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DECLARATORY RULING

Holdem Chess

Agenda # 2020-00618

Introduction

Holdem Chess combines some of the elements of chess and some elements of poker. The game pieces (representing the 52 playing cards) are moved on the board as in chess, capturing opponents' game pieces to acquire the best poker hand you can. The 2 through 9 cards are the pawns and move as pawns do in chess. The 10 is the castle, the jack is the knight, the queen is the bishop, the king is the king, and the ace is the queen. All cards move as they do in chess. Unlike chess, you do not try to get your opponent's king in check or checkmate.

Each of the 4 players is dealt two cards face down. These are both wild and can represent any card in the deck. Players ante. They move their chess piece once in turn. On the first three rounds of play, the board is a closed board meaning the player only plays against the player sitting directly across from them. After three rounds, the board becomes open and you can take any of the players' game pieces. There is a total of six rounds.

Using tournament chips, players can bet and/or bluff their way to winning the hand and the bets. It can be limit or no-limit betting, determined before the game begins. Betting begins after three rounds. If a player does not call or raise a bet made, they fold their cards, but their board pieces remain available for acquisition by other players. Captured game pieces remain face-up. The players only pay one entrance fee and all cash prizes are awarded out of the entrance fees. No side betting is allowed.

At the end of Round 6, the final bets are made, and all players expose their hands and the high hand wins the pot. Or, if only 1 person remains because the others have folded, she wins the pot.

Accordingly, game play follows the rules of chess, although instead of the singular goal in traditional chess -- to capture the king -- in Holdem Chess the goal is to capture pieces that are also cards and to put together a winning poker hand.

Statutes Involved

ABCL Section 106(6) prohibits gambling in licensed retail on-premises establishments. It is well-settled that the ABCL, which does not have its own definition of "gambling," follows NYS Penal Law Section 225.00 (2) for the definition of gambling:

“A person engages in gambling when he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome.”

A “contest of chance” is further defined as “any contest, game, gaming schem or gaming device in which the outcome depends in a material degree on an element of chance, notwithstanding the that skill of the contestants may also be a factor therein.” NYS Penal Law Section 225.00(1).

Question

Is Holdem Chess gambling, *i.e.*, is it a game of skill or a game “in which the outcome depends in a material degree on an element of chance”?

Determination

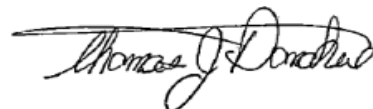
All three elements of the Penal Law’s test must be present to constitute gambling. Here, the game admittedly has two of the three elements of gambling, (1) risking something of value – the entry fee, and (2) in order to receive something of value – the cash prize. The third element, whether it is a contest of chance, requires analysis.

Chess is traditionally viewed as the classic game of skill. Poker is traditionally viewed as a game of chance, even though skilled players are more likely to win over time, because the outcome of each hand (and thus each wager) turns on the randomness of which cards are drawn. In the hybrid Holdem Chess game, no random cards are drawn. Each player has the same cards as the other players. The two down cards dealt to each player are wild and can be designated by the player holding them as any card. Game play replicates chess, not poker, as players exchange moves in a battle of wits to acquire pieces which also represent the cards of the deck. All players have an equal opportunity to capture the “card” necessary to put together a poker hand based upon their chess skills. The game also requires basic knowledge of the rules of poker and involves the skill aspects of poker: knowing how to value a hand and how to bet, including when to call, raise or fold, when to bluff, and how to read body language.

There are some games that are obviously skill based, some that are obviously based to a material degree on chance, and some games that fall in between. Given that chess is not based on chance and is thus considered a game of skill, that this hybrid game is played according to the modified rules of chess, that the aspects of Holdem poker involved in the game are the skill-based aspects, and that the random aspects of poker are not present, the Members find the game of Holdem Chess to be one of skill -- not depending to a material degree on an element of chance. The game as represented to the Members therefore can be played in licensed establishments with entry fees and cash prizes.

This matter was heard and determined by the Members of the Authority at a Full Board meeting held on May 13, 2020, 2020 before Chairman Vincent Bradley, Commissioner Lily Fan and Commissioner Greeley Ford. The above written ruling was approved by Chairman Bradley on behalf of the Members on June 15, 2020.

Dated: 6/16/20



Thomas J. Donohue
Secretary to the Authority