

Chicago Daily Law Bulletin®

Volume 160, No. 242

Riverboat casinos hit jackpot with verdict

Alleged deal with Blagojevich to cost track owner \$81.8M

BY PATRICIA MANSON
Law Bulletin staff writer

The gamble paid off. More than five years after challenging what he alleges was a pay-to-play deal between racetrack owners and then-Gov. Rod R. Blagojevich, Robert M. Andalman of A&G Law LLC obtained an award for four riverboat casinos that is likely to amount to \$81.8 million.

"It took a lot, but justice was finally served," Andalman said today.

A federal jury on Monday found in favor of the casinos on claims that Blagojevich signed legislation in 2008 favored by the racetrack industry in return for the promise of a \$100,000 campaign contribution.

The claims were made in a lawsuit filed by the owners of Hollywood Casino in Aurora, Grand Victoria Casino in Elgin and Empress Casino and Harrah's Casino, both in Joliet.

Defendants in the suit were racetrack owner John Johnston and his companies, Balmoral Racing Club Inc. and Maywood Park Trotting Association Inc.

Andalman, the lead attorney for the casinos, said the jury sent a message that the people who pay to play — and not just the politicians they pay — must face the consequences of their actions.

Blagojevich, who was shielded from liability in the civil action, is serving a 14-year prison term

following his conviction on unrelated public corruption charges.

Blagojevich contended the actions that landed him in trouble merely constituted political horse-trading. The 7th U.S. Circuit Court of Appeals heard arguments in the ex-governor's case a year ago, but it has not yet ruled. *United States v. Rod R. Blagojevich*, No. 11-3853.

In the casinos' suit, U.S. District Judge Matthew F. Kennelly has given the parties until the end of today to object to his proposal to enter a judgment in line with the jury's verdict.

Kennelly also has set a status hearing for Thursday to consider how to deal with a fourth defendant, the campaign fund Friends of Blagojevich, which defaulted in the case.

Andalman said Friends of Blagojevich likely will be dismissed from the case.

In 2008, Blagojevich signed the Horse Racing Act into law. The statute levied a 3 percent tax on the four casinos — the most profitable in Illinois — and passed the money on to five horse racetracks in the state.

The act renewed the original 2006 law that imposed the tax and had a sunset provision. The tax was phased out in 2011.

In their suit, the casinos alleged the racetrack industry bribed Blagojevich to push the initial passage of the Horse Racing Act.

Johnston and other racetrack executives rewarded Blagojevich for signing the bill with \$125,000 in contributions to his campaign fund, the suit alleged.

When the legislation came up for renewal in 2008, the suit alleged, Johnston promised on behalf of the racetrack industry



Robert M. Andalman

to contribute \$100,000 to the fund.

Blagojevich was arrested on federal charges after agreeing to take the money, the suit alleged. He signed the legislation but never received a subsequent \$100,000 contribution.

The suit included a count under the federal Racketeering Influenced and Corrupt Organizations Act. It also included counts alleging conspiracy under Illinois common law and unjust enrichment.

Kennelly threw out the RICO count, but the 7th Circuit in August overturned that decision.

The appeals court held there was enough evidence — if true — to support a finding of a quid pro quo exchange between Blagojevich and the racetrack industry. *Empress Casino Joliet Corp., et al., v. John Johnston, et al.*, No. 13-2972.

Following a trial of the suit in Kennelly's court, the jury ordered Johnston and his companies to pay compensatory damages of \$25.9 million, an

amount that will be trebled under the RICO statute to \$77.8 million.

The jury also ordered Johnson to pay the casinos \$1 million each in punitive damages.

In his closing argument, Andalman said, he told jurors that "pay-to-play politics has really left a stain on Illinois' reputation."

"It always take two to have a pay-to-play problem: You need to have a corrupt politician, but you also need to have a corrupt businessman," he said. "We had made the point that Blagojevich had his justice, and we asked the jury to now deliver justice on John Johnston and his tracks."

An attorney for Johnston and his tracks, Todd S. Pugh of Breen & Pugh, contended his client was a victim of Blagojevich's corruption.

"From our perspective, John Johnston didn't do anything but lobby a governor who promised to help save the horse-racing industry," Pugh said. "But he turned out to be nothing but a crook."

Pugh noted that the damages awarded by the jury were a lot less than the \$67 million sought by the casinos — which, if awarded, would have trebled to more than \$200 million.

But the final amount, he said, "is certainly a lot of money, and it's probably going to kill Maywood and Balmoral."

The case is *Empress Casino Joliet Corp., et al., v. John Johnston, et al.*, No. 09 C 3585.

In addition to Pugh, the lead attorneys for Johnston and his tracks are William J. McKenna of Foley & Lardner LLP and Thomas M. Breen of Breen & Pugh.