

REGULATORS OF THE YEAR 2012

BY SUE McNABB

Each year, IMGL honors and recognizes outstanding gaming regulators who have made significant contributions to gaming law, the industry, and to their respective jurisdictions. For 2012, IMGL has chosen Jamie Hummingbird, Director at the Cherokee Nation Gaming Commission as Gaming Regulator of the Year, Indian Country, and Kevin O'Toole, Executive Director of the Pennsylvania Gaming Control Board as Regulator of the Year, Americas. These two distinguished gentlemen join the ranks of IMGL past award recipients, a notable achievement. To be recognized by one's peers for major contributions to the gaming industry is not only indicative of the recipient's career and professional accomplishments but also indicative of his personal integrity and character. IMGL recognizes the achievements, contributions, integrity and service of its chosen regulators and congratulates Jamie Hummingbird and Kevin O'Toole for their accomplishment of IMGL's mission of "Advancing Gaming Law through Education."

GAMING REGULATOR OF THE YEAR, INDIAN COUNTRY: JAMIE HUMMINGBIRD

Jamie Hummingbird became Director of the Commission at the Cherokee Nation in 1998. He has served as the Chairperson of the National Tribal Gaming Commissioners' Regulators Association and remains active in the National Indian Gaming Association, the Oklahoma Indian Gaming Association, and the Oklahoma Tribal Gaming Regulators Association. Mr. Hummingbird works tirelessly for these organizations, and the recommendations of his peers who have known him professionally and personally praise his exceptional intelligence, integrity and character.

When Mr. Hummingbird assumed the role of Director of the Cherokee Nation, he had one staff member, oversaw three bingo halls that employed four hundred people and had very few electronic machines. Under his directorship, the Cherokee nation has opened additional facilities in northeast Oklahoma, growth augmented by the Tribal-State Compact that was approved in 2005. The evolution of the properties now includes the Hard Rock Hotel and Casino and a staff of sixty-nine, overseeing the activities of over four thousand employees, over fifty-five hundred gaming machines, and eighty table games across ten locations.

When asked about his position as Director of the Cherokee Nation, Mr. Hummingbird responded:

My current position has been my ideal job for the last fourteen years. I have been able to experience things that I never thought I



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would, have been able to meet and work with the brightest minds in the industry, and have been able to help other fellow regulators – what’s not to love? I look forward to coming to work most of the time.

Jamie Hummingbird considers being honored by his team with a leadership award at a recent all staff meeting to be his greatest achievement in his career. He has also received one of the highest honors in the Indian gaming regulatory industry when he was elected as Chairman of the National Tribal Gaming Commissioners/Regulators in 2006. He also received the Bruce Longhorn award for excellence in regulation from the National Indian Gaming Association that same year. Jamie says, “I have been fortunate to have been able to participate in a number of important tribal advisory committees with the NIGC and have appeared before Congress on two occasions. But being recognized by those with whom you serve – that has a special place in my heart.”

In discussing the challenges he faces as a regulator, Jamie Hummingbird states:

For me, the most difficult thing to overcome is the lack of awareness and understanding of what Indian gaming is all about and what it is we, as regulators, actually do to protect the industry. Often times, these misconceptions are held by those setting Indian gaming policy who feel that tribes cannot be completely trusted to govern themselves. As I have said many times in the past, and will continue to impress upon people – we do what we do not because a state or

federal government tells us what we need to do, we do what we do because we owe it to our tribal citizens to protect what is theirs.

As to the challenges facing regulators in general, Mr. Hummingbird cites the ever changing landscape of the industry and the challenge of coming up with ways to respond to new developments in technology that allow the gaming facilities to enhance revenue generation while at the same time providing the proper level of regulation. Furthermore, he says that the industry has seen unbelievable growth since electronic machines came into Indian country and, looking further down the Internet superhighway, the challenges regulators face will continue to keep them awake at night.

Jamie Hummingbird’s philosophy as a regulator is to achieve balance. He states, “We are not here to be a friend to operations; nor are we here to be their adversary.” In achieving balance, Jamie works to assure that the interests of the ultimate beneficiaries of the gaming facilities – the tribal citizens – are protected. He states, “Sometimes the desire to maximize profits and the need for proper protections don’t equal the same.” His goal is not to forsake the “integrity of the operation just to make a dollar nor to put unnecessary obstacles in the way of business.” For Jamie, achieving balance leads to success.

Jamie Hummingbird has always known his purpose is to serve his tribe, but says that it wasn’t until he began his career with the Gaming Commission that he truly found his calling. Seeing the benefits that come from gaming facilities and the impact they have on tribal citizens and communities, and knowing the role he has played and continues to play in protecting those benefits, has-for him-been very fulfilling.

Finally, Jamie Hummingbird’s advice to gaming attorneys and those involved in the gaming industry is to maintain your vigilance. He strongly believes that regulators have a responsibility to “keep a watchful eye over operations to ensure that the integrity of the games and the Nation is not compromised.” His final advice is to keep up the good fight.



REGULATOR OF THE YEAR, AMERICAS: KEVIN O'TOOLE

Kevin O'Toole, International Masters of Gaming Law Regulator of the Year for the Americas, has been the Executive Director of the Pennsylvania Gaming Control Board since June 2009. Mr. O'Toole has led the Board through the execution, coordination and direction of all activities related to the regulation of gaming in the 300-employee agency. During his leadership, he has worked to define and refine the operations of the Board to assure that it fulfills its mission to provide effective regulatory oversight to the eleven casinos operating in the Commonwealth of Pennsylvania. He has worked closely with the state legislature to develop and amend Pennsylvania's Race Horse Development and Gaming Act. Mr. O'Toole led the agency in the implementation of table games in July 2010, and currently all of the state's casinos have transitioned from slots-only operations to full-service casinos which offer table games and poker.

Mr. O'Toole began his career as a regulator while in his final year at the Rutgers University School of Law-Camden in early 1981. New Jersey was beginning to implement casino gaming, and the state's gaming enforcement recruiters enlisted Mr. O'Toole to be an investigative agent. After passing the bar, he was sworn in as Deputy Attorney General for the New Jersey Division of Gaming Enforcement. This early experience included litigation in license revocation leading to valuable insight regarding casino operations. This experience combined with his business education led to an early interest in accounting and internal control regulations. Of this early experience, Mr. O'Toole states, "The casinos provided me with great motivation. You tend

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to learn more and become a better attorney from the cases you lose.” Based on the recommendations and recognition of his peers, he indeed learned his craft quite well.

Following his early experience in New Jersey, Mr. O'Toole accepted the position of executive director for the Oneida Indian Nation Gaming Commission in 1997 where he oversaw approximately sixty-five regulators. With his office located at the Turning Stone Resort Casino in New York, he was able to observe gaming operations on a daily basis. Of this experience, Mr. O'Toole states that he “gained an appreciation of the importance of incorporating operator discretion and flexibility into a system of regulation that does not compromise individual accountability or strong internal controls.” During this time, Mr. O'Toole also participated on the National Indian Gaming Commission's Advisory Committee to develop the Minimum Internal Control Standards, many of which are still relied upon by tribal commissions today.

One of the greatest challenges and most rewarding experiences for Mr. O'Toole as Executive Director of the Pennsylvania Gaming Control Board is working collectively with the legislature, the Board and the casino management teams to implement a new industry in the state. Under his leadership, the gaming industry has created more than 16,000 jobs and has generated \$4 million per day in tax revenue to the Commonwealth of Pennsylvania. Mr. O'Toole states that one of the challenges to gaming regulators today is to maintain a system of regulatory oversight while supporting the public interest in having a fair gaming experience, yet he believes that casino operators should have broad discretion in selecting the types of games they offer to the public and the rules for playing those games. He states, “The regulator's challenge, in my view, is to find the right balance that supports operator discretion while preserving that fair gaming experience to the public.”

Mr. O'Toole sees his role of regulator as a public employee who has an obligation to serve the jurisdiction that made the decision to offer legalized gaming and create a regulatory agency to ensure that the public's interests are protected. Based on his vast experience, he states that regulators must continuously appreciate the need to be fully transparent in both their operations and decision-making. During his career in New Jersey, New York and now in Pennsylvania, Mr. O'Toole has made an outstanding contribution to gaming law and education, working with numerous gaming executives and gaming attorneys. He states:

“These professional relationships have been great. The level of cooperation and mutual respect between regulator and operator is outstanding, and I am confident it will continue to be that way in the future.”

The IMGL congratulates both Mr. Hummingbird and Mr. O'Toole on their outstanding accomplishments as regulators. ♣