STATE OF ILLINOIS
ILLINOIS GAMING BOARD

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 17-UP-006**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: Bink, Inc. d/b/a Feeling Lucky Lounge	)	
(License no. 120700343)	)	

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 18-UP-015**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: American Legion Clarence V. Scheel Post	)	
No. 292 of Mascoutah, Illinois	)	
(License no. 120906386)	)	

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 19-UP-009**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: JJJR Silver Creek Inc. d/b/a	)	
Silver Creek Saloon	)	
(License no. 120712650)	)	

COMBINED FINAL BOARD ORDER

These matters come before the Illinois Gaming Board (the "Board" or "IGB") pursuant to the Video Gaming Act (the "VGA"), 210 ILCS 40, and Section 1800.320(b) of the Board's Adopted Rules for Video Gaming (the "Rules"). 11 Ill. Adm. Code 1800.320(b).

FINDINGS OF FACT

The Board has before it the entire record of *Accel Entertainment Gaming, LLC, Petitioner,* ("Accel") *v. Midwest Electronics Gaming, LLC, Respondent, Re: Bink, Inc. d/b/a Feeling Lucky Lounge* ("Bink") *(License no. 120700343) 17-UP-006; Re: American Legion Clarence V. Scheel Post No. 292 of Mascoutah, Illinois* ("Scheel") *(License no. 120906386) 18-UP-015; and Re: JJJR Silver Creek Inc. d/b/a Silver Creek Saloon* ("Silver Creek") *(License no. 120712650) 19-UP-009*, including the Petitions filed, all other pleadings received, and the Administrator's Recommended Decision.

On December 22, 2017, April 5, 2018, and January 14, 2019, Accel filed separate Petitions regarding the Bink, Scheel, and Silver Creek licensed video gaming locations. Accel's Petitions asked the Board to issue orders: (i) declaring that Accel's use agreements ("UA") with the locations are valid for the placement and operation of video gaming terminals ("VGTs"); (ii) invalidating the Midwest/Bink UA; (iii) confirming the end date of the UAs between Scheel and Midwest, and Silver Creek and Midwest; and (iv) compelling Midwest to remove its VGTs from the locations. On March 20, 2020, Accel requested to withdraw each of its above-captioned Petitions. On August 19, 2021, Board Administrator Marcus D. Fruchter issued an Administrator's Recommended Decision that the Board grant Accel's request to withdraw each of its above-captioned Petitions. No exceptions were filed.

CONCLUSIONS OF LAW

Pursuant to the VGA, Rules, and *J&J Gaming Ventures, LLC v. Wild, Inc.*, 2016 IL 119870, the Board has exclusive and original jurisdiction over agreements that purport to control the placement and operation of video gaming terminals. In *Wild*, the Illinois Supreme Court affirmed the long-established rule that there is no common law right to profit from gambling. *Wild* at ¶ 32. The court further held that the VGA's legalization of video gaming is an exception to the general prohibition on gambling, that video gaming is allowed only as authorized by the VGA or Rules, and that by "legalizing the use of video gaming terminals for commercial gambling purposes, the legislature enacted a comprehensive statutory scheme, creating rights and duties that have no counterpart in common law or equity." *Wild* at ¶ 32.

Accel's request to withdraw its Petitions is sufficient to conclude these matters. In *Doxsie v. Ill. Gaming Bd.*, 2021 IL App (1st) 191875, the First District Appellate Court affirmed the Board's authority to interpret and administer the Rules. *Doxsie* at ¶ 17. In these matters, Accel seeks to withdraw its requests. The Rules do not specifically contemplate a Petitioner's ability to withdraw its Petition. In keeping with our authority to interpret and administer the Rules, we find that a Petitioner's withdrawal of its Rule 320 Petition is implied and fundamentally fair. Moreover, it is not a proper use of the limited time and resources of all involved to require a petitioner to continue to prosecute a petition it no longer wishes to advance.

Therefore, after careful review and consideration of the entire record, the Board hereby:

(1) Adopts the Administrator's Recommended Decision;

(2) Grants Accel's March 20, 2021, request to withdraw its above-captioned Petitions regarding Bink, Scheel, and Silver Creek;

(3) Makes no findings of facts or conclusions of law on the merits of Accel's Petitions; and

(4) Closes the Petitions regarding Bink, Scheel, and Silver Creek.

This is a Final Order subject to judicial review under the Administrative Review Law pursuant to 230 ILCS 10/17.1. The Rules of the Illinois Gaming Board do not permit motions or requests for reconsideration of this Order.

VOTED THIS THE NINTH DAY OF SEPTEMBER 2021

Charles Schmadeke, Chairman

Dionne R. Hayden

Anthony Garcia

Ruben Ramirez

SERVICE LIST

Pursuant to Board Rules 1800.320(b)(2)(A), 1800.320(b)(12), and 1800.140, this Final Order is being served via e-mail upon all parties of record to

Accel Entertainment Gaming, LLC
Derek Harmer
DerekH@accelentertainment.com
20W267 101st Street, Unit C
Lemont, IL 60439

Attorney for Midwest Electronics Gaming, LLC
William Gantz
BGantz@duanemorris.com
Duane Morris LLP
190 South LaSalle Street, Suite 3700
Chicago, IL 60603

Bink, Inc.
c/o Diana M. Binkley
dbink1991@aol.com
3775 North Woodford
Decatur, IL 62526

American Legion 292
c/o Scott Lewis
legion292@legion292.com
1414 W. Main Street
Mascoutah, IL 62258

Silver Creek Saloon
c/o Jeff Butzinger
creekpartyemail@gmail.com
2520 Mascoutah Avenue
Belleville, IL 62220

Office of General Counsel
IGB.320@igb.illinois.gov
Illinois Gaming Board
160 North LaSalle Street, Suite 300
Chicago, Illinois 60601

CERTIFICATE OF SERVICE

I, James Jozefowicz, certify that I served a copy of the attached Combined Final Order by email on September 13, 2021, to all parties of record in the following matters: 17-UP-006—*Accel Entertainment Gaming, LLC, v. Midwest Electronics Gaming, LLC,* Re: Bink, Inc. d/b/a Feeling Lucky Lounge (License no. 120700343); 18-UP-015—*Accel Entertainment Gaming, LLC, v. Midwest Electronics Gaming, LLC,* Re: American Legion Clarence V. Scheel Post No. 292 of Mascoutah, Illinois (License no. 120906386); and 19-UP-009—*Accel Entertainment Gaming, LLC, v. Midwest Electronics Gaming, LLC,* Re: JJJR Silver Creek Inc. d/b/a Silver Creek Saloon (License no. 120712650)—at the following addresses:

Accel Entertainment Gaming, LLC
c/o Derek Harmer
DerekH@accelentertainment.com
20W267 101st Street
Unit C
Lemont, IL 60439

Attorney for Midwest Electronics Gaming, LLC
William Gantz
BGantz@duanemorris.com
Duane Morris LLP
190 South LaSalle Street
Suite 3700
Chicago, IL 60603

Bink, Inc.
c/o Diana M. Binkley
dbink1991@aol.com
3775 North Woodford
Decatur, IL 62526

American Legion 292
c/o Scott Lewis
legion292@legion292.com
1414 W. Main Street
Mascoutah, IL 62258

Silver Creek Saloon
c/o Jeff Butzinger
creekpartyemail@gmail.com
2520 Mascoutah Avenue
Belleville, IL 62220

Office of General Counsel
IGB.320@igb.illinois.gov
Illinois Gaming Board
160 North LaSalle Street
Suite 300
Chicago, Illinois 60601

Illinois Gaming Board
160 North LaSalle Street
Suite 300
Chicago, Illinois 60601

STATE OF ILLINOIS
ILLINOIS GAMING BOARD

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 17-UP-006**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: Bink, Inc. d/b/a Feeling Lucky Lounge	)	
(License no. 120700343)	)	

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 18-UP-015**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: American Legion Clarence V. Scheel Post	)	
No. 292 of Mascoutah, Illinois	)	
(License no. 120906386)	)	

ACCEL ENTERTAINMENT GAMING, LLC,	)	**No. 19-UP-009**
	)	
Petitioner,	)	
	)	
MIDWEST ELECTRONICS GAMING, LLC,	)	
	)	
Respondent.	)	
	)	
RE: JJJR Silver Creek Inc. d/b/a	)	
Silver Creek Saloon (License no. 120712650)	)	

ADMINISTRATOR'S COMBINED RECOMMENDED DECISION

This dispute comes before the Illinois Gaming Board (the "Board" or "IGB") under Section 1800.320(b) of the Board's Adopted Rules (the "Rules"). 11 Ill. Adm. Code 1800.320(b). This Recommendation issues under Rule 320(b)(6). 11 Ill. Adm. Code 1800.320(b)(6).

Accel Entertainment Gaming, LLC ("Accel") brought the above-captioned Rule 320 Petitions against Respondent Midwest Electronics Gaming, LLC ("Midwest") to contest the validity and enforceability of certain agreements that purport to control the placement and operation of video gaming terminals ("VGTs") at the above-referenced video gaming locations. Accel subsequently notified the Board that each location asked Accel to withdraw the subject Petitions and, accordingly, Accel seeks leave from the Board to do so. I recommend that the Board grant Accel's request to withdraw.

I. JURISDICTION

The Video Gaming Act (the "VGA") confers jurisdiction and authority upon the Board to supervise all video gaming operations in Illinois. 230 ILCS 40/78; *J&J Gaming Ventures, LLC v. Wild, Inc.*, 2016 IL 119870 ¶¶ 3, 39-40. The Board has all powers necessary and proper to effectively execute the VGA, including authority to adopt regulations for the purpose of administering the VGA and "provide for the prevention of practices detrimental to the public interest and for the best interests of video gaming." *Wild*, 2016 IL 119879 ¶ 3. The VGA provides "a comprehensive statutory scheme that vests jurisdiction over video gaming operations" with the Board. *Id.* ¶ 42. The Board's broad authority over all aspects of video gaming includes the "exclusive, original jurisdiction" to determine the validity and enforceability over agreements that "purport to control placement and operation of video gaming terminals." *Id.*; *see also*, 11 Ill. Adm. Code 1800.320(b)(1).

Among other things, the VGA mandates that a VGT may only be placed in a licensed establishment that has entered into a written use agreement ("UA") with a licensed terminal operator for the placement of that device. 230 ILCS 40/25(e). A UA is a contract between a licensed terminal operator and a licensed establishment providing the terms and conditions for placement and operation of VGTs at that establishment. *Id*.

II. RELEVANT BACKGROUND AND DISCUSSION

Accel variously filed (on December 22, 2017; April 5, 2018; and January 14, 2019) the instant Rule 320 Petitions, asking the Board find UAs between it and Bink, Inc. d/b/a Feeling Lucky Lounge; American Legion Clarence V. Scheel Post No. 292 of Mascoutah, Illinois; and JJJR Silver Creek Inc. d/b/a Silver Creek Saloon, valid and enforceable against competing UAs Midwest had with those same entities. In turn, Midwest filed timely Responses. Accel notified the Board on March 10, 2020 that each location asked Accel to withdraw the Petitions and, accordingly, that Accel was requesting leave from the Board to do so. Accepting Accel's representations that it no longer wishes to proceed with the Petitions it filed, there no is justiciable controversy under Rule 320 for the Board to resolve.

As such, I recommend that the Board permit Accel to withdraw the Petitions as a matter of right, thereby closing these matters and allowing the existing UAs between Midwest and the subject locations to continue in operation according to their terms. Given the breadth of powers granted to it to administer and resolve Rule 320 Petitions, for the purposes of economy, I further recommend the Board dispose of the above-captioned matters jointly.

III. CONCLUSION

For the foregoing reasons, I recommend that the Board enter an Order:

1. Granting Accel's request to withdraw its Petitions in the above-captioned matters; and
2. Directing that all further proceedings shall be cancelled and the matters concluded.

Pursuant to Rule 320(b)(7), any party to this Petition wishing to file exceptions must do so no later than 14 days after receipt of the Recommended Decision.

DATED: August 19, 2021

RESPECTFULLY SUBMITTED,

MARCUS D. FRUCHTER
ILLINOIS GAMING BOARD ADMINISTRATOR