

BEFORE THE LIMITED GAMING CONTROL COMMISSION
STATE OF COLORADO

Case No. DC 95 004

ORDER

IN THE MATTER OF: 21 SUPERBUCKS JACKPOT FEATURE

THIS MATTER has come before the Commission on the Petition filed by Robert E. Purcell (hereafter, the Petitioner) for declaratory order concerning the proposed use of the 21 Superbucks Jackpot Feature in conjunction with limited gaming in Colorado.

PROCEDURAL HISTORY

This is not the first time the Commission has addressed the merits of the 21 Superbucks Jackpot Feature (hereafter, the Game). In case no. DC 95 002, Petitioner first asked the Commission to assess whether the Game constituted a proper card game for play in Colorado. The Commission unanimously denied the petition by noting:

The 21 Superbucks Jackpot Feature is antithetical to the intent of the voters in authorizing limited stakes gaming in Colorado. The limitations set forth in the Colorado Constitution speak quite clearly, in that they only authorize blackjack and poker, as intended by the voters in 1990.

See Findings of Fact, Conclusions of Law, and Order of April 4, 1995, nunc pro tunc March 19, 1995, Case No. DC 95 002 (hereafter, the Order) at 6. The Order is incorporated herein by reference.

Petitioner has filed this second petition, now positing that the 21 Superbucks Jackpot Feature constitutes a slot machine. The Commission accepted this second petition, and has determined to resolve this petition summarily, without further presentation by either party; the Division of Gaming did not file a responsive pleading. The parties fully presented the method of the Game's operation in the prior case. It appears the facts have not changed since their initial and thorough presentation. The Commission has considered the record created in DC 95 002, in

addition to the argument presented by Petitioner in this second Petition. The Commission is left with only legal analysis.

ISSUE

Does the 21 Superbucks Jackpot Feature constitute a legally permissible slot machine available for play in Colorado?

CONCLUSION

In his first petition, Petitioner asked that the Commission consider the Game as blackjack. The Commission found it impermissible, as it constituted a combination of blackjack and slot machine. This combination, the Commission determined, was not in accord with the provisions of the Colorado Constitution and the Limited Gaming Act of 1991. This conclusion is equally operative in the second petition. The Game is neither black jack nor slot machine, but a combination of both.

Further, the Commission strictly regulates slot machines. See Rule 12, 1 C.C.R. 207-1. Pursuant to these regulations, the Game cannot qualify as a slot machine. The Game's payoff percentages are based on the odds of a card game, and not by the operation of a statistically validated mechanical device (a computer chip known as an EPROM) by which the state can determine and be assured by a reasonable probability, that the theoretical payoff of the game is not less than 80%, and not greater than 100%. The Game meets none of the regulatory requirements for a slot machine.

For the above reasons, and in addition to the reasons originally stated in the Order, the Commission, by unanimous vote, DENIES the petition, and declines to authorize the 21 Superbucks Jackpot Feature for play in Colorado.

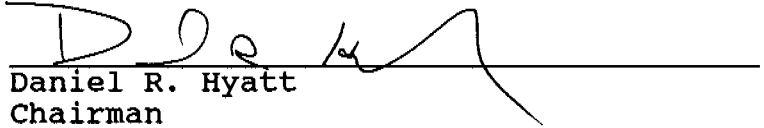
The Chair is authorized to sign this order on behalf of the Commission.

Appeal from this determination is governed by the Administrative Procedures Act, §§ 24-4-105, 106 C.R.S. (1988 &

1994 Supp.), and by § 12-47.1-521 C.R.S. (1991).

Ordered and entered nunc pro tunc July 26, 1995, this 30th day of August 1995.

FOR THE COLORADO LIMITED GAMING
CONTROL COMMISSION


Daniel R. Hyatt
Chairman

APPROVED AS TO FORM:

Robert E. Purcell
Petitioner

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