

July 2014

New Jersey Redefines Permissible Types of Pay-to-Play Skill Contests

New Jersey recently amended its law on skill contests. The new law defines the types of skill contests where a payment can be required to enter. This change could affect operators of video game tournaments, fantasy sports leagues, or other competitions historically viewed as skill-based (and therefore allowed to charge for entry) but which do not fit directly within the new statutory definition of a “contest of skill.”

Contest of Skill Narrowly Defined

The new law defines contest of skill as “any baking or photography contest, and any similar contest that is approved as a ‘contest of skill’ by the Attorney General, provided that the winner or winners are selected solely on the quality of an entry in the contest as determined by a panel of judges using uniform criteria to assess the quality of entries.”

Potential Problems for Various Types of Contests

The new definition of contest of skill presents a challenge for anyone who has been offering skill-based contests in New Jersey where (a) a payment is required to enter, but (b) the format of the contest is different from a traditional baking, photography, essay or other contest where entries are judged by a panel of judges based on quality. Examples could include trivia contests, athletic competitions, video game tournaments and fantasy sports leagues, to name a few. Online video or photo contests with public voting as a deciding factor (or the only factor) would also be called into question, at least if a purchase or other payment is required for entry, which is sometimes the case but not usually. While the option exists to seek approval for such contests from the Attorney General, it is not clear that the Attorney General has discretion under the statute to approve any format not based on judging by a panel of judges.

Potential Implications for Pay-to-Play Contest Operators

It seems that the intent of the law is to *broaden* the category of permissible pay-to-play skill contests by removing a theoretical doubt as to the legality of all such programs under prior New Jersey case law. The actual effect, however, may be the opposite given the narrow definition of the protected contests which, as noted above, excludes some types of the contests historically offered by many sponsors in New Jersey and a number of other states under the theory that an entry fee was permissible as long as any form of skill (not just panel-judged skill) determined the winners.

For the moment, there is no apparent intent by New Jersey officials to restrict the operation of pay-to-play skill contests which have been running in that state. Until the law is clarified in New Jersey, however, anyone offering a pay-to-play, skill-based contest where winners are selected on a basis *other* than panel-based judging should pay close attention and possibly consider voiding the contest in New Jersey as the more conservative position.

The text of the law is available [here](#).

This *GT Alert* was written by **Ed Chansky** and **Erica Okerberg** in Greenberg Traurig's Las Vegas office. Questions about this information can be directed to:

- > [Ed Chansky](#) | +1 702.599.8016 | chanskye@gtlaw.com
- > [Erica Okerberg](#) | +1702.599.8073 | okerberge@gtlaw.com
- > Or your [Greenberg Traurig](#) attorney

Albany +1 518.689.1400	Denver +1 303.572.6500	New York +1 212.801.9200	Shanghai +86 (21) 6391.6633
Amsterdam +31 (0) 20 301 7300	Fort Lauderdale +1 954.765.0500	Northern Virginia +1 703.749.1300	Silicon Valley +1 650.328.8500
Atlanta +1 678.553.2100	Houston +1 713.374.3500	Orange County +1 949.732.6500	Tallahassee +1 850.222.6891
Austin +1 512.320.7200	Las Vegas +1 702.792.3773	Orlando +1 407.420.1000	Tampa +1 813.318.5700
Boca Raton +1 561.955.7600	London* +44 (0) 203 349 8700	Philadelphia +1 215.988.7800	Tel Aviv^ +972 (0) 3 636 6000
Boston +1 617.310.6000	Los Angeles +1 310.586.7700	Phoenix +1 602.445.8000	Warsaw~ +48 22 690 6100
Chicago +1 312.456.8400	Mexico City+ +52 (1) 55 5029 0000	Sacramento +1 916.442.1111	Washington, D.C. +1 202.331.3100
Dallas +1 214.665.3600	Miami +1 305.579.0500	San Francisco +1 415.655.1300	Westchester County +1 914.286.2900
Delaware +1 302.661.7000	New Jersey +1 973.360.7900	Seoul∞ +82 (0) 2 369 1000	West Palm Beach +1 561.650.7900

*This Greenberg Traurig Client Advisory is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. *Operates as Greenberg Traurig Maher LLP. **Greenberg Traurig is not responsible for any legal or other services rendered by attorneys employed by the strategic alliance firms. +Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. ∞Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. ^Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. ~Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2014 Greenberg Traurig, LLP. All rights reserved.*