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Kevin Flynn draws Michigan aces Ex-casino owner eyes \$5-mil. prize

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By Kristina Buchthal

Luck turning: Illinois regulators blocked Kevin Flynn's bid to build a casino in Rosemont. But he'll win big if two proposed casinos in Michigan don't open by fall. *Chicago Sun-Times* photo

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Kevin Flynn, thwarted in his bid to open a casino in northwest suburban Rosemont, stands to hit a smaller yet tidy jackpot if Indian tribes are blocked from opening a pair of casinos in southwest Michigan.

Mr. Flynn, his father and a group of investors lost the chance to open a casino in one of Illinois' most lucrative locations when state casino regulators forced them to give up their Illinois casino license after determining that some of the investors had ties to organized crime figures and the group had failed to disclose agreements related to the construction and ownership of the proposed Rosemont casino. Another group recently won the right to open a casino in Rosemont.

Now, Mr. Flynn is on the verge of collecting \$5 million if Indian casinos proposed for Battle Creek and New Buffalo, Mich., don't open by November. Ground hasn't been broken for either casino, and with both projects tied up in litigation, the payment to Mr. Flynn seems assured.

Writing the check would be Boyd Gaming Corp., a Las Vegas casino operator that bought a Michigan City, Ind., gambling boat and attached hotel from the Flynn's for \$273.6 million in 1999. That facility, the Blue Chip Casino and Hotel, is just nine miles from the casino the Pokagon Band of Potawatomi Indians wants to build in New Buffalo.

When it agreed to buy the boat, Boyd also signed a five-year consulting agreement with Field Street Inc., where Mr. Flynn was CEO. Under the contract, a copy of which was provided to *Crain's* by a spokesman for the Pokagons, Field Street agreed to provide consulting services to Boyd on "marketing and promotional matters, legislative, regulatory and lobbying matters and ongoing operations."

Payment details

In return, Field Street was to receive \$42,000 per month in consulting fees (\$2.5 million over the five-year contract term ending at June 30, 2004); reimbursement for "travel, legal and lobbying expenses," and a \$5-million "contingent payment" if neither Indian casino was open when the consulting contract expired. Boyd had the right to terminate the contract and stop paying Field Street if either casino opened before the expiration date.

Mr. Flynn wouldn't comment, but Boyd said the contract reviewed by *Crain's* has been superseded by a new agreement providing for the same payments. Under that contract, Mr. Flynn would be entitled to the \$5 million payment in November if neither Indian casino has opened.

Boyd won't discuss what services Mr. Flynn or his company have performed under the consulting agreement. The company says the \$5-million payment reflects the higher value of the Blue Chip Casino without two new competitors close by.

The contract passed muster with the Michigan attorney general's office, which determined in August 2001 that the \$5-million payment wasn't an improper contingent lobbying fee.

It's not clear what, if anything, Mr. Flynn has done to fight the Indian casinos. But an employee of a Chicago public relations firm Mr. Flynn has used for other matters is helping a citizens group in New Buffalo that is suing to block the Pokagon casino. An organizer of Taxpayers of Michigan Against Casinos (Tamac) says a staffer at the Chicago firm, Res Publica, reviews the group's newsletters, which are used to solicit donations. The organizer says that Res Publica has never billed Tamac for services.

"She kind of looks it over, and every once in a while, she'll give me a little advice," said Liz Thomas, a Tamac organizer. "If we're just sort of lost for a phrase, we'll ask her. We fax back and forth. She's just a friend of mine."

Guy Chipparoni, who owns Res Publica, said Tamac is not his client. But a March 7, 2001, letter from Boyd to a Flynn family company discusses reimbursements to Grand Rapids, Mich.-based Warner Norcross & Judd, the law firm used by Tamac, and KemperLesnik Communications, where Mr. Chipparoni was an employee before he acquired the business unit he worked for and renamed it Res Publica. Ms. Thomas said Tamac pays its legal fees with money raised from local homeowners opposed to the Pokagon casino. The Warner Norcross & Judd attorney who represents Tamac confirmed that Tamac pays its own legal fees, but declined to say if Boyd or Mr. Flynn are clients.

Letter from Boyd

In the letter, obtained from the Michigan attorney general's office, Boyd General Counsel Brian Larson reminds Flynn Enterprises Inc. that Boyd will not reimburse the firms referenced in the letter for "direct or indirect lobbying expenses" and acknowledges that bills received from KemperLesnik and Warner Norcross represented that none of their services involved such lobbying.

The reluctance of Boyd and Mr. Flynn to discuss the consulting agreement isn't surprising. Blue Chip Casino was fined \$1 million by the Indiana Gaming Commission in May 2000 for failing to disclose the contract, said Jennifer Arnold, deputy director of the commission. And the Illinois Gaming Board cited the contract in March 2001 as one of several reasons for not renewing Mr. Flynn's license to operate Emerald Casino in Rosemont.

Still, Mr. Flynn seems certain to collect his payment. Tamac and other groups fighting the Indian casinos have stalled them with federal and state lawsuits, making a November opening all but impossible.