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**SUPERIOR COURT  
OF GUAM**

**IN THE SUPERIOR COURT OF GUAM**

**LEEVIN TAITANO CAMACHO**, Attorney  
General of Guam,

Plaintiff,

vs.

**DAFNE M. SHIMIZU**, Director, Guam  
Department of Revenue and Taxation;  
**LOURDES A. LEON GUERRERO**,  
Governor of Guam; **ATLAS AMUSEMENT  
ENTERPRISES, INC.**; **DARRYL R.  
STYLES d/b/a D&D GAMES**; **GUAM  
MUSIC, INC.**; and **DOES 1-10**,

Defendants.

CIVIL CASE NO. CV0780-13

**DARRYL R. STYLES d/b/a D&D GAMES**,

Cross-Plaintiff,

vs.

**GOVERNMENT OF GUAM**,

Cross-Defendant.

**DECISION AND ORDER**

**PACIFIC AMUSEMENT, INC.**,

Cross-Plaintiff,

vs.

**DAFNE M. SHIMIZU**, Director, Guam  
Department of Revenue and Taxation,

Cross-Defendant.

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**INTRODUCTION**

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This matter came before the Honorable Arthur R. Barcinas on December 5, 2019, upon the Plaintiff's Motion for Summary Judgment Pursuant to Civil Rule 56 ("Plaintiff's Motion for Summary Judgment") filed December 19, 2016. Assistant Attorney Generals Marianne Woloschuk and James Canto represented the Plaintiff Leevin Taitano Camacho, Attorney General of Guam. Attorney Sophia S. Diaz of the Office of the Governor of Guam represented the public Defendants Dafne M. Shimizu, the Director of Guam Department of Revenue and Taxation, and Lourdes A. Leon Guerrero, Governor of Guam. Attorney Seth Forman represents the Defendant Atlas Amusement Enterprises, Inc. Attorney Curtis C. Van de veld represents the Defendant and Cross-Plaintiff Darryl R. Styles d/b/a D&D Games. Attorney F. Randall Cunliffe represents the Defendant Guam Music, Inc. Attorney Daniel J. Berman represents the Intervenor and Cross-Plaintiff Pacific Amusement, Inc. Having reviewed the pleadings and legal authorities, and having heard oral arguments in this matter, the Court issues the following Decision and Order.

**BACKGROUND**

This case arises from a prolonged dispute between the Attorney General of Guam, the executive branch, and owners of electronic gaming devices, regarding the legality of the licensing and operation of such gaming devices in Guam. Both the procedural history and facts of this case have been thoroughly outlined in the various pleadings, orders, and appeals in the record. Thus, the following facts are only those pertinent to the instant Motion for Summary Judgment.

Leonardo M. Rapadas, in his official capacity as the Attorney General of Guam, filed a Complaint for Declaratory Judgment on June 14, 2013, and a First Amended Complaint for Declaratory Judgment on August 15, 2015, seeking declaratory relief against John P. Camacho, the Director of the Department of Revenue and Taxation ("DRT"), and Eddie Baza Calvo, the Governor of Guam, both in their official capacities ("Defendants"). Mr. Rapadas has since been succeeded as the Attorney General by Leevin T. Camacho ("Plaintiff"), Mr. John Camacho has since been succeeded as the Director of the DRT by Dafne M. Shimizu, and Governor Calvo

1 has since been succeeded as the Governor of Guam by Lourdes A. Leon Guerrero. Three private  
2 parties, Atlas Amusement Enterprises, Inc. (“Atlas”), Darryl R. Styles d/b/a D&D Games  
3 (“Styles”), and Guam Music, Inc. (“Guam Music”), were also named as defendants. A fourth  
4 private party, Pacific Amusement, Inc. (“Pacific Amusement”), intervened on the grounds that  
5 an adverse decision by this Court would deny it from obtaining licenses in the future.

6 On October 17, 2001, Public Law No. 26-52 (“P.L. 26-52”), entitled “An Act to Repeal  
7 and Reenact § 64.40 of Title 9, and § 39110 of Title 22, All of the Guam Code Annotated,  
8 Relative to Illegal Cockfight” was enacted. P.L. 26-52 granted certain rulemaking authorities to  
9 the Department of Revenue and Taxation (“DRT”), providing in part:

10 **Section 4. Promulgation of Rules.** Notwithstanding any other provisions of law,  
11 the Cockpit License Board, together with the Department of Revenue and  
12 Taxation, is hereby authorized to promulgate necessary rules and regulations to  
13 create a comprehensive regulatory scheme to regulate all gaming activities on  
14 Guam; *provided*, that the rules and regulations shall restrict gaming activities to  
those authorized and licensed on Guam as of August 1, 2001.

15 See Guam Pub. L. 26-52:4 (Oct. 17, 2001).

16 Pursuant to P.L. 26-52, DRT submitted its proposed gaming rules and regulations with  
17 the Legislative Secretary of the Guam Legislature on January 3, 2003.<sup>1</sup> These proposed  
18 regulations authorized limited gaming activities in Guam, including “[e]lectronic gaming  
19 devices that have been registered, or were at any time previously registered, by [DRT] pursuant  
20 to 11 Guam Code Annotated, Chapter 22, Article 2, prior to August 1st 2001.” 3 GAR §  
21 7114(a)(5). Pursuant to these regulations, DRT issued and renewed hundreds of licenses to  
22 owners of such electronic gaming devices for several years.<sup>2</sup>

23 On July 9, 2013, Public Law No. 32-060 (“P.L. 32-060”), entitled “An Act to Add New  
24 §§ 5201 to 5205 to Chapter 5 of Title 11, Guam Code Annotated, Relative to Gaming . . .” was

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25 <sup>1</sup> DRT’s proposed rules and regulations were subsequently codified in Title 3 Chapter 7 of the Guam  
26 Administrative Rules and Regulations (“GAR”). See 3 GAR § 7101 *et seq.* However, these rules and regulations  
27 were not posted on the Guam Compiler of Laws website until 2012.

28 <sup>2</sup> Since the issuing of such gaming licenses, several years of litigation ensued, including multiple appeals to the  
Supreme Court of Guam and remands to the trial court. See *Limtiaco v. Camacho*, 2009 Guam 7 (appeal from  
Superior Court Case No. SP0141-08); see also *Rapadas v. Benito*, 2011 Guam 28.

1 enacted. P.L. 32-060 enacted Title 11 GCA § 5205 which authorized the following limited  
2 gaming activities: 1) non-profit bingo or lottery, 2) licensed cockfighting, 3) carnival or  
3 Liberation Day gaming, and 4) all other limited gaming activities as authorized pursuant statute.  
4 11 GCA § 5205(a). Section 1 of P.L. 32-060, Legislative Findings and Intent, also referenced  
5 P.L. 26-32:4 and DRT's gaming regulations, stating that it was the legislature's intent "to place  
6 in statute the policy of regulating gaming activities allowed by law [and] collecting fees and  
7 taxes that would be due from duly licensed operators." P.L. 32-060:1.

8 On August 15, 2013, the Plaintiff filed a First Amended Complaint for Declaratory  
9 Judgment, seeking a judgment declaring, *inter alia*, that: 1) DRT's gaming regulations in 3  
10 GAR § 7114(a)(5) are void and lack any force and effect; 2) P.L. 32-060 did not make DRT's  
11 regulations valid; and 3) Guam law continued to prohibit the licensing of electronic gaming  
12 devices. Thus, the Plaintiff seeks a declaratory judgment that the electronic gaming licenses  
13 issued pursuant to DRT's regulations are void and therefore, must be revoked and no new  
14 licenses should be issued.

15 On April 11, 2016, Defendant Styles filed a Motion for Summary Judgment asserting  
16 that P.L. 32-060 violates equal protection and due process rights. Intervenor Pacific Amusement  
17 joined in Defendant Styles' motion on April 15, 2016. On May 9, 2016, the Plaintiff filed an  
18 Opposition. Thereafter, the Court heard oral arguments on Defendant Styles' Motion for  
19 Summary Judgment on [date].

20 On December 19, 2016, the Plaintiff filed their competing Motion for Summary  
21 Judgment on the grounds that there is no genuine dispute as to any material fact and that  
22 Plaintiff is entitled to declaratory judgment as a matter of law. The Defendants filed four  
23 opposition memoranda and accompanying joinders<sup>3</sup>. The Plaintiff submitted a Reply on  
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25 <sup>3</sup> Defendant Styles filed an Opposition to the Plaintiff's Motion for Summary Judgment on January 24, 2017, and  
26 joined in all opposition memoranda filed by all other Defendants. Guam Music also filed an Opposition to the  
27 Plaintiff's Motion for Summary Judgment on January 24, 2017 and joined in opposition memoranda filed by the  
28 public Defendants and Atlas. Atlas filed an Opposition to the Plaintiff's Motion for Summary Judgment on January  
17, 2017, joined in Guam Music's Opposition, and partially joined in Defendant Styles' Opposition. Finally, the  
Governor of Guam and DRT Director filed their Opposition to Plaintiff's Motion for Summary Judgment and  
Cross-Motion for Summary Judgment on January 17, 2017, and joined in both Guam Music and Defendant Styles'  
respective oppositions.

1 February 14, 2017. The Court heard oral arguments from all parties on December 5, 2019. At  
2 the conclusion of the hearing, the Court took the matter under advisement.

3 **DISCUSSION**

4 Summary judgment is proper “if the pleadings, depositions, answers to interrogatories,  
5 and admissions on file, together with the affidavits, if any, show that there is no genuine issue as  
6 to any material fact and that the moving party is entitled to judgment as a matter of law.” Guam  
7 R. Civ. P. 56(c); see also Celotex Corp. v. Catrett, 477 U.S. 317 (1986). Rule 56(c) of the  
8 GRCP further mandates summary judgment against a party, “who fails to make a showing  
9 sufficient to establish the existence of an element essential to that party’s case, on which that  
10 party will bear the burden of proof at trial.” Celotex, 477 U.S. at 322. A genuine issue of  
11 material fact exists if there is sufficient evidence which establishes a factual dispute requiring  
12 resolution by a fact-finder. Guam Pac. Enter., Inc. v. Guam Poresia Corp. et al., 2007 Guam 22.  
13 n. 8 (citing Iizuka Corp. v. Kawasho Int’l (Guam). Inc., 1997 Guam 10 ¶ 7). The factual dispute  
14 must also concern a fact “that is relevant to an element of a claim or defense and whose  
15 existence might affect the outcome of the suit.” Id.

16 If the movant demonstrates a lack of a genuine issue of material fact, “the non-movant  
17 cannot merely rely on allegations contained in the complaint, but must produce at least some  
18 significant probative evidence tending to support the complaint.” Edwards v. Pacific Fin. Corp.  
19 et al., 2000 Guam 27 n. 7 (citations omitted). Thus, the ultimate inquiry for the Court is  
20 “whether the ‘specific fact’ set forth by the nonmoving party, coupled with undisputed  
21 background or contextual facts, are such that a rational or reasonable jury might return a verdict  
22 in its favor based on that evidence.” Bank of Guam v. Flores, 2004 Guam 25 n. 7. In  
23 determining a motion for summary judgment, “the court must draw inferences and view the  
24 evidence in a light most favorable to the non-moving party. Id.

25 The Plaintiff directs its Motion for Summary Judgment at all the causes of action set  
26 forth in the First Amended Complaint for Declaratory Judgment. In their Motion, the Plaintiff  
27 requests that the Court grant summary judgment in its favor on the grounds that DRT’s gaming  
28 regulations are invalid because: 1) they were submitted to the Guam legislature without

1 complying with Guam law, and 2) they exceeded the authority of DRT to enact such rules and  
2 regulations. Thus, the Plaintiff seeks relief declaring that DRT's regulations purporting to  
3 regulate electronic gaming devices in Guam are void and that all electronic gaming devices  
4 licenses issued by DRT are to be revoked and no new licenses are to be issued. On the other  
5 hand, the Defendants argue that the Plaintiff's arguments are either meritless as a matter of law  
6 or that they depend upon issues over which there is a genuine dispute of material facts.

7 **I. DRT did not comply with the AAL's Rule-Making Procedure.**

8 Guam's Administrative Adjudication Law ("AAL") provides the procedures government  
9 agencies must follow when drafting and submitting proposed rules and regulations. See 5 GCA  
10 § 9300 *et seq.* These rule-making procedures were enacted by the Guam Legislature to establish  
11 "a uniform method of making, adopting, promulgating, filing and publishing rules by all  
12 agencies of this Territory, to permit public participation therein and provide a method of making  
13 rules readily accessible to the public." 5 GCA § 9300.

14 First, before any rule is adopted, amended, rescinded or repealed, an agency must  
15 provide notice by publishing such notice in a newspaper of general circulation in Guam, at least  
16 ten (10) days prior to the date set for public hearing. See 5 GCA § 9301(a) ("Said notice shall  
17 include a statement of the time and place of said hearing, a reference to the subject matter of the  
18 proposed rule or rules, and refer to the fact that a copy of said proposed rule or rules is on file at  
19 the office of said agency, where it may be examined."). Second, the AAL requires a public  
20 hearing wherein any interested party may participate in the formulation of the proposed rules  
21 through the presentation of facts or argument or the submission of written data or views. 5 GCA  
22 § 9301(b). Further, prior to the public hearing, the agency must include, as part of the  
23 promulgation of such rules or regulations, an economic impact statement. 5 GCA § 9301(d); see  
24 also 5 GCA § 9301(e) ("No proposed rule or regulation shall be transmitted to [the Legislature]  
25 without an economic impact statement . . ."). Finally, only when an agency has complied with  
26 all mandatory requirements, may the agency then submit the proposed rules to the Legislature,  
27 the Governor of Guam, and the Attorney General, for approval. 5 GCA § 9303(a)(2), (3), and  
28 (4).

1 Here, DRT's gaming regulations are invalid because DRT failed to comply with the  
2 AAL. First, DRT failed to provide notice and conduct public hearings. Both DRT and the  
3 Legislature are unable to locate any record or evidence confirming that notice was published or  
4 that a public hearing was held by the agency. Second, DRT failed to conduct and submit an  
5 economic impact study. Again, neither DRT or the Legislature can confirm that an economic  
6 impact study was conducted or submitted by DRT. Consequently, a substantial failure by DRT  
7 to follow the rule-making procedures mandated by the AAL renders such rules invalid. See 5  
8 GCA § 9303(c) ("*No rule shall be effective until after compliance* with the provisions of this  
9 Section and ninety (90) calendar days have elapsed from the date of filing with the [Legislative  
10 Secretary].") (emphasis added); see e.g., Faircloth v. Family Indep. Agency, 232 Mich. App.  
11 391 (failure to follow administrative procedures renders rule or regulation invalid).

12 Defendant Atlas, on the other hand, argues that the mere possibility such records could  
13 have existed, but may have been lost, is sufficient to defeat summary judgment. Defendant  
14 Atlas asserts that the inability of DRT and the Legislature to locate any records supporting its  
15 position that the rules were properly promulgated pursuant to the AAL, is merely evidence that  
16 those records might have never existed but, it is not proof sufficient to overcome the  
17 presumption of correctness. See Wade v. Taitano, 2002 Guam 16 ¶ 8 (the presumption of  
18 correctness applies to agency actions if a regulation is challenged on the basis that it is in  
19 contravention of the unambiguous expressed intent of the legislature). Here, both DRT and the  
20 Legislature's inability to locate and proffer such records is highly persuasive evidence that the  
21 AAL procedures were not adhered to. See 5 GCA § 9303(d) (mandating the Legislative  
22 Secretary to keep and maintain a complete record of all proposed rules and regulations). The  
23 failure of DRT, the agency responsible for maintaining tax and licensing records, as well as the  
24 Legislature, to possess such records is compelling evidence that these records never existed.

25 As aforementioned, in order to succeed on a motion for summary judgment, the moving  
26 party must demonstrate that there is no genuine issue as to any material fact. Celotex Corp., 477  
27 U.S. 317, 323 (1986). Atlas, the opposing party, must set forth specific facts showing there is a  
28 genuine dispute of facts and cannot rest upon mere statements and allegations set forth in the

1 pleadings. Bank of Guam v. Flores, 2004 Guam 25 n. 7. Here, none of the Defendants have  
2 produced any affirmative evidence to rebut the Plaintiff's evidence that DRT failed to comply  
3 with the AAL. Thus, absent any record supporting the Defendants' position that the rules were  
4 properly promulgated pursuant to AAL, the Court finds that DRT did not comply with AAL.  
5 Accordingly, a substantial failure by DRT to follow the rule-making procedures mandated by  
6 the AAL renders such rules invalid.

7 **II. P.L. 26-52:4 did not exempt DRT from complying with the AAL.**

8 The Defendants, particularly the Government of Guam Defendants, argue that P.L. 26-  
9 52 enabled DRT to promulgate gaming regulations without complying with any other  
10 conflicting provision of Guam law, including the AAL. The Defendants rely on the  
11 "*Notwithstanding* any other provision of law" language within Section 1 of P.L. 26-52 to  
12 support their argument that the Legislature granted it unconditional rule making authority to  
13 create "a comprehensive regulatory scheme to regulate *all gaming* activities on Guam. . ."). P.L.  
14 26-52:4 (emphasis added); see also Background, *supra*. Specifically, the Defendants argue that  
15 as a matter of law, the word "notwithstanding" means that the particular statute supersedes all  
16 other laws that may be in conflict with it. The Court disagrees.

17 The Supreme Court of Guam has held, "[t]hat in cases involving statutory construction,  
18 the plain language of a statute must be the starting point." Pangelinan v. Gutierrez, 2000 Guam  
19 ¶ 23. In determining the plain meaning of a statutory provision, courts will look to the entire  
20 statutory scheme containing the provision for guidance. Amerault v. Intelcom Support Servs.,  
21 Inc., 2004 Guam 23 ¶ 16; see also Sumitomo Constr. Co. v. Gov't of Guam, 2001 Guam 23 ¶ 17  
22 ("In determining legislative intent, a statute should be read as a whole and in conjunction with  
23 other sections."). Thus, the Court's analysis will be guided with these principles in mind.

24 As a preliminary matter, administrative agencies are creatures of statute and therefore,  
25 cannot act beyond its delegated authority. See Wade v. Taitano, 2002 Guam 16 ¶ 7 ("[A]n  
26 agency cannot create rules, through its own interstitial declaration, that were not contemplated  
27 or authorized by the Legislature . . .") (citations omitted); see also Carlson v. Guam Tel. Auth.,  
28 2002 Guam 15 ¶ 9 (holding that administrative agencies must buttress the exercise of authority

1 with statutory support and their powers are limited to those which “have been conferred upon  
2 them by law expressly or by implication.”) (citations omitted). Simply put, an administrative  
3 agency cannot create rules or regulations that would be contrary to the intended legislative  
4 scheme. *Id.* Here, there is nothing in the legislative history to support the Defendants’ argument  
5 that the Legislature intended to exempt DRT from compliance with the rule-making procedures  
6 of the AAL. The Court agrees with the Plaintiff that P.L. 26-52 should be construed together  
7 with the AAL, such that DRT has the authority to draft a comprehensive regulatory scheme  
8 regarding gaming, but must subject that scheme to the administrative rule-making process.  
9 Construing the statutes together is consistent with the intent of the Legislature as expressed in  
10 Title 5 GCA § 9300. See Section I, *supra*.

11 Moreover, a statute granting legislative power to an administrative agency will be  
12 deemed invalid if the legislature fails to set out intelligible principles to guide an agency’s  
13 exercise of such authority. See Gundy v. United States, 139 S. Ct. 2116, 2129 (2019) (holding  
14 that a delegation of legislative authority is constitutional so long as the legislative body  
15 prescribes an intelligible principle to guide the agency). In other words, a delegation of  
16 legislative power is permissible if the legislature makes clear the intended legislative objective  
17 and the boundaries of the agency’s rule-making authority. *Id.*; see also Carson Mobilehome  
18 Park Owners’ Assn. v. City of Carson, 35 Cal. 3d 184, 190 (1983) (“An unconstitutional  
19 delegation of authority occurs only when a legislative body (1) leaves the resolution of  
20 fundamental policy issues to others or (2) fails to provide adequate direction for the  
21 implementation of that policy.”).

22 Here, to accept the Defendants’ argument that P.L. 26-52 authorized DRT to violate or  
23 ignore any applicable laws or procedures relevant to gaming and the promulgation of gaming  
24 regulations in Guam, would be an improper delegation of legislative responsibilities to a  
25 government agency. First, the power to enact, amend, and repeal legislation vests in the  
26 legislature, not the administrative agency. See In re Request of Calvo, 2017 Guam 14 ¶ 44  
27 (citing Atlas v. Bd. Of Auditors, 275 N.W. 507, 509 (1937)). The Legislature cannot simply  
28 delegate its authority and allow DRT to ignore any applicable laws that are inconsistent with the

1 gaming regulations proposed by DRT. The Legislature may however, after declaring a policy  
2 and fixing a primary standard, confer upon administrative officers the “power to fill up the  
3 details” by prescribing administrative rules and regulations to promote the purpose of the  
4 legislation and to carry it into effect. Kugler v. Yocum, 69 Cal.2d 371, 376 (1968) (citing First  
5 Industrial Loan Co. v. Daugherty, 26 Cal. 2d 545, 549 (1945)). Thus, having considered the  
6 relevant provisions and the legislative scheme, the Court finds that P.L. 26-52 granted DRT the  
7 narrow authority to create a comprehensive regulatory scheme to regulate all gaming activities  
8 in Guam “notwithstanding any other provision of law” that may prohibit it from developing  
9 such a scheme. P.L. 26-52 did not grant DRT the authority to evade the rule-making procedures  
10 of the AAL. Accordingly, as determined above, a substantial failure by DRT to follow the rule-  
11 making procedures mandated by the AAL renders such rules invalid.

12 **III. P.L. 32-060 did not validate DRT’s proposed gaming regulations.**

13 On July 9, 2013, P.L. 32-060, entitled “An Act to Add New §§ 5201 to 5205 to Chapter  
14 5 of Title 11, Guam Code Annotated, Relative to Gaming . . .” was enacted. P.L. 32-060  
15 enacted Title 11 GCA § 5205 which authorized the following limited gaming activities: 1) non-  
16 profit bingo or lottery, 2) licensed cockfighting, 3) carnival or Liberation Day gaming, and 4) all  
17 other limited gaming activities as *authorized pursuant statute*. 11 GCA § 5205(a) (emphasis  
18 added). Section 1 of P.L. 32-060, Legislative Findings and Intent, also referenced P.L. 26-52:4  
19 and DRT’s gaming regulations, stating that it was the legislature’s intent “to place in statute the  
20 policy of regulating gaming activities *allowed by law* [and] collecting fees and taxes that would  
21 be due from duly licensed operators.” P.L. 32-060:1 (emphasis added).

22 Defendant Styles argues that P.L. 32-060 retroactively validated the acts of DRT by  
23 recognizing the validity of the rules. This is incorrect. Although P.L. 32-060 references P.L. 26-  
24 52, and notes that DRT filed its proposed gaming regulations on January 3, 2003, it does not  
25 explicitly state that such regulations were actually approved by the Legislature.<sup>4</sup> Instead, P.L.  
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27 <sup>4</sup> The Original Bill 19-32 (COR) stated that DRT’s gaming regulations had been approved by the Legislature.  
28 However, the final version of Bill 19-32 (COR) which became P.L. 32-060 eliminated this sentence entirely. The  
Legislative Findings and Intent Section of the Original Bill 19-32 (COR) provided in relevant part: “These  
regulations were subsequently approved, but since the rule-making authority *did not allow* for the repeal and re-

1 32-060, placed the authority back to the Legislature to “place in statute a policy of regulating  
2 gaming activities *allowed by law*.” *Id.* (emphasis added). The statute implemented by the  
3 Legislature pursuant to P.L.32-060 does not authorize the licensing of electronic gaming  
4 devices. *Id.*; 11 GCA § 5205(a).

5 There is no Guam statute that authorizes the licensing of electronic gaming devices as  
6 specifically allowed in 3 GAR § 7114(a)(5). As of August 1, 2001, Guam’s gaming statutes  
7 were contained in Title 22 GCA, Chapter 39 and Title 11 GCA, Chapter 5. *See* 22 GCA §  
8 39101 *et seq.*; *see also* 11 GCA § 5101 *et seq.* More importantly, Guam law prohibits the  
9 licensing of gambling devices in Guam. 11 GCA § 22202. Title 9 GCA § 64.20 defines  
10 gambling device as “any coin operated device which, when operated, may return winnings  
11 (other than free games not redeemable for cash) of value to the user based partially or  
12 completely upon chance, by the operation of which a person may become entitled to receive  
13 winnings of value.” *See* 9 GCA § 64.20(b) and (c) (gambling device includes slot and video  
14 poker machines). Thus, when construed together, neither P.L. 32-060 nor P.L. 26-52 authorized  
15 the licensing of electronic gaming devices as specifically allowed in 3 GAR § 7114(a)(5), nor  
16 did it alter Guam’s current gaming laws. Accordingly, the Court finds that P.L. 32-060 did not  
17 retroactively validate DRT’s proposed gaming regulations nor did it change Guam’s gambling  
18 posture set forth in Title 11 GCA, Chapter 5 or Title 22 GCA, Chapter 29, *supra*.

19 **IV. The Plaintiff’s claims are not time barred.**

20 Finally, Defendant Atlas argues that the Plaintiff’s claims are untimely pursuant to the  
21 four-year statute of limitations set forth in Title 7 GCA, Chapter 11.<sup>5</sup> *See* 7 GCA § 11312 (“An  
22 action for relief not otherwise provided for must be commenced within four (4) years after the  
23 cause of action shall have accrued.”). Here, neither Defendant Atlas nor any of the named  
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25 enactment of existing statute, the regulations were placed in Chapter 7 of Title 3, Guam Administrative Rules and  
26 Regulations.” (emphasis added).

27 <sup>5</sup> Title 5 GCA § 9303(b) provides that, “[t]he court shall declare the rule invalid if it finds that it violates provisions  
28 of law, exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making  
procedures.” This statute contains no limitations period. Thus, Plaintiff’s claims that DRT’s regulations are invalid  
because DRT failed to comply with the AAL are timely.

