board.

Section 3. Timeline for Filing Appeal in Court of Central Jurisdiction. Any appeal directly to the Court of Central Jurisdiction must be properly filed within twenty (20) days after the date of the issuance of a Compliance Recommendation to deny, suspend or revoke a gaming license.

Section 4. Notice of Intent to GRA Board. Any licensee or license applicant that intends to appeal a Compliance Recommendation directly to the Court of Central Jurisdiction must notify the GRA Board of such intent at least one business day prior to the hearing at which the Director's Compliance Recommendation regarding the licensee or license applicant in question is to be considered by the GRA Board.

A. Such notice must be in writing and must be delivered to a Board Member, the Director or his/her designee at a Band Gaming Enterprise no later than close of business on the business day immediately preceding the date of the Compliance Determination hearing.

B. Once such notice is received, the licensee or applicant no longer has the right to receive a Compliance Determination from the GRA Board and assumes the risk of improper filing of an appeal at the Court of Central Jurisdiction.

Section 5. GRA Record for Appeals to Court of Central Jurisdiction. Appeals directly to the Court of Central Jurisdiction shall be filed in accordance with the Court Rules. The GRA Record for such appeals shall be comprised of all information relied upon by the Director in making the Compliance Recommendation. The Director shall provide a copy of all information relied upon in the Compliance Recommendation to the person or entity filing an appeal pursuant to this Section no later than two (2) business days after receiving notification that such person or entity intends to appeal directly to the Court of Central Jurisdiction.

Section 6. Standard of Review. The Court of Central Jurisdiction will review the Compliance Recommendation in question pursuant to the standard of review identified in 15 MLBSA § 503(a).



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III. APPEAL OF COMPLIANCE DETERMINATIONS TO COURT OF CENTRAL JURISDICTION

Section 1. Compliance Determinations for Applicants/Licensees/Patrons/Vendors. Pursuant to 15 MLBSA § 307(j), all customers, vendors, licensees and persons who have been denied reversal of an adverse Compliance Recommendation or denied any other relief requested from the GRA Board may appeal such Compliance Determination or final enforcement order to the Court of Central Jurisdiction.

Section 2. Deadline for Appeal to Court of Central Jurisdiction. Any appeal filed with the Court of Central Jurisdiction must be properly filed within twenty (20) days after the date of the issuance of a Compliance Determination or final order that denies, suspends or revokes a license, or does not grant the relief requested.

Section 3. Limitations on Awards. All claims involving denial, suspension or revocation of a gaming license shall be limited to an award of the specific performance of granting or reinstating such license. All patron and vendor claims shall be limited as described in 15 MLBSA § 311(b) and (c).

Section 4. Compliance Determination: Gaming Regulation. Pursuant to 15 MLBSA § 305(b)(4), any person (or entity) who submitted comments regarding a proposed regulation during the notice and comment period outlined in 15 MLBSA § 305(b)(2) may appeal to the Court of Central Jurisdiction regarding any failure by the Board to modify or amend the proposed regulation in compliance with the submitted comments. Such failure shall constitute a Compliance Determination by the GRA Board, and may be appealed to the Court of Central Jurisdiction pursuant to 15 MLBSA § 305(b)(4). The Court will consider such appeal pursuant to the standard of review identified in 15 MLBSA § 503(a). This section shall not apply to the Initial Detailed Gaming Regulations, which shall be subject to approval by the Band Assembly, and annulment by the Joint Session for a period of sixty (60) days after approval by the Band Assembly. Thereafter, the Court may grant relief as described in 15 MLBSA § 503.

Section 5. Deadline to Appeal Compliance Determination: Regulation. Pursuant to 15 MLBSA § 305(b)(4), approval of any regulation (other than the Initial Detailed Gaming Regulations which are subject to approval by the Band Assembly and annulment by the Joint Session) by the GRA Board shall be considered a Compliance Determination for purposes of effecting an appeal pursuant to 15 MLBSA § 502 and § 503. Any such appeal must be filed with the Court of Central Jurisdiction within twenty (20) days after the date of issuance of the regulation in question.

IV. HEARING EXAMINER

Section 1. Use of Hearing Examiner. Pursuant to 15 MLBSA § 308, the GRA Board may employ the services of a Hearing Examiner to hear appeals that would otherwise be heard by the GRA Board. The Hearing Examiner, at the GRA Board's direction, may either (1) make a recommendation for a Compliance Determination to the GRA Board or (2) issue a Compliance Determination on behalf of the GRA Board.

Section 2. Qualifications. As defined in 15 MLBSA § 3(ff), any Hearing Examiner employed by the GRA Board shall be (1) independent of any claimant, Mille Lacs Corporate Ventures, any Gaming Enterprise, and any affiliates of the foregoing; (2) an attorney in good standing licensed by the Mille Lacs Band and any State; and (3) have relevant legal experience.



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Section 3. Scope of Hearing Examiner’s Duties. The GRA Board shall clearly state the scope of the Hearing Examiner’s duties by contract or other written agreement. The GRA Board shall only assign its appeal duties and responsibilities to the Hearing Examiner.

V. DIRECTOR OF OFFICE OF GAMING REGULATION AND COMPLIANCE: COMPLIANCE RECOMMENDATIONS.

Section 1. Scope of Director’s Authority. Pursuant to 15 MLBSA § 402(a)(2), the Director of the Office of Gaming Regulation and Compliance shall be responsible for enforcement of all applicable gaming laws and regulations at all Gaming Enterprises, including investigations into any matter within the scope of the GRA Board’s authority. Such investigations may include employee, management and gaming supplier/vendor background investigations, and investigations into gaming related patron and vendor contract complaints that have not been resolved at the Gaming Enterprise. Each type of investigation shall result in a Compliance Recommendation by the Director to the GRA Board (or Hearing Examiner at the GRA Board’s discretion).

Section 2. Access to Data. Pursuant to 15 MLBSA § 402(a)(3), the Director shall have access to all areas, records, files and data of any Gaming Enterprise, and may interview any associate of any Gaming Enterprise with respect to matters relating to the operation of any Gaming Enterprise without first notifying the associate’s supervisor or any other employee of any Gaming Enterprise, and shall have access to the results of Background Investigations carried out pursuant to 15 MLBSA § 306(b) and § 307(b) and (c) and these Gaming Regulations.

Section 3. Compliance Recommendations. Pursuant to 15 MLBSA § 402(b)(1), the Director of Gaming Regulation and Compliance shall provide a written summary of the facts relied upon for the compliance recommendation and (1) state whether or not the license should be granted, suspended or revoked; (2) state whether or not the documented practices and procedures satisfy the relevant statutes and regulations; or, (3) recommend appropriate corrective, enforcement or other responsive action. At the GRA Board’s discretion, the Director may present for GRA Board approval at an official hearing only the names of those persons that he/she intends to *recommend for licensure* as gaming employees. However, written documentation substantiating each positive recommendation shall immediately be provided at the request of the Chair or any Board member.

Section 4. Compliance Recommendation – Mandatory Recipients. Within five (5) days of receiving all information necessary to render a Compliance Recommendation, the Director shall submit a copy of the Compliance Recommendation to each Board Member, the Corporate Commissioner, the licensee or license applicant if the Compliance Recommendation involves a license denial, suspension, or revocation, or for any vendor or patron that is the subject of a Compliance Recommendation carried out pursuant to 15 MLBSA § 307(h).

Section 5. Notice Requirements. The Notice shall contain the following information:

- A. Statement that the Compliance Recommendation hearing will be heard by the GRA Board (or, at the Board’s discretion a Hearing Examiner) pursuant to 15 MLBSA § 308. Such notice shall include the time and date that the Recommendation will be heard;
- B. A copy of the GRA Board’s hearing procedures for issuing a Compliance Determination;
- C. A statement that all parties have the right to counsel at their own expense;



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- D. A statement that all parties have the right to appear before the GRA Board (or Hearing Examiner);
 - E. A statement that all parties have the right to review the record upon which the initial Compliance Recommendation was made, including the right to request a copy of the record from the Office of Gaming Regulation and Compliance (at a cost of .25 cents per page) prior to the Determination Hearing before the GRA Board (or Hearing Examiner), or upon notice to the GRA Board of intent to appeal directly to the Court of Central Jurisdiction;
 - F. A statement that any party may supplement the record with any information deemed relevant by the GRA Board; and
 - G. A statement that pursuant to 15 MLBSA § 501(b), a person who has received a Compliance Recommendation that recommends a license denial, suspension, or revocation may appeal directly to the Court of Central Jurisdiction, but that if such action is taken, he or she waives any right to receive a Compliance Determination from the GRA Board.

VI. EMERGENCY ENFORCEMENT ORDERS

Section 1. Standard for Emergency Order. Pursuant to 15 MLBSA § 402(c), the Director finds that there is an immediate threat to Band assets, or that probable cause exists to believe that a crime has been, or is about to be committed, the Director may, by Emergency Order, immediately impose any legitimate regulatory enforcement and/or corrective action within the scope of the GRA Board's authority which is proportional to the harm such Emergency Order seeks to remedy.

Section 2. Emergency Order Requirements. Emergency Orders shall be in writing, and the Director shall immediately forward any such order, along with a supporting Compliance Recommendation to the GRA Board and the Corporate Commissioner in the manner provided in 15 MLBSA § 312(d). In addition to all facts relied upon in the Compliance Recommendation, the Director shall fully explain the conditions that require the issuance of an Emergency Order pursuant to the standard described in Section 1.

Section 3. GRA Board Consideration of Emergency Order. The GRA Board shall act upon any Emergency Order and Compliance Recommendation issued by the Director pursuant to these rules in the manner provided in 15 MLBSA § 312(e), except that it shall convene to consider the Emergency Order and Compliance Recommendation within three (3) days of receipt. In any such proceeding, the Compliance Determination of the GRA Board shall supersede the Director's Emergency Order.

VII. GRA BOARD HEARING PROCEDURES

Section 1. GRA Board/Hearing Examiner. The GRA Board may employ the services of a Hearing Examiner to perform some, or all, of the Board's hearing functions, including appeals of Compliance Recommendations, patron disputes and vendor contract disputes. Within ten (10) days of receiving a Compliance Recommendation from the Director, the GRA Board (or Hearing Examiner) shall convene a hearing to consider each Recommendation.

Section 2. Burden of Proof. The burden of proving an applicant's qualification to receive an employee or gaming supplier gaming license pursuant to the Gaming Regulatory Act is at all times on the Applicant. Any gaming license issued by the GRA Board shall be deemed a privilege, and not a right, and is therefore subject to suspension or revocation. Any patron or



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vendor appealing to the GRA Board (or Hearing Examiner) shall bear the burden of proving legal entitlement to any recovery.

Section 3. License Suspension/Revocation. If, after the issuance of a gaming license, the GRA Board or the Director receives reliable information indicating that a licensed employee or gaming supplier is not eligible for a license, or poses (or may pose) a threat to the public interest or to the effective regulation of gaming, or creates or enhances the dangers of unsuitable, unfair or illegal practices and methods and activities in the conduct of gaming, the Director shall issue a Compliance Recommendation pending further action by the GRA Board. Following a Determination Hearing before the GRA Board or a Hearing Examiner, the GRA Board may take any of the following actions:

- A. suspend the license for a period of time;
- B. revoke the license;
- C. issue a reasonable fine pursuant to the approved fine schedule; or
- D. reinstate the license on a conditional basis.

Section 4. Duty to Report. Any person with information from any source regarding an application or an existing license which may be relevant to a decision to grant, deny, suspend, revoke or fail to renew an application or license shall direct such information to the Director or a Compliance staff member or a member of the GRA Board.

Section 5. Discovery. Upon request by the applicant, licensee, patron or vendor, the Director (or the GRA Board's counsel) shall provide copies of any evidence to be submitted in support of the Compliance Recommendation at the Determination Hearing, including the names of any possible witnesses who may testify. The appellant shall bear the risk of the failure to request such information in a timely manner. The appellant shall also provide copies of any evidence he/she intends to submit at the Determination Hearing, including the names of any possible witnesses, to the Director (or the GRA Board's counsel) prior to the hearing. The GRA Board (or the Hearing Examiner) may order either party to disclose information not provided (and postpone the hearing to consider the information at a later date), or exclude any information not properly disclosed prior to the Determination Hearing.

Section 6. Disqualification of GRA Board Members. A member of the GRA Board shall not participate in any manner in an action in which the licensee is an immediate family member of that Board member, or lives in the same household as the Board member.

Section 7. Official Record. All Determination Hearings before the GRA Board (or the Hearing Examiner) shall be either tape recorded or recorded by a certified court reporter. All Determination Hearings shall be conducted on the record, and the GRA Board's (or Hearing Examiner's) findings, conclusions, and decision shall be based only upon evidence presented on the record. The Determination Hearing record shall be composed of the Compliance Recommendation, all evidence presented to the GRA Board (or Hearing Examiner), the tape recording or transcript of the hearing, any written submission of the parties, and the Board's (or the Hearing Examiner's) findings of fact, conclusions of law, and the Board's decision (including any recommendation made by the Hearing Examiner, if applicable).

Section 8. Assistance of Counsel. The Director and the GRA Board shall inform each appellant of the right to have legal counsel or other advocate present at his/her expense.

Section 9. Hearing Procedures. In the absence of any appellant, the Director or his/her designee shall present all relevant evidence to the GRA Board (or Hearing Examiner) on the record. If an



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applicant, licensee, patron or vendor is present to appeal a Compliance Recommendation issued by the Director, the following procedures shall apply:

- A. Opening Statements. The Director (or the GRA Board's counsel) may make a brief opening statement explaining the legal basis for the Compliance Recommendation, the evidence to be submitted in support of the Compliance Recommendation, and the legal conclusions he/she urges the Board (or Hearing Examiner) to adopt. Immediately following, the appellant may make a similar opening statement.
- B. Presentation of Evidence. Following opening statements, in accordance with the Hearing Rules of Evidence outlined in Section VIII, the Director (or the GRA Board's counsel) may present documentary evidence and witnesses in support of the Compliance Recommendation. The appellant may do the same at the conclusion of presentation of evidence by the Director (or GRA Board's legal counsel). An appellant that is not represented by counsel or a legal advocate may present testimony directly to the GRA Board (or Hearing Examiner). Unless the GRA Board Chair or Hearing Examiner orders otherwise, the Director (or GRA Board's legal counsel) shall always present evidence first, followed by the appellant.
- C. Exclusion/Sequestration. The GRA Board (or a Hearing Examiner) may exclude any person who is not a party, or counsel/advocate to a party, during the testimony of any witness. At the GRA Board's/Hearing Examiner's discretion, witnesses may be sequestered until the time they are called to testify.
- D. Conduct at Hearing. No person may speak at a hearing without first being recognized by the Chair of the GRA Board, a designee, or the Hearing Examiner. The Chair or the Hearing Examiner shall have the authority to eject from the hearing any person whose behavior is patently disrespectful to the GRA Board or disruptive to the hearing process. If the person ejected was a party to the proceeding, the GRA Board (or Hearing Examiner) shall give the opposing party an opportunity to complete its presentation of evidence, and shall be authorized to render judgment on the evidence submitted by the ejected party up until the point of ejection.
- E. Oath or Affirmation. Before testifying, every witness shall be required to declare that he/she will testify truthfully, by oath or affirmation administered by the Board Chair, a designee, or the Hearing Examiner.
- F. Questions by Board Members. The Chair of the GRA Board, any Board member or the Hearing Examiner may ask questions of any witness, the Director, or the Board's counsel (if applicable) during the course of questioning.
- G. Cross-Examination. The parties shall be allowed a reasonable opportunity to confront and cross-examine witnesses presented by the opposing party at the hearing. Cross-examination by a party, if desired, shall occur after each witness's direct testimony.
- H. Closing Statements. At the conclusion of the presentation of evidence, either party may present a brief closing statement, limited to a description of how the evidence presented supported their argument before the Board (or Hearing Examiner).

Section 10. Ex Parte Communication Prohibited. No ex parte communication relative to any matter(s) being considered by the GRA Board (or Hearing Examiner), or threat or offer of reward shall be made, before a decision is rendered to any member of the GRA Board, a Hearing Examiner (if applicable) or any Band elected official.



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- A. Nothing in this section shall prohibit the applicant, licensee, patron or vendor (or its authorized agent) from communicating with the Director or counsel for the GRA Board.
 - B. Any member of the GRA Board or Band elected official who receives an ex parte communication shall immediately report such communication in writing to the GRA Board Chair or counsel for the GRA Board.
 - C. For the purposes of this section, “matter(s) being considered by the GRA Board” shall mean those matters identified in the written Compliance Recommendation, as well as any other matters that are actually considered by the GRA Board (or Hearing Examiner) during hearing.
 - D. The GRA Board (or Hearing Examiner) shall have the power to impose reasonable sanction(s) pursuant to 15 MLBSA § 310, upon its determination that any person subject to this Act has made an ex parte communication in violation of this section.

Section 11. Failure of a Party to Appear or Remain. If a party properly notified fails to appear at the Determination Hearing, the GRA Board (or Hearing Examiner) may, in its discretion, proceed with the matter or postpone the hearing. Except for good cause shown, by failing to appear when duly notified of the time and date for the hearing, a party waives any objection to the GRA Board’s (or Hearing Examiner’s) Compliance Determination. If a party leaves a Determination Hearing prior to the close of a hearing, that party waives any objection to the Compliance Determination, and the GRA Board (or Hearing Examiner) may continue with the hearing, suspend the hearing until such time as the party reappears, or close the hearing and consider the matter submitted on the evidence received.

VIII. GRA BOARD HEARING RULES OF EVIDENCE

Section 1. Scope of Rule. These rules shall apply only to Determination Hearings before the Gaming Regulatory Authority Board or a Hearing Examiner duly appointed by the Board. They shall control the admission of evidence at all Determination Hearings before the Board.

Section 2. Relevancy Rule. The GRA Board (or a Hearing Examiner) shall admit and consider any evidence relevant to the matter before the Board. Evidence shall be considered relevant if it tends to make existence of a material fact more or less probable. For the purposes of Determination Hearings, evidence shall be relevant if it tends to prove that the Compliance Recommendation in question is or is not authorized by the Gaming Regulatory Act or these regulations. The GRA Board, or the Hearing Examiner, may exclude evidence that would be confusing, repetitious, unfairly prejudicial, or that lacks sufficient reliability.

Section 3. Federal Rules of Evidence. For all evidentiary issues not covered in these regulations, the Federal Rules of Evidence may provide guidance, but shall not control the admission of evidence at any Determination Hearing.

Section 4. Hearsay. The GRA Board (or Hearing Examiner) may base its Compliance Determination on reliable hearsay evidence, based on the rules contained below. For the purposes of Determination Hearings, hearsay shall be defined as an oral or written assertion or nonverbal conduct of a person intended as an assertion, originally made outside the hearing of, or by a person other than the person testifying, and offered into evidence to prove the truth of the matter asserted.



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- A. The GRA Board (or Hearing Examiner) shall only consider hearsay evidence if the circumstances of the statement bear sufficient guarantee of trustworthiness or if the statement is corroborated by independent evidence.
 - B. A written investigation report shall be admissible if the sources for the information contained in the report are identified and notice is given pursuant to the following subsection.
 - C. Where a party intends to submit a hearsay statement, the party shall provide a copy of the statement to the opposing party at least three (3) days before the hearing, except that notice may be given at a later time for good cause shown. Notice shall include the name and last known whereabouts of the hearsay declarant, if known.
 - D. In the case of a statement made during a background investigation, pursuant to 15 MLBSA § 307(h), the GRA Board and its agents shall keep the identity of any such declarant confidential, except that upon motion of either party the GRA Board (or Hearing Examiner) may order disclosure to the extent necessary to comply with federal law.

Section 5. Other Evidence Rules. The following rules shall also apply to the presentation of evidence at Determination Hearings:

- A. Number of copies. Each party shall be responsible for contacting the Director prior to the Determination Hearing to verify whether the Determination Hearing will be heard by the GRA Board or a Hearing Examiner. A party must submit at least eight (8) copies of any exhibit or document offered into evidence if the GRA Board will hear the Determination Hearing. A party shall submit at least three (3) copies of any exhibit or document offered into evidence if a Hearing Examiner will hear the Determination Hearing.
- B. Rulings on Evidence. Each party, as permitted by the GRA Board (or Hearing Examiner), may make arguments for or against the admission of proffered evidence, but the GRA Board (or Hearing Examiner) shall exercise sole discretion over the decision to admit or deny such evidence.
- C. Offer of Proof. A party whose proffered evidence is not admitted may make an offer of proof by indicating for the record what the answer would have been if the question had not been excluded; such issue may be considered on appeal pursuant to 15 MLBSA § 503(b).

Section 6. Waiver of Claims. A party waives any and all claims, objections, or issues not raised at the Determination Hearing.

IX. ISSUANCE OF COMPLIANCE DETERMINATIONS

Section 1. Basis for Determination. In addition to the Compliance Recommendation submitted by the Director, the GRA Board may consider any oral or written comments offered by the parties that the GRA Board deems to be relevant pursuant to the rules of evidence contained in these Policies. The GRA Board may also consider any additional information it determines to be necessary and appropriate to reaching a determination. All information considered by the GRA Board shall become part of the official record of the proceedings. Each Compliance Determination must be based on substantial evidence contained in the official record.

Section 2. Compliance Determination as Final Decision. In all cases, the GRA Board (or Hearing Examiner) shall issue a final decision in the form of a Compliance Determination. Each Compliance Determination shall be a written statement containing the findings of fact relied upon, conclusions of law based on the Gaming Regulatory Act and other applicable laws, and a final decision.



Mille Lacs Band of Ojibwe Indians
Gaming Regulatory Authority
Detailed Gaming Regulations

GAMING REGULATORY BOARD APPEAL POLICIES

Document No. DGR – 2

Effective: April 28, 2016

Section 3. Notification to Applicant/Licensee/Patron/Vendor. The GRA Board (or Hearing Examiner) may provide verbal notification of its Compliance Determination to the appellant immediately following the hearing and after its deliberation on the matter. Such verbal notification shall not form the basis for an appeal to the Court of Central Jurisdiction. The GRA Board (or Hearing Examiner) shall issue a written Compliance Determination no later than fifteen (15) business days after the hearing, which shall be considered the final decision of the GRA Board (or Hearing Examiner).

Section 4. Special Process for Hearing Examiner. If the Hearing Examiner is only authorized to make recommendations to the GRA Board, he/she shall issue a written recommendation to the Board no later than ten (10) days following the hearing, and the GRA Board shall consider such Hearing Examiner recommendation at its next scheduled meeting and issue a Compliance Determination within the time period described in Section 3.

History

Changes approved by the Gaming Regulatory Authority Board on April 28, 2016. Effective April 28, 2016

Changes approved by Approved by Band Assembly on June 29, 2005.