

Vegas Tropicana lucky it's in Nevada, not Jersey

The move this month by New Jersey regulators to deny a license to Columbia Sussex to operate the Tropicana casino in Atlantic City is both a stark reminder of the unique demands of the casino business and a cautionary tale for newer entrants.

Perhaps more significantly, it's the latest example of how New Jersey's regulatory system differs markedly from Nevada's, which is closer to a free market system than any other gaming jurisdiction's and is generally reluctant to pull licenses from Nevada operators.

The leader of the powerful Culinary Union has urged a stepped-up investigation of Columbia Sussex in Nevada. The Tropicana is the only Strip property without a Culinary Union contract and negotiations have stalled. The union has accused the Gaming Control Board of protecting casino interests at the expense of workers.

And yet, experts say, Nevada's regulatory approach is just as legitimate and effective as that of New Jersey, where the market can less afford business mistakes.

In its refusal to renew the Tropicana's license, the New Jersey Casino Control Commission concluded executives circumvented gaming regulations in their singular pursuit of profit.

By all accounts, Columbia Sussex's business strategy in Atlantic City, the company's most deluxe property, centered on cutting costs rather than boosting spending and revenue.

That strategy is difficult in an industry with heavy fixed costs such as staffing and marketing and questionable for an entertainment business that requires millions of dollars to

wow consumers with more than just clean hotel rooms and edible buffets. It's also a dangerous path for a business that operates at the broad discretion of state regulators who limit competition in exchange for expected windfalls in tax proceeds and economic growth.

It's one reason why mass layoffs, such as those at the company's Atlantic City casino, are rare.

„Casinos have to be revenue-oriented first and cost-conscious second,“ said Dennis Gomes, a gaming consultant and a former Tropicana executive who served as a gaming regulator in New Jersey and in Nevada. „You can't save your way to profits.“

Nevada, which grants licenses to anyone who can pass a lengthy investigatory process, is the lone exception to the limited-license rule.

Columbia Sussex is a privately owned company based in northern Kentucky that operates mid-priced hotels and has acquired several casinos in recent years. The company's challenge began in January when it bought Aztar Corp. and its Tropicana casinos for USD 2.75 billion – beating out bigger and more experienced gaming companies in a high-stakes bidding war. Critics said the company overpaid for Aztar and buyers of the company's bonds were lured by promises that Columbia Sussex would cut costs by tens of millions of dollars.

And cut they did, especially in Atlantic City, where nearly 900 people – roughly a fourth of the Tropicana's workforce – lost their jobs within 10 months.

Though the job cuts weren't welcome, it was the regulators' perception that they were being kept in the dark about the layoffs that most upset the commission.

The commission's investigative report said Bill Yung, chief executive of Columbia Sussex, fired managers who opposed the company's cost-cutting goals and at least one executive lied

to regulators to give credence to Yung's explanation for the layoffs. The report also said Yung minimized the extent of the planned cuts when he testified before the commission in 2006 even as the company advertised USD 30 million to USD 40 million in cuts to investors on Wall Street.

New Jersey regulators didn't buy Yung's explanation that he had underestimated the competition from casinos opening in nearby Pennsylvania.

„Even if one accepts Yung's explanation about a miscalculation of the impact of the opening of the Philadelphia area slot facilities ... it does not address why he did not follow up with the regulators before instituting the mass layoffs,“ the Commission's report says. „The Atlantic City model works well because it involves a mutual level of cooperation and trust between the regulators and the regulated that is unparalleled worldwide. Simply put, Yung exhibited a lack of cooperation on a grand scale that did nothing to earn regulatory trust in his ability to operate in this marketplace. Moreover, his decision-making process was seriously flawed.“

The report enumerated more blatant violations, such as the failure to adopt a „truly independent“ audit committee and the employment of unlicensed security officers to protect cash collected from slot machines – the result of cutting too many security officers from the property's payroll.

Gaming experts say regulators' biggest concern was the breakdown in communication between Columbia Sussex and regulators.

Typically, the relationship between regulators and license holders is congenial and forthcoming, with regulators concerned for operators' success and operators self-reporting regulatory violations and discussing business strategies.

Regulators participate in frequent discussions with operators as part of the auditing process and typically resolve problems

behind the scenes and out of the public eye before they reach the complaint stage, said Gomes, who declined to comment on specifics in the commission's report.

„Cost-cutting is not really the issue because no regulator is going to dictate to an operator how to run their business,“ he said. „But they need to know because it can start to affect the integrity of the gaming process. The one thing you never want as a regulator is to be surprised or lied to.“

Though Nevada regulations allow regulators to strip licenses for misdeeds committed elsewhere, regulators have yet to take that step.

Regulators here have a higher hurdle than those in New Jersey when it comes to revoking licenses. New Jersey operators are required to renew their licenses every few years – a process that places the burden on license holders to prove their worth over and over again. By contrast, a Nevada license is permanent.

Nevada regulators seeking to revoke Columbia Sussex's license have the burden of turning up serious violations or must prove that Nevada's industry is somehow hurt by the company's actions elsewhere. Regulators haven't turned up any violations at the Las Vegas property.

Historically, Nevada regulators have been reluctant to pull licenses. Missouri regulators revoked gaming licenses from Station Casinos in 2000 after the company refused to testify on an issue concerning the lobbying activity of a St. Louis attorney who once worked for the company. Station, which had already moved to sell its Missouri casinos and freely surrendered its license, wasn't charged at home and remains one of Nevada's largest and most respected casino companies. The landmark Binion's Horseshoe downtown had racked up IRS liens and other debts while under the much-criticized leadership of Becky Binion Behnen. Instead of forcing a

bankruptcy sale and putting hundreds of jobs at risk, regulators engineered a three-way deal to sell the property while leaving management temporarily to gaming giant Harrah's Entertainment.

New Jersey's regulations are more intrusive, with regulations governing security and gaming staffing and a vague requirement that companies operate „first class“ gaming facilities. Before they were watered down in recent years, New Jersey regulations dictated building design, recreation space and other operational specifics.

With only 11 casinos, Atlantic City's market can less afford major failures, said Las Vegas gaming attorney David Arrajj, a former New Jersey regulator.

With its multitude of casinos, Nevada can let the market decide who wins and who loses.

„In Nevada, regulators are going to give you enough rope to hang yourself,“ Arrajj said.