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BEFORE THE MISSOURI GAMING COMMISSION
STATE OF MISSOURI

Meeting
August 27, 2014
10:00 a.m.
Central Office
3417 Knipp Drive
Jefferson City, Missouri

(Meeting start time: 10:00 a.m.)

AGENDA

		page
I.	Call to Order	5:2
II.	Consideration of Minutes	
	A. June 25, 2014	7:24
	B. July 30, 2014	7:24
III.	Consideration of Hearing Officer Recommendations	
	C. Joseph Branchik	
	1. Resolution No. 14-047	9:9
	D. Kee Hung	
	1. Resolution No. 14-048	30:25
	E. Jean Hanson	
	1. Resolution No. 14-049	33:4
	F. Marilyn Lair	
	1. Resolution No. 14-050	42:2
	G. Jeremy Howland	
	1. Resolution No. 14-051	46:11
	H. Frederick W. Bevill	
	1. Resolution No. 14-052	48:19
	I. Richard Reece	
	1. Resolution No. 14-053	51:21
	J. Richard Reece	
	1. Resolution No. 14-054	51:21
	K. Richard Reece	
	1. Resolution No. 14-055	51:21
	L. Richard Reece	
	1. Resolution No. 14-056	51:21
	M. Richard Reece	
	1. Resolution No. 14-057	51:21
	N. Michael Mayhew	
	1. Resolution No. 14-058	56:16
	O. John Kerr	
	1. Resolution No. 14-059	58:16
IV.	Consideration of Disciplinary Actions	
	P. Aristocrat Technologies, Inc.	
	1. DC-14-30873:22	
	Q. Casino One Corporation	
	1. DC-14-30975:10	
	R. Casino One Corporation	
	1. DC-14-31076:11	
	S. Harrah's North Kansas City, LLC	
	1. DC-14-31177:17	
	T. IOC-Cape Girardeau, LLC	
	1. DC-14-31277:20	

AGENDA (CONT'D)

page

IV. Consideration of Disciplinary Actions (Cont'd)
U. The Missouri Gaming Company
1. DC-14-31380:2
V. The Missouri Gaming Company
1. DC-14-31481:16
W. PNK (River City), LLC
1. DC-14-31584:1
X. Pinnacle Entertainment, Inc.
1. DC-14-31685:15
Y. Pinnacle Entertainment, Inc.
1. DC-14-31786:24
Z. Casino One Corporation
1. DC-14-31886:24
AA. PNK (River City), LLC
1. DC-14-31986:24
V. Consideration of Relicensure of Suppliers
BB. Midwest Game Supply Company
1. Resolution No. 14-060 91:4
CC. Modern Gaming, Inc.
1. Resolution No. 14-061 91:4
VI. Consideration of Rules and Regulations
DD. Proposed Amendment
1. 11 CSR 45-10.040 - Prohibition and Reporting of Certain Transactions 93:11
VII. Consideration of Licensure of Level I/ Key Applicants
EE. Resolution No. 14-062 100:8
VIII. Motion for Closed Meeting under Sections 313.847, RSMo, Investigatory,

Proprietary and Application Records
and 610.021(1) RSMo., Legal Actions,
(3) & (13) Personnel and (14)
Records Protected from Disclosure by Law 101:25

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Meeting
August 27, 2014
10:00 a.m.
Central Office
3417 Knipp Drive
Jefferson City, Missouri

COMMISSIONERS PRESENT:

Darryl T. Jones, Vice Chairman
Suzanne Bocell Bradley
Diane C. Howard

REPORTED BY:
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P R O C E E D I N G S

VICE CHAIRMAN JONES: Good morning everyone.

COMMISSIONER HOWARD: Good morning.

VICE CHAIRMAN JONES: Angie, take the roll.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Present.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Present.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Present.

Before we get started with the agenda I'd just like to take the time to thank two longtime employees here at the Commission for all of the service that they've done, and they're moving on to bigger and better things.

Lieutenant Rex Scism is with the Missouri State Highway Patrol and has been with the Gaming Division for 13 years. He's made many friends here and the Commission values the contributions he's made.

Lieutenant Rex Scism is being promoted and will become Captain Rex Scism in just a couple of days. He will be overseeing the Highway Patrol's Research and Development Division.

So Rex, I mean, it's been years. You know, we've worked together for years and stuff, and I know

I'm going to really miss you for all of the things that you've done here.

And at the same time, Blaine Preston is the MGC Gaming Enforcement Manager in charge of electronic gaming devices, or EGDs. Blaine is headed to a security manager position within the Missouri Lottery. Blaine is in his twelfth year and has contributed a lot to the functions of the MGC.

I know especially Todd and many others here at the Commission are going to miss them. So good luck to both of you guys.

I'd like to present this to you.

And for Rex -- I guess you can stand up here. It says Lieutenant Rex Scism, in special recognition of distinguished service July 2001 to August 2014, Missouri Gaming Commission.

LIEUTENANT SCISM: Thank you very much. I appreciate it.

VICE CHAIRMAN JONES: Thank you, sir.

And Blaine, in special recognition of distinguished service October 2002 to August 2014, Missouri Gaming Commission.

MR. PRESTON: I appreciate that.

VICE CHAIRMAN JONES: Thank you.

Do you guys want to say anything? You have

the floor.

LIEUTENANT SCISM: We've been longtime roommates. Our offices are right next to each other.

We've been joking about, you know, what we're going to do with the new roommates and everything, so we're both just going to leave and let everybody fight over office space, the prudent thing to do.

I've worked with a lot of you. Some of you I've never worked with. It's been my pleasure calling you all colleagues and friends over the last 13 years. It's hard to believe it's been that long.

But I appreciate the kind gesture and the recognition, and I'm definitely going to miss everybody that I work with over here and am looking forward to new challenges. So thanks for everything. I appreciate it.

VICE CHAIRMAN JONES: Thank you, Captain.

MR. PRESTON: Is it all right if I say ditto?

It's been 12 years almost and a great opportunity, and I appreciate everything, the working relationships and what this organization has given to me. So thank you.

VICE CHAIRMAN JONES: Thank you, sir.

EXECUTIVE DIRECTOR STOTTLEMYRE: Mr. Chairman, the next item on the agenda would be the

Consideration of Minutes for June 25, 2014 and July 30, 2014.

VICE CHAIRMAN JONES: Can we get a motion to approve the minutes?

COMMISSIONER HOWARD: I move. I'm assuming we can take these together, that we approve the minutes for the meetings, both June 25, 2014 and July 30, 2014.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: It's been moved and seconded.

Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted the minutes of the meetings, June 25th, 2014 and July 30th, 2014.

EXECUTIVE DIRECTOR STOTTLEMYRE: Mr. Vice Chairman, I did promote you to Chairman there a minute ago.

VICE CHAIRMAN JONES: That's okay.

EXECUTIVE DIRECTOR STOTTLEMYRE: I don't know

that I have that authority.

The next item on the agenda is the Consideration of Hearing Officer Recommendations, and Mr. Bryan Wolford will present.

MR. WOLFORD: Good morning, Mr. Vice Chairman, Commissioners.

VICE CHAIRMAN JONES: Good morning.

COMMISSIONER HOWARD: Good morning.

MR. WOLFORD: For your consideration Resolution No. 14-047, the matter of Joseph Branchik.

The licensee was the Vice-President of Marketing at Lumiere Place on December 17th, 2011. The casino held an event that was for patrons 21 years of age or older and alcohol was served at the event.

A 19-year-old patron was allowed to gain access to the event. When she went to get her arm band, the person who was issuing the arm bands did not check her identification, slapped the arm band on and let her in.

She was subsequently observed holding at least two alcoholic beverages, and a security officer at that point became suspicious, determined she was underage and removed her from the event.

Prior to the event the licensee held a

meeting with all of the event staff, and at this meeting he went through the policies and procedures of the event, and checking identification was one of those.

However, the employee who failed to check the patron's identification had arrived late to the meeting, and the licensee did not follow up with her later to discuss what she may have missed out on or let her know what her responsibilities were at this event.

As the Vice-President of Marketing for the casino the licensee had the ultimate responsibility to ensure that all of the staff, including the lady who let the underage patron in, knew exactly what their duties and responsibilities were and that there was sufficient security there to prevent people under 21 years of age from entering the event.

By State regulation any licensee shall not then give away or otherwise supply liquor to a minor, and unfortunately that happened in this case.

Therefore, the hearing officer recommends that the two-calendar-day suspension be affirmed as proper and appropriate discipline.

VICE CHAIRMAN JONES: Is Mr. Branchik here? Would he like to --

MR. BEDNAR: Mr. Branchik is here.

My name is Joe Bednar. I'm here to represent

Mr. Branchik to present arguments as to why discipline in this particular matter is inappropriate and the recommendation should be rejected.

VICE CHAIRMAN JONES: Go right ahead.

MR. BEDNAR: Mr. Vice Chairman and Commissioners, again, my name is Joe Bednar. I'm with the law firm of Spencer, Fane, Britt & Browne. I represent the licensee, Joseph Branchik, occupational licensee in this matter.

And I think it's important in this case to look at the specific charges that were presented against Mr. Branchik, and that issue is very simply and simply the charge of inadequate staffing, which is by the facts of the case presented by both the hearing officer and the Gaming Commission.

There was adequate staffing. This was an issue as to whether or not Ms. Connors, who is also a licensee and who has also been disciplined by this Commission, she failed to check the driver's license of the minor and was disciplined for that.

It's not an issue of whether the staff -- there was inadequate staff, in which an adequate number of people to make sure that everybody gets checked. She admitted and accepted discipline by this Commission.

In fact -- and so very simply there is not

sufficient facts pursuant to Chapter 536.140. There has to be sufficient facts on the record to support the action of the agency.

In addition, as we -- when you look at the charges here -- give me a second.

There has been no rule adopted by this Commission in regards to what adequate staffing is.

The trooper that was questioned and cross-examined at the hearing testified that she had no idea whether or not a rule was promulgated -- or I should say unaware of any rule promulgated that would establish what adequate staffing is.

So you can't discipline someone under Missouri law if there hasn't been a properly promulgated rule.

The policies of this Commission, or any other agencies, it's pretty standard procedure. If you're going to have a policy of general applicability, that is, it applies to any member of the public, any citizen of the state, the government agency has an obligation to promulgate a rule pursuant to Chapter 536, and obviously this agency operates -- this Commission operates under Chapter 536.

So in the Petition itself, in the findings of facts, paragraph 6, and in the discussion of the hearing

officer lays out also that the actions of the licensee, or Mr. Branchik, would somewhat discredit the gaming industry in the state of Missouri.

There was no evidence presented at the hearing that would establish that it would discredit the industry, Mr. Branchik's action.

Again, we have to separate Mr. Branchik's duties and responsibilities and actions to this event versus other licensees.

And, in fact, under the liquor control section of our rules there is an excursion licensee, which is the Class A licensee.

There is no facts in this case that would indicate that Mr. Branchik was at the event. Mr. Branchik was not there. It was not his responsibility. Security was there.

This was just an event to celebrate the World's Series victory. Tony La Russa was there and that was the big excitement of the event.

I think that is evident in Ms. Connors' statement in her case. She stated that they were all excited. Hey, who wasn't excited at that time? That was a great victory. But still she accepted the conduct.

But as I go back, you have to have testimony.

You have to have some evidence. There is no evidence to show that he discredited the gaming industry or his actions discredited the state of Missouri. It's the issue of whether or not we presented clear and convincing evidence.

First under our rules here at the Commission they -- the Commission has to go first with the evidence, and under the statute for the Gaming Commission and rules you have to present adequate evidence.

So there's no evidence that Mr. Branchik violated any rule or violated any law in regards to staffing.

In the Commissioner's Order he gets into other issues beyond staffing, and while, you know, I understand that's part of the discussion, that's not the charge, and so you can't bring new allegations of violations of policy at this late date.

The issue of whether or not there was incompetence, misconduct, gross negligence, fraud, misrepresentation, dishonesty in the performance of the function and duties, there is no evidence presented, nor is there any conduct alleged that would support any of those charges.

Incompetence is really undefined by statute

or rule. Misconduct must be done willfully, and I think we'd all agree that nothing that Mr. Branchik did was to willfully violate any statute of Missouri.

And again, there is no rule on staffing, and there has been no proof that there was insufficient numbers of people. She slipped in because she wasn't checked. She was there, made contact with staff. That staff person, that licensee, has already admitted she should have and did not.

There is no allegation of fraud, there is no allegation of misrepresentation and there is no allegation of dishonesty.

Gross negligence is not simple negligence, and that's important to know. Again, that requires knowing action. And there has been no evidence presented here of any knowing action on Mr. Branchik's part to violate any rule or statute.

In regards to -- so then when you get into the rules, the Petition cites 11 CSR 45-4.260(4) and then subparagraphs E, F and Q.

Again, E says who has failed to comply with or make provision for complying with Chapter 513, the rules of the Commission or any Federal, State or local law regulation.

Again, there is no rule, no Federal, State or

local law on staffing. Again, there is no rule on staffing, on what adequate staffing is.

And then incompetence, misconduct, I've spoken to that. There is no evidence of any willful or knowing actions on Mr. Branchik's part to ignore or violate any rule here.

This is his career. This is his life. And while two days may seem minor in the context of revocations and fines that this Commission hands out every day, it is good to know that every licensee, whether it's a day or an hour or two hours, this act of discipline by this Commission certainly has an impact on their career, has an impact on their life and has an impact on how they're viewed by their peers and more importantly by superiors.

So the actions taken by this Commission by the clear evidence of the great conduct on almost all of the licensees in the state in this industry, in fact, they do take you-all seriously, and his presence today, taking another day off to be here, is further of the evidence of the seriousness of which he considers the charge and his desire to defend himself.

In regards to the allegation that there is a violation of 11 CSR 45-12.090(3), 3 itself applies to excursion liquor licensing. That's the Class A

licensee. That is not Mr. Branchik.

Later in that same paragraph they talk about any licensee but then you have to be in the presence, where they say permit a person under the age of 21, like a bartender, which I was at one time. I would have to serve -- knowingly serve a minor to be in violation of this chapter.

And you've seen in all of the other actions of disciplining somebody for serving someone under 21, or dealing cards to someone under 21, in the case where the dealer or the bartender or the waitress, some other -- or security person failed to check or inadequately checked.

Never a supervisor, a vice-president over another operation that is that distantly removed from the rule.

And again, by the rule's own statement, you have to be present at the time.

B, it says in order to be deemed acting in good faith the licensee or the licensee servant, agent or employee upon presentation must compare the photograph and physical characteristics.

That's not applicable to Mr. Branchik because he wasn't there and that was not his responsibility.

But even so it was Ms. Connors. He did

instruct everyone in his department what their job duties were.

There is no allegation of a defense by Ms. Connors that she didn't know. She accepted it. She accepted it and she knew she should have by her own statements in the disciplinary action against her.

So again, Mr. Branchik would respectfully request that this Commission reject the officer's recommendation for discipline and that he not be disciplined in this matter.

VICE CHAIRMAN JONES: All right. Thank you, Counsel.

MR. BEDNAR: Thank you.

MS. KERR: Good morning, Commissioners, Vice Chair.

VICE CHAIRMAN JONES: Good morning.

COMMISSIONER HOWARD: Good morning.

MS. KERR: The hearing officer in this case made two findings, that Joseph Branchik failed to adequately staff the Tony La Russa event and then he failed to comply with or make provisions to ensure that his staff complied with the applicable liquor laws as required by Section 313.812.14, Sub 1 RSMo.

As the Vice-President of Marketing Mr. Branchik was responsible for making sure that he and

his entire staff complied with the gaming laws of Missouri.

He was responsible for properly staffing the events offered by the casino and making sure that his staff knew the rules and that they followed them.

On December 17th Mr. Branchik made the decision to staff that event with marketing staff at the door who were not trained to check IDs, but they were supposed to check in guests and hand out the entry wrist bands. Mr. Branchik assigned the security staff to patrol inside the venue.

Although one security officer was posted at the door, he was not in charge of checking in the patrons. Instead, as was stated, VIP host Lynne Connors was, but as was also stated she was late to Mr. Branchik's meeting.

According to Mr. Branchik's statement during the investigation, Ms. Connors was part of the marketing department's chain of command and he was her supervisor.

At the event Ms. Connors was posted at the door and was supposed to check IDs to make sure no minors were allowed into the event. One minor was allowed entry because she failed to check her ID.

At no time prior to the event did Mr. Branchik verify with Ms. Connors that she received

all of the information that was provided during this pre-event meeting or that she understood her roll and responsibility when checking in guests.

The licensee has the burden of proof to establish that he should not be disciplined. In this case Mr. Branchik did not meet that burden.

Mr. Branchik's failure to adequately staff the event by making sure that properly trained staff, the security officers, not the VIP -- not the marketing department, were posted at the doors to check IDs before granting them access to the event.

And his failure to make provisions to assure that his entire staff, including Ms. Connors, knew and understood what the rules were for the event and how to assure compliance with gaming regulations and State law by not allowing minors into the event reflects negatively on both the casino and the Missouri gaming industry.

As such we agree with the hearing officer recommendation that Mr. Branchik's license be disciplined for the two-calendar-day suspension and we believe that that suspension is proper. Thank you.

VICE CHAIRMAN JONES: All right. Thank you.

Commissioners, any questions?

COMMISSIONER HOWARD: The finding regarding

adequate staffing, does that relate to the use of the marketing staff rather than using the security staff?

MS. KERR: Well, I think it could go to the entire -- how he staffed it, where he put the staff, where he assigned the staff. I think that certainly could do that.

VICE CHAIRMAN JONES: It's not a quantity?

MS. KERR: Not necessarily.

VICE CHAIRMAN JONES: Right. Okay.

COMMISSIONER HOWARD: And I do understand. Adequacy can definitely be qualitative and not quantitative.

MS. KERR: Right.

COMMISSIONER HOWARD: And the communication of communicating the expectations had to do with communicating specifically to those who were going to have to use the information regarding the security procedures?

That was the concern, communicating the expectations as to the event of the rules and regulation, that concern is communicating the security procedures to those who are not trained in security? That's what I'm to understand?

MS. KERR: That is part of it, yes.

COMMISSIONER HOWARD: That's the basis for

the finding of being certain that the security-related procedures were communicated specifically to those who were going to have to use those processes since they were not normally -- that was not normally part of their job responsibilities?

MS. KERR: Right.

MR. BEDNAR: May I make a matter of clarification here?

This marketing -- this event, it was 21 and older not because of State law. It was because of the marketing event.

So everybody was instructed that in order to attend, regardless of the liquor laws -- I mean, it is because of liquor laws, but the licensee themselves decided that it would be a 21 and older event. It wasn't required by law to be a 21 and older event.

That's important to note here. This was a voluntary 21 and over event, not a State law 21 and over event.

The issue then of -- so I just want to make clear there that the marketing staff was, in fact, knowledgeable and was instructed and had the meeting.

And again, in Ms. Connors' defense, I don't think she could have been disciplined by this Commission as she was if she was not -- didn't understand the law

or didn't understand her job that night.

So she was instructed -- the staff was instructed. It was on the fliers that it was 21 and older. And she went through her process in her statement about checking the wrist -- to get the wrist band, checking the IDs, checking the driver's license. She never said I didn't know.

I mean, her defense was I got busy, I got excited and I didn't check it and I should have.

So I want it to be clear that this is not an issue on a communication standpoint that she didn't understand what her responsibilities and job duties were. She clearly understood that.

MS. KERR: Ms. Connors did not testify at this hearing. I just wanted to make that clear.

MR. BEDNAR: But I did request that her file and the disciplinary action, that this Commission take judicial notice of, and that was not objected to I believe in the earlier part of the record.

And by State law you can take judicial notice, and I'd ask you -- if that is a gap, I'd ask you now to take judicial notice of the action this Commission took against Ms. Connors.

COMMISSIONER BRADLEY: What was that action? Do we have it? What was the action?

MR. BEDNAR: I have it.

It was a two-day discipline.

DC-12-92.

Here is a copy of it if you'd like.

Again, I think the questions asked by the Commissioner in regards to the meaning of staffing, that supports Mr. Branchik's position that a rule should be promulgated to make that clear, so the public has adequate notice as required by State law.

COMMISSIONER HOWARD: A rule as to what adequate means?

MR. BEDNAR: Yes, because it's policy.

In this Commission if they want to establish a policy on what adequate staffing is in order to discipline, fine people, suspend them, revoke their license, then under Missouri law you have to promulgate a rule.

Otherwise, that licensee or any licensee, whether it's a hair stylist or a lawyer, I mean, anybody, a doctor, if you don't have a properly promulgated rule, then that -- on appeal that licensee comes back, appeals that, and then the Commission is obligated to pay all of the attorney's fees, all of the costs that are associated with that, and that action is expunged from that licensee's record.

So, yeah, that's a pretty standard -- a pretty standard rule and law.

In fact, there was quite a bit of litigation that occurred back in 1994/95 when they redid an amended Chapter 536 to make it clear.

The gaming statute specifically referred to the regulations, Chapter 536, and Chapter 536.140, which is a part of the Grace versus Gaming Commission case, it lays out arbitrary, capricious actions and those without a record.

But rules have to be properly -- any policy that has general applicability has to be properly promulgated so that the public has notice as to what the requirements of the Commission are.

COMMISSIONER HOWARD: Well, I understand that the rules have to be properly promulgated, but you're suggesting that the term adequate, there needs to be a rule promulgated to define the term adequate?

MR. BEDNAR: I think so, because by your own questions you were uncertain as to what adequate meant, until you asked the assistant general counsel of the Commission as to how they were interpreting adequate.

That's really your-all's decision as to what adequate staffing means, and then the licensees need to know because they want to comply. They do want to

comply.

And again, I say that this action against the Vice-President of Marketing on adequate staffing is kind of a new front for the Commission and different than what your typical under 21 actions have been by the record.

COMMISSIONER BRADLEY: So the argument then is -- what I'm hearing is that inadequate staffing because someone younger -- because a minor -- you're saying it was inadequate, that the charge is, that he -- that Mr. Branchik didn't have -- provide adequate staffing just because the minor got in, found a way in?

Isn't that what you're saying?

MS. KERR: I think it's -- the hearing officer made two findings. Not only was there this -- the failure to adequately staff but --

COMMISSIONER BRADLEY: The inadequate staffing and then the failure to train?

MS. KERR: Right, to make provisions that his staff --

COMMISSIONER BRADLEY: Failure to train the person who made the mistake?

MS. KERR: Right.

And we do have a rule, 11 CSR 45-4.260(4)(E). That's the rule that -- we can apply facts to that rule

that requires licensees to make provisions to comply with the law, the local, State, Federal law and regulations, and that was cited and found by the hearing officer.

COMMISSIONER HOWARD: Because the variance and the facts that are, as we know, impossible to codify, I'm going to suggest -- I don't -- I can't say what the rules will look like in the future, but to the detriment of those individuals who are operating gaming facilities, there will be rules that will require interpretation by hearing officers and by this Commission probably -- I'm just going to throw this out here -- for as long as I think this Commission exists without specific qualification and quantification by rule with each term specifically defined, which, you know, gives us these lengthy agendas that we enjoy on a monthly basis. That's fine. That's why we're here.

MR. BEDNAR: And our point is simply that the -- there is evidence that he had a training session. He told the staff what they had to do. All of the staff were licensees, so they're presumed to know the law on a 21, if it was just the liquor law.

And the woman was disciplined not only by this Commission but by Mr. Branchik, and she was given a written reprimand as a result, a final written

reprimand.

So if the rule is that you're going to get disciplined even if your employee makes a mistake despite your efforts, the evidence here is it doesn't matter what Mr. Branchik would have done or said to her at any rate, because she said the reason she didn't do it was because she got excited in talking to her friend about the World Series, not because she didn't know she was supposed to check.

COMMISSIONER BRADLEY: The reason I'm having the difficulty with this as Mr. Branchik is responsible is the fact that I support individual responsibility.

I mean, the fact that -- if there had been no training -- I'll give you a little bit of my thoughts here. If there had been no training, it would be something else. There was an exercise in training. So I feel like there's responsibility taken by the -- by the young lady who was at the door.

COMMISSIONER HOWARD: Yes. Despite my comment regarding rules and the interpretations of the rules, the facts as I see them is that a meeting was held and a supervisor is not responsible for someone being late in attendance of a meeting.

I mean, I'm showing how I feel about my subordinates. It's more the responsibility of the

subordinate to find out what occurred before they got there and what are the responsibilities they might have missed.

But I do think the evidence is that, in fact, the individual didn't even need to do that because she was aware of the information that was imparted before she got there and what her responsibilities are and, in fact, she just didn't perform it 100 percent. She performed it 99.9 percent.

And is the supervisor responsible when the subordinate performs at 99.9 percent? Maybe. I hope not.

COMMISSIONER BRADLEY: Is there anything else for them to present?

VICE CHAIRMAN JONES: All right. Thank you, counsel.

Any more questions from the Commission?

Can we get a motion?

COMMISSIONER BRADLEY: Let's see what the resolution is. What page is that on? The first one. I think we started --

MS. FRANKS: Page 9.

MS. KERR: Tab C.

COMMISSIONER BRADLEY: Mr. Vice Chairman, I would like to make a motion not to approve this

resolution. So how would that have to be -- how should that be phrased?

MS. FRANKS: Disapprove.

COMMISSIONER BRADLEY: Motion to disapprove Commission Resolution No. 14-047.

COMMISSIONER HOWARD: I will second that motion.

VICE CHAIRMAN JONES: Any other questions?

It's been moved and second not to approve Resolution No. 14-047.

Angie, would you take the roll.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: I approve the motion to disapprove.

COMMISSIONER BRADLEY: I approve my motion to disapprove.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've disapproved Resolution No. 14-047.

COMMISSIONER HOWARD: Motions in the negative are always confusing.

COMMISSIONER BRADLEY: That's why I asked how to phrase it.

VICE CHAIRMAN JONES: All right.

MR. WOLFORD: Mr. Vice Chairman and Madam

Commissioners, for your consideration the matter of Kee Hung, Resolution No. 14-048.

Although duly notified for the time, date and place of his hearing, Mr. Hung did not appear.

Mr. Hung was the casino operations manager at the Isle of Capri in Kansas City, and he had authority over the casino pit managers.

It came to the Commission's attention that the pit managers were not spending 90 percent of their shifts within the pit as required by regulation.

Mr. Hung had assigned them additional administrative duties to perform, and he failed to give them adequate time outside of their shifts to do so and to instruct them that they were not supposed to do this during their shift time when they are supposed to be in the pit.

Specifically the Internal Control Systems states that the pit managers must spend at least 90 percent of their time within the pit while they're on duty in the pit, and because that did not occur the operations manager had the responsibility to ensure that this casino pit was adequately staffed.

Let me get back to our adequate here. But in this case adequate is defined. It's defined as 90 percent or more of your shift within the pit.

That did not happen as a result of the instructions that Mr. Hung had given his subordinates; therefore, the hearing officer finds that the Commission's decision to impose a seven-calendar-day suspension is a proper and appropriate punishment.

VICE CHAIRMAN JONES: Is Mr. Hung in the audience?

Questions from the Commission?

COMMISSIONER HOWARD: This is a problem we see as it's a recurring issue.

VICE CHAIRMAN JONES: That's the third one we've had.

COMMISSIONER HOWARD: Yes. And I know there is many more out there, just difficulty in -- I'm sure they're not self-reported. I know it's an issue that the Commission feels is very important.

I move for approval of Resolution No. 14-048.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution No. 14-048.

MR. WOLFORD: Mr. Vice Chairman, Madam Commissioners, for your consideration the matter of Jean Hanson, Resolution No. 14-049.

Ms. Hanson was the Senior Director of Finance at Isle of Capri in Kansas City.

On October 12 of 2012 the Commission conducted an audit of the company's general ledger accounts and found that the licensee had approved a purchase of gaming-related equipment from a nonlicensed supplier.

In fact, she was one of the final approvals needed for this gaming equipment to be purchased from the nonlicensed supplier, and that is against State Regulation 11 CSR 45-4.200 states that a supplier's license is required for people who manufacture or sell or distribute gaming-related equipment. And in this case it was electronic computation devices that went on to electronic gaming devices. So there's no doubt that it was, in fact, gaming-related equipment.

Therefore, the hearing officer finds that the one-calendar-day suspension proposed by the Commission is proper and appropriate discipline.

VICE CHAIRMAN JONES: Is Ms. Hanson in the audience?

MS. HANSON: Yes, I am.

I'd like to shed a little prospective on the scenario to better understand exactly what happened.

VICE CHAIRMAN JONES: Ms. Hanson, before you start, for the reporter could you spell your first name, state your name and spell it.

MS. HANSON: J-e-a-n.

Consider a scenario of a husband and wife. They're full partners in marriage. They're both experts in their own field. The wife is a chef and buys a piece of kitchen equipment for the kitchen. The husband is a banker, and when he receives the bill he pays it, makes sure that there is enough money in the checking account and keeps the receipts for tax purposes, et cetera. The husband doesn't cook and is not allowed in the kitchen.

That's kind of the perspective of this purchase. The Director of Operations initiated the purchase of a slot sign.

We are at the same levels in the company in terms of approval authority. He has full rights to purchase for his areas of expertise. I'm not, in fact, even allowed to any slot machine, to know what

components or how a slot machine works. In my field I'm in charge of finances.

The slot sign for $2,859 came to me for final approval. It had been initiated by a slot tech who said we need this piece of equipment, went through the slot manager, went through the Director of Operations and then finally came for my approval.

The only reason this piece of item came to my approval was that it was not a simple repair or replacement of an existing part. It was an item that has more than one year life. Therefore, I needed to treated it as a capital asset instead of an ongoing expense.

Yes, I did approve that purchase, but we approved it in my capacity of recording it in the financial records and not in the respect of it was a slot.

To my knowledge, when I saw the description it was a slot sign. That was the major description on the item. In the very end of it it said something about a controller. I did not understand that this controller impacted the operations of a slot machine.

To my knowledge this controller was part of allowing the slot sign to function, because it was an electronic sign.

The individuals that I aforementioned, the slot tech, the slot manager, my purchasing agent, the Director of Operations, all received discipline in regards to this $2,850 purchase.

Thank you.

VICE CHAIRMAN JONES: All right. Thank you, Ms. Hanson.

Counsel.

MS. KERR: Thank you.

Thank you Vice Chair, Commissioners.

As the Senior Director of Finance Jean Hanson had the responsibility to make sure that all purchases she approved met casino and Missouri Gaming Commission guidelines and rules. She may have relied on those under her supervision for input but the ultimate decision lay with her.

When she received the request for the super controller, she failed to verify that the supplier of that gaming-related product was properly licensed with the MGC as an approved vendor.

She admitted doing so during the investigation and at the May hearing. She knew it was progressive equipment including displays. As such she knew or should have known that or suspected that it was some kind of gaming-related product but she didn't

verify that. She assumed because the Director of Operations approved the purchase it must have passed muster.

However, as she testified, part of her duties was to make sure that every purchase that is channeled up to her is proper. Making sure the vendor that the casino was purchasing the equipment from was properly licensed was part of that responsibility.

Ms. Hanson's failure to meet that responsibility is sufficient cause to discipline her gaming license, and as such we concur with the hearing officer's recommendation and believe that a one-day suspension is appropriate.

Thank you.

VICE CHAIRMAN JONES: All right.

Commissioners.

COMMISSIONER BRADLEY: My question is looking at the transcript it says -- one of the questions to you was part of your duties were to verify the purchase was proper only when those items were channeled to you. So what does that mean?

And you did have to obtain documents if neither were channeled to you. Would you explain that?

MS. HANSON: As I previously said, the Director of Operations and I have the same approval

authority limit. And so there were other purchases made from a different nonauthorized vendor for slot supplies that ended up as a result of this investigation not authorized. Those do not even come to me for approval because it did not pertain to a capital asset purchase.

COMMISSIONER BRADLEY: And how long have you worked in this position?

MS. HANSON: I've worked in this position eleven years at the Isle of Capri in Kansas City.

VICE CHAIRMAN JONES: And, Ms. Hanson, even though the other items did not come to your attention because they didn't meet the muster to be capitalized, this one did, but you still had the responsibility to do the checks and balances to make sure that it was in compliance?

MS. HANSON: I recognize that slot vendors need to be licensed in the state of Missouri and there is -- the list is not extensive. It's out on the website.

And I have in the past -- actually when our Director of Operations was looking at doing a slot sale with a vendor up in Minnesota, I told him I didn't recognize the name, showed him where the website address was and had previous conversations with making sure that their vendors were authorized.

In this particular purchase I did not realize that the component impacted the operations.

In fact, the Missouri Gaming Commission actually put out a few months after this problem arose a list or a clarification of what components or what particular things impact slot operations versus other things that are merely supplies.

So it is a pretty technical area. It is definitely one that I don't have the expertise in to know for certain, and as I said, the major piece that I was approving was a slot sign.

COMMISSIONER HOWARD: But this was not a slot sign?

MS. HANSON: It was a -- the purchase involved several things. The slot sign was a major one.

COMMISSIONER HOWARD: But this part was not?

MS. HANSON: This controller part was also listed as part of that purchase.

COMMISSIONER HOWARD: So the end result of this is when you receive something from the Director of Operations and you're not familiar with it, because I can -- you know, this is not, as you indicate, your area of expertise. You're a debit and credit person. So you make inquiry with the operations individual as to whether this is a component and then you make a second

inquiry and that is whether this is from a licensed vendor if it is a component before you put your signature on the line. Because it's your license that is on the line. Right?

MS. HANSON: It is my license, correct.

COMMISSIONER HOWARD: And then we won't see you again.

MS. HANSON: Okay.

COMMISSIONER HOWARD: Because that's our goal.

VICE CHAIRMAN JONES: Any other questions?

COMMISSIONER HOWARD: I'm trying to reduce our agenda. Can you tell?

COMMISSIONER BRADLEY: There were others that were disciplined. Is that correct?

MS. HANSON: That is correct.

COMMISSIONER BRADLEY: Can you tell me who else was disciplined and what that discipline was?

MS. KERR: Let me look in the file to see.

I believe Christopher Stevenson might have been. I'd have to check all of the people that were given notices of --

COMMISSIONER BRADLEY: Ms. Hanson, do you have information as to who else was disciplined in this matter?

MS. HANSON: I do not know if I've got physical evidence of it, but I do know that my purchasing agent was disciplined.

COMMISSIONER HOWARD: Ms. Gwinn?

MS. HANSON: The slot manager, Doug Duffendack. I believe Mike Krouse, our slot tech. Chris Stevenson also received discipline and then myself.

COMMISSIONER BRADLEY: Thank you. That's all I have.

VICE CHAIRMAN JONES: Any more questions?

Can we get a motion to approve Resolution No. 14-049?

COMMISSIONER HOWARD: I'll make a motion to approve Resolution No. 14-049.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted

Resolution No. 14-049.

MR. WOLFORD: Mr. Vice Chairman, Madam Commissioners, for your consideration the matter of Marilyn Lair, Resolution No. 14-050.

Ms. Lair was a revenue lead audit for the Argosy Casino. On December 21st, 2012 the Commission began an investigation into variances in the personal banker transactions for the gaming days of December 20th and 21st.

The personal banker transactions are essentially via cash lists or promotional transactions that occur on the electronic gaming devices.

And by Minimum Internal Controls the casinos are required to check them at the end of every gaming day and note any variances in these PBTs between the system, the main computer system, and the actual EGDs themselves.

And they did report this to the Commission, which is why the Commission investigated.

The Commission's investigation revealed that the licensee and another employee of the casino had done some investigation on their end as to why these variances occurred. They could not determine the actual cause, so they felt that adjusting the meter on the actual gaming -- the game meter itself was the correct

decision.

However, as it turned out the error was actually within the system, so by adjusting the game meter it created additional issues and resulted in about $52.50 in additional gaming tax that had to be paid at a later time.

Now, the Minimum Internal Control issue at issue here, Chapter U, Section 218, is rather long in detail. I'm not going to read it for the Commission.

But the relevant part is if it is determined that an adjustment must be made, the adjustment should be correct and appropriate.

And in this case the licensee testified that she did not go and physically check the EGD to see if the game meter was malfunctioning. They just assumed and made the adjustment to the game meter, which again was incorrect.

Had she looked at the diagnostic monitor report more closely she would have found that the game meter was correct and therefore adjusting it would not have been the correct remedial action. She would have needed to adjust the system meter.

Because the incorrect adjustments were made the BETTERS file for the casino had to be corrected and that subsequently resulted in the additional tax.

Therefore, the hearing officer recommends that the one-calendar-day suspension proposed by the Commission be upheld as proper and appropriate discipline in this matter.

VICE CHAIRMAN JONES: Is Ms. Lair in the audience?

MS. LAIR: Yes.

VICE CHAIRMAN JONES: Please come forward.

MS. LAIR: Good morning.

VICE CHAIRMAN JONES: Could you state your name, and you can come in, and spell it for the court reporter, please.

MS. LAIR: Marilyn Lair, M-a-r-i-l-y-n, Lair. L-a-i-r.

VICE CHAIRMAN JONES: Go right ahead, Ms. Lair.

MS. LAIR: I'm here today to answer any questions that you may have.

I feel that we did an investigation. It, you know, might have not been in a timely manner, but under my supervisor's supervision we did what we thought was right at the time.

VICE CHAIRMAN JONES: Commissioners?

COMMISSIONER HOWARD: I don't have any questions.

COMMISSIONER BRADLEY: I don't have any questions.

Well, I will ask. Were there any other disciplines as to this event?

MS. LAIR: My supervisor.

COMMISSIONER BRADLEY: And your supervisor is Howland?

MS. KERR: Jeremy Howland.

MS. LAIR: Yes, ma'am.

COMMISSIONER BRADLEY: I see. Okay.

VICE CHAIRMAN JONES: All right. No more questions.

MS. LAIR: No more questions?

VICE CHAIRMAN JONES: Thank you, Ms. Lair.

Counsel, do you have --

MS. KERR: I think this is -- I think the hearing officer explained what the case was, and we do concur with the hearing officer's recommendation of a one-day suspension.

VICE CHAIRMAN JONES: Hearing no more questions, can we get a motion for Resolution No. 14-050?

COMMISSIONER HOWARD: I'll move for approval of Resolution No. 14-050.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution No. 14-050.

MR. WOLFORD: Mr. Vice Chairman and Madam Commissioners, for your consideration the matter of Jeremy Howland. It's Resolution No. 14-051. And this is the companion case to the previous resolution we presented.

Mr. Howland was the financial controller aboard the Argosy Riverside Casino and was also part of the investigation conducted by the Commission into these variances in the personal banking transactions for the gaming days of 20 and 21 December 2012.

Mr. Howland testified that he did not have training on checking the electronic gaming devices themselves when investigating these variances, and he further testified that the weekend that this was occurring, there was the Christmas holiday, which

delayed his investigation as well, and that was his purported reason for why they didn't pinpoint where the exact variance was; that is, that it was with the system instead of the game.

And therefore, as in the previous matter, the game meter was the one that was adjusted even though it was fine. It was correct. It did not need to be adjusted.

He was responsible for working with the casinos and their suppliers and the test laboratories to ensure compliance with these rules and regulations.

And he had worked with the system monitor, but, again, because of that Christmas holiday he did not immediately take action on that.

Also, had he looked on the diagnosis monitor report more closely he would have found that the game meter on the game itself was correct and needed no adjustment.

Therefore, adjusting the system meter instead created the need for them to file an amended BETTERS report, which resulted in additional gaming tax.

Therefore, the hearing officer finds that the imposition of a one-calendar-day suspension by the Commission is proper and appropriate discipline in this case.

VICE CHAIRMAN JONES: Is Mr. Howland here?
Any questions from the Commissioners?
COMMISSIONER BRADLEY: No.
VICE CHAIRMAN JONES: Can I get a motion for approval?
COMMISSIONER BRADLEY: Motion to approve Resolution 14-051.
COMMISSIONER HOWARD: Second.
VICE CHAIRMAN JONES: Angie, take the roll, please.
MS. FRANKS: Commissioner Howard.
COMMISSIONER HOWARD: Approve.
MS. FRANKS: Commissioner Bradley.
COMMISSIONER BRADLEY: Approve.
MS. FRANKS: Vice Chairman Jones.
VICE CHAIRMAN JONES: Approve.
MS. FRANKS: By your vote you've adopted Resolution No. 14-051.
MR. WOLFORD: Mr. Vice Chairman and Madam Commissioners, the next item on the agenda is the Frederick Bevill matter, Resolution No. 14-052, has been continued for the September meeting due to Mr. Bevill not receiving the required notice of today's Commission hearing.
So for your consideration I will present the

matter of Richard Reece. It's Resolution No. 14-053.

Mr. Reece was the Chief of Security aboard the Isle of Capri Casino in Cape Girardeau, and this was at the time of the Isle's opening in the fall of 2012.

On December 2nd of 2012 the Commission began an investigation after discovering that Security Department personnel were improperly issuing visitor passes to employees who forgot their employee access badge.

The findings of the Commission's boat agent did indicate that instead of temporary access badges, these employees who did not have their badge were given a visitor pass and allowed then to go and complete their shift for the day. And there was improper keeping of the logbook, the visitor logbook in here.

The Minimum Internal Control Standards say that any employee who has lost their access badge must obtain a temporary employee access badge from security dispatch, and security dispatch must keep and maintain a temporary badge issued log.

The investigation in this incident revealed the existence of no such log and revealed the existence of no temporary employee badges.

The Petitioner, as the Chief of Security, was

responsible for ensuring that all of the Security Department personnel followed the rules, regulations and Internal Control Standards.

He was aware that the Security Department was not following the rules in issuing these temporary employee badges because it had happened previously. It had happened a couple days before and it had happened even a couple days before that.

Therefore, it was incumbent upon him to fix the lack of procedure that they were following and implement the Internal Control Standards as they should be.

That did not occur. Therefore, the Commission recommends a ten-calendar-day suspension. The hearing officer finds that that is proper and appropriate discipline.

VICE CHAIRMAN JONES: Is Mr. Reece in the audience?

MR. WOLFORD: Actually, Mr. Vice Chair, I believe that one was taken out of order. We have five issues on Richard Reece here.

I believe the one I just reported should have been the Resolution No. 14-057. So if the Commission would allow me to strike that and I'll proceed with the correct one, 053.

COMMISSIONER HOWARD: You are already on 057?

MR. WOLFORD: Correct.

COMMISSIONER HOWARD: I was going to say, I was on 53. You're already on 57.

VICE CHAIRMAN JONES: Okay.

MR. WOLFORD: All right. Very well.

COMMISSIONER HOWARD: Can we have you -- Mr. Reece is not here, so just for simplicity sake if you want to go ahead and present 53, 54, 55, 56 and 57 together since Mr. Reece is not here, if you don't mind.

VICE CHAIRMAN JONES: Is that allowed?

COMMISSIONER HOWARD: I don't mean consolidate but in succession.

MR. GREWACH: And the Commission can make a motion to adopt all those resolutions then.

VICE CHAIRMAN JONES: Okay.

MR. WOLFORD: I think for economy sake that's the best way to go.

COMMISSIONER HOWARD: Do you want to go back to 53?

MR. WOLFORD: On 14-053, again, Mr. Reece was the Chief of Security on November 1st.

The Commission began an investigation after noticing that a door was open and unattended that allowed access onto the gaming floor from a nongaming

part of the casino.

During the time the door was left unlocked and unattended 14 patrons were allowed to enter and 15 were allowed to exit through the door, thereby bypassing the turnstiles.

The Commission's Minimum Internal Control Standards say that entrance and exit onto the casino floor by patrons must be through the turnstiles. That did not occur.

Security was not aware of the unsecured door until the Commission brought it to the Security's attention.

As Chief of Security Mr. Reece had the responsibility to ensure the physical security of all areas of the property.

He did not ensure that the door was locked or attended by security personnel to prevent the entrance and exit from the casino floor.

Therefore, the hearing officer recommends that the Commission's proposed one-calendar-day suspension against Mr. Reece be affirmed as proper and appropriate discipline.

In the matter of 14-054 involving Mr. Reece, the Security Department from the casino had not presented the daily incident summary logs to the

Commission for a period of eight days, from 30 October 2012 through 7 November 2012, when the Commission's boat agent became aware of this problem.

Mr. Reece did testify that he acknowledged the mistake, and he said going further he will personally ensure that these incident reports are timely transmitted to the Commission.

The Minimum Internal Control Standards of the Commission require that a casino Security Department transfer these daily summaries to the Gaming Commission at the end of every gaming day and that didn't occur.

So, therefore, the hearing officer finds that the Commission's proposed three-calendar-day suspension against Petitioner be affirmed as proper and appropriate discipline.

In the matter of 14-055, again involving Mr. Reece, the Commission became aware that the Security Department at the casino was improperly issuing vendor and visitor badges.

The Commission's investigation did reveal that vendor and visitor badges were being issued to contractors, people working on the casino; however, there was no log being kept.

Some of these badges went missing. Some were never returned. We just don't know what happened to

them. And that is against the Commission's Internal Control Standards which says that the badges must be exchanged in the morning, logged on the logbook and then exchanged back in in the evening and reported on the logbook.

And it also sets out the policy for the Security Department to follow for any missing or lost badges. Again, none of that was done in this case, and as Chief of Security Mr. Reece did have the responsibility to ensure that all these rules and regulations were followed.

Therefore, the hearing officer recommends that the Commission's proposed five-calendar-day suspension against Mr. Reece be affirmed as proper and appropriate discipline.

Resolution No. 14-056, again involving Mr. Reece, the Commission became aware of the Security Department at the casino improperly issuing visitor passes to employees who forgot their employee access badges.

As with the previous reported resolution, 14-057, the Commission's investigation did reveal that Security Department personnel were giving these visitor passes to employees instead of temporary access badges.

In fact, they didn't even have any temporary

access badges. They hadn't even had any printed in or received, and there was no temporary access logbook, which is required by the Minimum Internal Control Standards.

Therefore, the hearing officer recommends that the five-calendar-day suspension proposed by the Commission against Mr. Reece be affirmed as proper and appropriate discipline.

And to briefly restate Resolution No. 14-057.

This was another incident of issuing visitor badges instead of the temporary employee access badges. This incident occurred approximately three or four days after the incident in the previous resolution, and the Security Department still had not taken corrective measures to comply with the Minimum Internal Control Standards.

Therefore, the hearing officer recommends that the Commission's proposed discipline of a ten-calendar-day suspension against Mr. Reece be affirmed as proper and appropriate discipline.

And that's all of the Reece matters.

VICE CHAIRMAN JONES: Commissioners, any questions?

Can we have a motion to approve Resolution Nos. 14-053, 054, 055, 056 and 057?

COMMISSIONER HOWARD: I'll move for approval of Resolution Nos. 14-053, 14-054, 14-055, 14-056 and 14-057.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution Nos. 14-053, 14-054, 14-055, 14-056 and 14-057.

MR. WOLFORD: Mr. Vice Chairman and Madam Commissioners, for your consideration the matter of Michael Mayhew, Resolution No. 14-058.

Mr. Mayhew was the security shift manager at the Ameristar Casino in St. Charles. On the evening of April 27th, 2013 the Commission began an investigation after learning that two patrons had attempted to steal some items from Bugatti's Restaurant at the casino.

The investigation revealed that the licensee, Mr. Mayhew, made contact with two patrons who were

intoxicated at the restaurant, and they attempted to steal a bottle of Tabasco sauce, a steak knife, a fork, salt and pepper shakers, and those were located in the female patron's purse.

Mr. Mayhew allowed them to leave the casino without reporting this to the Commission. He did call them a cab to ensure that the intoxicated patrons got home safely and didn't drive and cause an accident, and he testified that that's why he didn't inform the Commission was he was focused on getting these patrons home safely. He did admit that he did not promptly notify the Commission.

By State regulation licensees must promptly report to the Commission any facts which they believe indicate a violation of law, Minimum Internal Control Standards or regulations, and it was not done in this case.

Mr. Mayhew had a previous discipline for failing to timely inform the Commission, and in considering that the hearing officer does find that the four-calendar-day suspension proposed by the Commission should be affirmed as proper and appropriate discipline in this case.

VICE CHAIRMAN JONES: Is Mr. Mayhew present?

Any questions from the Commissioners?

Can we get a motion for Resolution No. 14-058?

COMMISSIONER BRADLEY: Motion to approve Resolution No. 14-058.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution No. 14-058.

MR. WOLFORD: Mr. Vice Chairman, Madam Commissioners, for your consideration the matter of John Kerr, Resolution 14-059.

Mr. Kerr was the lead slot technician aboard the River City Casino.

On June 5, 2014 Electronic Gaming Specialist Jimmy Johnson began an investigation after learning that four electronic gaming devices had been taken off of the gaming floor but their security seals were still intact and the Commission was not notified when they were

removed from the gaming floor.

Two of the slot technicians at the casino removed these devices from their stands and staged them waiting to be removed off, and Mr. Kerr instructed that these be removed; however, he didn't tell them to break the seals.

He did claim full responsibility for the seals not being broken after this incident. He said he felt he let the slot technicians down by not giving them step-by-step instructions on removal of the electronic gaming devices from the floor.

And the Minimum Internal Control at issue here states that all electronic gaming devices that are removed from the gaming floor must have the Missouri Gaming Commission's security seals on their central processing unit broken by an agent of the Commission.

Again, that didn't occur here. They had made it into the slot shop off of the floor without the Commission being notified. And the Petitioner, Mr. Kerr, did have the responsibility to ensure that that happened.

Therefore, the hearing officer recommends that the one-calendar-day suspension imposed by the Commission be affirmed as proper and appropriate discipline.

VICE CHAIRMAN JONES: Is Mr. Kerr here?

MR. KERR: Yes, I am.

It's John, J-o-h-n, Kerr.

MR. KERR: Good morning.

VICE CHAIRMAN JONES: Good morning.

MR. KERR: Well, I'd like to start by mentioning, you know, that I did feel like, you know, I let them down by not giving them step-by-step instructions. However, my feelings and emotions regarding this matter, they don't exactly relate to the facts, which I'll get to now.

I personally did not remove any EGDs from the gaming floor, and I directed experienced team members to bring the machines off the floor and into the shop.

Now, these two team members in question, they are experienced technicians with years of completing this process. They have experience in the matter. It was a common task for their positions.

Excuse me.

River City had signed acknowledgements from each of these employees indicating that they had read and understood Chapter E and its relevance to their job duties.

In directing these employees to bring the machines into the shop for repair, I was delegating a

task but not a procedure. I mean, that's the key point I'm getting to here. It was a task, not the procedures.

It was my reasonable expectation that they knew or should have known the proper process for removal of the EGDs from the casino floor, and my responsibility was delegation.

It is not customary to issue a work directive and then follow the directive with the step-by-step procedures for implementation. In my department it just isn't.

If I was to ask two techniques to go and break seals on the floor, they would know that you would have to get an EGD specialist to go and break the seals with them. They wouldn't just go out there and break the seals by themselves.

To require persons to delegate procedures when assigning tasks removes personal accountability from those employees as related to job performance.

It is not unreasonable to expect experienced team members to know how to do their jobs and to be capable and competent to exercise their job duties without violating the internal controls, which directly outline the procedures for implementing tasks correctly.

I believe the issuance of an NOI related to me is excessive and unnecessary since my actions

consisted of issuing a work directive which others implemented in violation of the ICs, and those individuals should be held accountable for their actions.

There is nothing improper about my directive, and I did not ask the employees to violate the internal controls. I merely directed them to bring the machines into the shop for repair, and they did so in a manner that violated the ICs, and that does not make the order in itself the violation, nor does it make me responsible for the actions of others.

Let's see.

The initial findings had stated that the Petitioner's actions or inactions in failing to ensure that the slot technicians under the supervision, the key word being supervision, broke the seals on EGDs before removing them from the casino floor.

I don't mean to get into too much paperwork here, but under our general administrative Chapter A section of the internal controls, it does state that I have no supervisory authority and no authority over any area.

So, I mean, I'm not trying to, like, you know, accept too much responsibility for something I didn't have responsibility for.

My initial response was an emotional response and, you know, I hope you see it as that. And I'm basically looking for you to, you know, look at strictly the facts of what happened.

Thank you.

VICE CHAIRMAN JONES: Okay. Thank you, Mr. Kerr.

Counsel.

MS. KERR: Thank you.

Vice Chair, Commissioners.

On June 5th there was an e-mail that was sent from the previous swing shift lead slot tech two, Mr. Kerr, who is taking the next shift and that specifically reminded him to make sure that the seals were broken on the EGDs before they were moved.

While Mr. Kerr might not have had any, quote, supervisory powers under MICS or the ICS, he was the lead slot tech, received that e-mail that reminded him to make sure that the EGD seals were broken, and it was his responsibility to make sure that happened.

That didn't happen. He was responsible for it. He did testify during the hearing that although he didn't -- that he did not tell the other techs to remove the seals but he also did not -- he admitted that he didn't verify that the seals were broken as required by

law, and, therefore, we concur with the hearing officer's recommendation of the one-day suspension.

MR. KERR: May I add one thing?

VICE CHAIRMAN JONES: Yes, sir.

MR. KERR: She had mentioned the e-mail that had been sent out. That e-mail was sent out to all technicians, and we are all responsible for reading them. It wasn't just myself. The technicians in question were also copied on this e-mail.

Not having supervisory authority, they leave it up to all of us to do the job and to perform these tasks. It's not based solely upon a lead technician. I mean, the lead technician is not a supervisor. I'd just like to reiterate that as much as possible, as stated in the internal controls.

I have no supervisory authority, which to me when I look at the findings and I see that the Petitioner's actions, you know, in failing to ensure the slot technicians under his supervision. I mean, they weren't under my supervision. I mean, I'm not in charge of supervising technicians. That is not my job.

I mean, to me if I'm not supervising them, I don't know how I can be accountable for them, and I was also concerned as to how little of a fact-finding mission they went on when they didn't even issue NOIs

for the two technicians.

I mean -- I mean, I'm all alone on this one. You know, no one else was -- no one else had an NOI. I don't understand why. I wasn't their supervisor.

So that's really all I have. Thank you.

VICE CHAIRMAN JONES: Commissioners.

COMMISSIONER HOWARD: Am I to understand as the lead technician that you're a slot technician?

MR. KERR: Correct.

COMMISSIONER HOWARD: But as the lead technician, are you the senior slot technician? Is that --

MR. KERR: Well, in title, strictly if you compare -- I mean, I don't know if I want to throw paperwork back and forth at you, but if you were to compare basically our internals side by side, I mean, they're identical. I mean, there is really no difference between a regular technician and a lead technician, I mean, other than just the title. I mean, there really is nothing in writing.

COMMISSIONER HOWARD: But in the chain -- I'm somewhat familiar with that title from all those years in the Navy, because we always had leading petty officers, which generally was the most senior in the shop was the leading petty officer. They didn't

supervise. They were just the most senior or more senior in the shop.

So that was a more senior slot technician is a lead slot technician?

MR. KERR: I mean, you can imply that with the term -- with the lead technician, yes.

COMMISSIONER HOWARD: But you didn't have supervisory authority over the other slot technicians?

MR. KERR: Correct. It's in writing that I have no supervisory authority over any area whatsoever.

VICE CHAIRMAN JONES: Was there anyone else disciplined in this?

MR. WOLFORD: None that I'm aware of, Mr. Vice Chairman.

MS. KERR: I don't think so.

VICE CHAIRMAN JONES: Well, how did the machines go from the floor? Because as I read through this, I was a little confused. You know, and I looked at the procedures for removing a machine from the floor, and it seems like if you follow the procedure, at Step No. 7 you are supposed to -- let me make sure I quote this right.

COMMISSIONER HOWARD: Break all gaming seals with an MGC agent present.

VICE CHAIRMAN JONES: Right. Before it moves

the floor. And I looked at the testimony from Mr. Long. In his statement he said they were already in the back hall when he got to work.

So why wasn't -- how did they get from the floor to the back of the hall and no one was disciplined? Because it seems as soon as they -- and I'm just looking at this. It seems that seal should have been broken once it moved from the floor.

MR. WOLFORD: That's correct. Under the language of the regulation, that's when it should have occurred, before the machines even left the floor or went to the hallway or went to the slot shop, correct.

VICE CHAIRMAN JONES: Well, based on that why wasn't that person disciplined? And if he has no supervisory authority, I don't understand why we're disciplining him now. And that's just my --

MS. KERR: I'm sorry. If I could.

According to the gaming report an NOI was issued to Mr. Kerr, Slot Tech Thomas McKinney and Slot Tech Antwaine Long. Now, those are separate files. I don't know without checking their files as to see whether their discipline went any further, whether they -- you know, how many -- whether they got any days or not, but they were issued NOIs.

VICE CHAIRMAN JONES: But I'm looking at

Mr. Long's statement. He says, I was told to move the games that was staged in the hallway to the slot tech shop. The games were already staged in the hall when we got to work that day.

MS. KERR: That is what he says.

COMMISSIONER BRADLEY: So what's the answer? How did they get -- when did the Gaming Commission know? When was the approval, obtain approval from the MGC?

MR. WOLFORD: There were no facts saying that approval was obtained in this case. In fact, as you mentioned, the Commission wasn't even aware of the situation until these four gaming devices were discovered in the slot shop with their seals still intact.

COMMISSIONER BRADLEY: Maybe we need further investigation on this one. Who knows what the facts are.

COMMISSIONER HOWARD: So what happened the day before?

COMMISSIONER BRADLEY: Right.

COMMISSIONER HOWARD: We seem to have a day missing or a shift missing.

VICE CHAIRMAN JONES: A shift or a time or something.

MR. GREWACH: It's certainly an option under

the rule for the Commission is to remand the case back to the hearing officer to take additional facts if the Commission believes those are necessary to make the decision.

COMMISSIONER BRADLEY: That's a great idea.

COMMISSIONER HOWARD: Because we've had -- this is a little bit of a deja vu from several meetings ago when it seemed like we had a person -- a shift or two after an incident occurred in front of us instead of when something occurred. At least that's what it appears to the Commission. And we had that several meetings ago if I'm correct.

COMMISSIONER BRADLEY: Yes.

COMMISSIONER HOWARD: That the incident may have already occurred. I agree. I'm confused.

MR. KERR: I mean, I would like to state for the record, it is common practice and all technicians are aware when bringing the -- these were experienced technicians.

When we bring a machine off of the floor, whether, you know, we have official verification that those seals have been removed, we check for those seals. We're not looking to go through this process. This is something we try desperately to avoid.

VICE CHAIRMAN JONES: And I think I read in

some of the testimony that one of the -- I don't know if it was Mr. Long or the other guy, he said, well, in all his time they've always been broken and when he got there it wasn't broken.

MR. KERR: Correct.

VICE CHAIRMAN JONES: He said that's just the procedure. It's always broken, you know, that seal is always broken.

MR. KERR: And if they are not broken, we will always verify to make sure that they do get broken before they're removed from the floor.

I mean, that's, again, why I delegated the tasks and not the procedure. I mean, these were two -- they're my two most experienced technicians on my shift. These are technicians that have done this task multiple times.

And I was a little, you know, disheartened when I found out that the investigation did not take place thoroughly through my technicians that actually committed the violation. Rather they were placed on me.

And I understand my statement. You know, I did feel terrible about the incident. And it is my initial reaction to -- you know, to feel -- you know, to feel that way.

But, you know, you take a night to think

about it and, you know, get some sleep and, you know, all those thoughts come pouring through your mind. I mean, technically these processes weren't followed. I wasn't the one that violated the internal controls.

That was my argument is that I did not violate them. They were violated by two technicians. And then making this common practice to, you know, have people push it off on to somebody else when they violate the internal controls, I think it's -- you know, it leads to worse -- to worse things.

COMMISSIONER BRADLEY: I'd like to make a motion to remand Resolution No. 14-059 in the matter of Mr. John Kerr and for more information in line with questions that we made as to the additional facts surrounding this situation.

And also I would like more information about any discipline or any status of anything against the other two technicians that were involved in removing these particular machines.

COMMISSIONER HOWARD: And specifically information as to how these machines were moved from the gaming floor to the hallway.

COMMISSIONER BRADLEY: And when.

COMMISSIONER HOWARD: And when. And everyone who was involved with that action and what happened, if

anything, involving those individuals.

COMMISSIONER BRADLEY: Back to the time it was on the gaming floor.

COMMISSIONER HOWARD: We're going to hope there is some record of that and how that occurred.

I guess I amended your motion. That doesn't --

COMMISSIONER BRADLEY: I accept the amendment.

COMMISSIONER HOWARD: That absolutely doesn't satisfy anything in Robert's.

COMMISSIONER BRADLEY: I accept.

VICE CHAIRMAN JONES: She accepted it.

COMMISSIONER HOWARD: That's the most modern version of Robert's known to man.

COMMISSIONER BRADLEY: We can make it a joint motion if we want to.

COMMISSIONER HOWARD: The only thing that says that if it's of record.

VICE CHAIRMAN JONES: So we got them I guess?

COMMISSIONER HOWARD: Have you accepted my amendment?

COMMISSIONER BRADLEY: I did, three times.

VICE CHAIRMAN JONES: So she accepted.

So we have a motion.

COMMISSIONER HOWARD: I'm seconding our joint amendment -- our joint motion.

VICE CHAIRMAN JONES: Angie, would you take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you have remanded Resolution No. 14-059 back to the hearing officer to obtain additional facts.

MR. WOLFORD: Thank you, Mr. Vice Chairman. Thank you, Madam Commissioners.

VICE CHAIRMAN JONES: Thank you, Mr. Kerr.

COMMISSIONER HOWARD: Thank you.

EXECUTIVE DIRECTOR STOTTLEMYRE: Vice Chairman, the next item on the agenda is Consideration of Disciplinary Actions.

Mr. Ed Grewach will present.

MR. GREWACH: Thank you, Mr. Vice Chairman, Commissioners.

Under Tab P we have a preliminary order of discipline directed to Aristocrat Technologies,

Incorporated.

On September the 4th, 2013 the company shipped revoked printer software to the St. Jo Casino. The DRB recommended a $25,000 fine.

The amount was based on the company's priors. This is their fifth violation since June of 2012.

In response to our 14-day letter the company indicated that it was a human error that was made and that changes or remedial actions have been taken to correct that and prevent that from happening in the future.

They also argued in that letter that the -- or questioned, rather, whether printers were critical program storage media as the rule describes.

In response to the 14-day letter DRB reconsidered, lowered the fine to $15,000. We still believe that the printer software is critical program storage media but the reduction of the recommended fine was based on the corrective efforts and actions that the company took.

VICE CHAIRMAN JONES: Any questions?

A motion.

COMMISSIONER HOWARD: I'll move for approval of DC-14-308.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-308.

MR. GREWACH: Tab Q is a preliminary order of discipline directed to Lumiere Casino.

On February the 9th, 2013 they had a large crowd present for their Mardi Gras festivities. A patron entered through an exit turnstile and then in turn exited through an emergency exit.

At the time the casino had three entrance turnstiles open and they only had one security guard at each entry turnstile and they had no security guards assigned to the exit turnstile.

The staff recommendation is a $2,500 fine.

VICE CHAIRMAN JONES: Questions from the Commission?

A motion.

COMMISSIONER BRADLEY: A motion to approve DC-14-309.

COMMISSIONER HOWARD: Second.
VICE CHAIRMAN JONES: Angie.
MS. FRANKS: Commissioner Howard.
COMMISSIONER HOWARD: Approve.
MS. FRANKS: Commissioner Bradley.
COMMISSIONER BRADLEY: Approve.
MS. FRANKS: Vice Chairman Jones.
VICE CHAIRMAN JONES: Approve.
MS. FRANKS: By your vote you've adopted DC-14-309.
MR. GREWACH: Tab R is a preliminary order of discipline directed to Lumiere Place Casino.
On November 25th, 2012 at approximately 1:50 a.m. four patrons entered the casino with fake IDs. There was an 18-year-old, two 19-year-olds and a 20-year-old. There were four dealers that encountered these individuals and did not check their ID.
In addition, one of the fake IDs was actually the minor's original ID with just the date of birth changed on the document itself. And when scanned through the Veridocs it did show that the person was a minor; however, the security officer just failed to look down and notice that Veridocs was alerting him that this was a minor.
They were on the floor for a total of

20 minutes and they did gamble during that time and the recommendation is a $10,000 fine.

VICE CHAIRMAN JONES: Any questions?

Do we have a motion?

COMMISSIONER BRADLEY: Motion to approve DC-14-310.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-310.

MR. GREWACH: Tab S, the staff is requesting to pass this to a future Commission hearing date and we'll place it on a future agenda at that point in time.

So if I could then move forward to Tab T.

This is a preliminary order of discipline directed to Isle of Capri-Cape Girardeau.

On three separate occasions in August of 2013 the casino failed to conduct the required turnstile readings at the required time at the end of each two-

hour interval.

The two-hour interval comes about when boats originally cruised. They were two-hour cruises. For tax purposes we retained, although they're all now permanently docked, that we do require that turnstile readings be taken at the end of every two-hour interval. The casino set those intervals up.

In one case they were late in taking the reading, and one -- at the end of one two-hour interval they completely failed to take the turnstile readings.

The DRB recommended a fine of $5,000. In response to the 14-day letter the casino indicated that they had surveillance determine the correct admissions and that was determined and the taxes were correctly accounted for.

DRB voted to retain the $5,000 fine in that it was the Commission that required the casino to go back and check the surveillance and with considerable effort on our part to oversee that process and verify those numbers.

The significance of doing the turnstile readings on time is that the admission tax is paid for everyone who is present in the casino during each two-hour interval.

So in other words, if the casino is required

to do a turnstile reading at 10:00 and at 12:00 and I come in at 10:00 and I stay until 12:15, I'm counted for admission tax purposes for both the 10:00 to 12:00 hour period and from the 12:00 to 2:00 hour period.

If you delay that count and I leave -- if you don't do that count until 12:30 and I've left before 12:30, the State misses out on that holdover, that admission tax for that purpose.

So that's in DRB's view the seriousness of the offense and the fact that it happened in three separate occasions in one month time period, and, again, is continuing their recommendation of a $5,000 fine.

VICE CHAIRMAN JONES: Questions?

Do we have a motion, please?

COMMISSIONER BRADLEY: Motion to approve DC-14-312.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted

DC-14-312.

MR. GREWACH: Under Tab U we have a preliminary order of discipline directed to the Argosy Casino.

On September the 9th, 2013 a 20-year-old female entered the casino. The security officer failed to check her ID. She encountered 13 other casino employees on the floor during the five hours that she was present who did not check her ID. She gambled during that time period and did not consume any alcohol.

In response to the 14-day letter Argosy indicated they had no information concerning the specific facts of the offense; however, they did want to point out to the Commission that they have worked with the City of Riverside to pass an ordinance -- to make it a municipal ordinance violation for any minor to enter or attempt to enter the casino floor.

It was the casino's thought that the minors themselves should have some consequences in addition to the casino for entering the floor.

After reviewing that the DRB voted to continue its recommendation of a $5,000 fine.

VICE CHAIRMAN JONES: Any questions?

Ed, did they pass that ordinance?

MR. GREWACH: Yes. It indicated that that

was passed on December 17th, 2013.

VICE CHAIRMAN JONES: Okay.

Can we have a motion, please?

COMMISSIONER HOWARD: Move for approval of DC-14-313.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-313.

MR. GREWACH: Under Tab V we have a preliminary order of discipline directed to the Argosy Riverside Casino.

On September 15th, 2013 a 19-year-old entered the casino with a fake ID. The minor was on the floor for five and a half hours, gambled but did not consume any alcohol. The minor encountered 18 different employees who failed to check the minor's identification.

The recommendation from the DRB is a $5,000

fine.

COMMISSIONER HOWARD: We don't have this in the facts, but I'm assuming that at some point someone who encountered these minors checked the ID?

MR. GREWACH: Correct.

In each case they eventually encounter a person, and I could give you the identification here in just a second who -- and typically it's a security officer who encountered the person, checks the ID and then were notified at that point in time.

COMMISSIONER HOWARD: Because we are given that in some cases.

MR. GREWACH: Yes.

COMMISSIONER HOWARD: I only ask that because we were given in both of these cases the negative information of the fact that there's 14 or 17 people who don't check, and I think I'm only asking that because I want that refreshing information that eventually someone does encounter this individual and does request for identification.

MR. GREWACH: In this case it was a casino manager and a table games supervisor who encountered the minor and checked the identification and determined that the person -- that it was a fake ID, the person was under 21, and then we were notified and stepped in and

began our investigation at that point.

COMMISSIONER HOWARD: And then through surveillance you're able to see how many other employees encountered that individual?

MR. GREWACH: Exactly. We go back and check surveillance and we have the entire timeline they were there, where they were, who they encountered, the extent of their encounter, you know, was it passing, was it, you know, a long-term conversation, and that obviously comes into play as the DRB looks at the issue of whether or not it is an appropriate case for a casino fine.

VICE CHAIRMAN JONES: A motion.

COMMISSIONER BRADLEY: Motion to approve DC-14-314.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-314.

MR. GREWACH: Under Tab W we have a preliminary order of discipline directed to the River City Casino.

We have a Minimum Internal Control Standard, E3.03, which requires the casinos to report any unexplained technical anomaly on an EGD within 48 hours.

On July the 1st, 2013 an EGD at the casino, when a player would insert their player card, would display the message lucky winner entry.

Now, at that point in time the casino was not running any promotion and obviously the patron was not the lucky winner of an entry. We were, however, not notified of this anomaly until July the 11th, 2013.

DRB recommended a $5,000 fine. In response to the 14-day letter the casino took the position that this display was not an actual part of the EGD. We disagreed with that position.

And in addition, when we looked at it, we also had the issue of a promotion. You know, are you -- you know, the somewhat tricky question of if you say you have a promotion and you're not having one, are you holding a promotion in a false or misleading, you know, manner?

In any event, reviewing all of the facts, the DRB agreed to reduce this recommendation to $2,500.

VICE CHAIRMAN JONES: Any questions?

COMMISSIONER BRADLEY: Motion to approve DC-14-315.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-315.

MR. GREWACH: Under Tab X we have a preliminary order of discipline directed to Pinnacle Entertainment, Incorporated. They're the Class A licensee.

They had an employee, Nancy Bridick, who was a senior buyer, whose job required her to do work at both the River City and Lumiere Casinos.

Ms. Bridick's occupational license expired on July 31st, 2012. She ran into some problem getting her license renewed; however, she continued to work until November 30th, 2012 when this problem came to our

attention.

During those times she visited those two casinos she would be given a visitor badge to go in and do her work.

The company violated the rule by allowing an unlicensed employee to perform work at those two casinos, and the DRB's recommended fine is $5,000.

VICE CHAIRMAN JONES: Any questions?

Motion to accept.

COMMISSIONER BRADLEY: Motion to approve DC-14-316.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, take the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-316.

MR. GREWACH: I would like to, Mr. Vice Chairman, with your permission, present Tabs Y, Z and AA together. They all arise out of the same occurrence and

event.

Pinnacle held a promotion from April through December of 2012 called the mychoice/mymillions promotion.

The rules provided that the patron would get one entry into a drawing for every 25 points it played that they earned. The property it was -- this was going on at the properties -- several Pinnacle properties, including Lumiere and River City, as well as the Belterra Casino in Indiana.

The Belterra contacted Pinnacle and indicated to them that they were having a problem, that the players were actually getting twice the amount of drawings that they were entitled to. In other words, if they had 25 points, they were getting two drawings instead of one.

And these facts may sound familiar because these are the facts that the Commission previously heard for an individual discipline against Shannon Hoffman, which I believe was at the last meeting.

So this is that same case but these are the casinos and the Class A's disciplines arising out of the same event.

The Pinnacle employee, Shannon Hoffman, then without contacting Lumiere and River City to find out if

they were having the same problem, went ahead and did a systemwide change, adjusting the program to cut the patron's entry earning in half; in other words, if you had, you know -- so to adjust for the Belterra problem.

But the difficulty there was Lumiere and River City was using different software than Belterra was, and again, Ms. Hoffman didn't call -- two phone calls would have fixed the problem, to find out that they did not need to have their entries cut in half.

Well, as a result of that then the players who played the Lumiere and River City -- the Belterra notification, I might say, came early in the promotion, on April 19th, 2012.

So for all that time after that as players were playing at River City and Lumiere, they were only getting half of what the entries they should have gotten based on what the rules of the promotion were.

This caused a shortage of 115,000 entries that should have been given out to patrons, and it affected approximately 5,000 patrons.

It required the two casinos, River City and Lumiere, to send out 5,000 postcards letting patrons know that they were entitled at this point in time to additional entries.

And the Pinnacle failure to confirm before

making the change resulted in them conducting the promotion in a manner that reflected negatively on the licensee and the integrity of gaming and also violated the rule that no false or misleading statements be made in connection with the promotion and further violated the rule that the award of prizes be done according to the rules of the promotion.

Under Tab Y we are recommending a fine of $40,000. It was really a Pinnacle-sponsored promotion. It was their employee who made the error and they run the promotion across several properties and they have a duty to ensure that this type of mistake is not made and that they check with each property to make sure that the change needs to be made.

Tab Z and Tab AA are directed to Lumiere and River City. They did not check once they got the message that they were to cut their promotional entries in half.

It would have been a simple matter for them to check historically and see are people really getting one entry for every 25 points, and if so, call back Pinnacle and say, you know, if we make this change we're going to be cutting short our patrons.

But they didn't do that either. So there was an error really on both ends, in Pinnacle not looking

into it and causing this change without verifying it and Lumiere and River City not double-checking then to make sure they really had a problem in communicating that back to Pinnacle.

So the recommended fine against River City and Lumiere is $10,000 under Tabs Z and AA and again under Tab Y against Pinnacle $40,000.

VICE CHAIRMAN JONES: Any questions?

A motion for DC-14-317, 318, 319.

COMMISSIONER HOWARD: I'll move for approval of DC-14-317, DC-14-318 and DC-14-319.

COMMISSIONER BRADLEY: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted DC-14-317, DC-14-318 and DC-14-319.

MR. GREWACH: Thank you.

VICE CHAIRMAN JONES: Thank you, Ed.

EXECUTIVE DIRECTOR STOTTLEMYRE:

Mr. Vice Chairman, the next item on the agenda is Consideration of Relicensure of Certain Suppliers. Lieutenant Mark Bielawski will present.

LIEUTENANT BIELAWSKI: Good afternoon, Vice Chairman, Commissioners.

VICE CHAIRMAN JONES: Good afternoon.

LIEUTENANT BIELAWSKI: Missouri State Highway Patrol investigators conducted the relicensing investigation of two supplier companies currently licensed in Missouri.

These investigations consisted of jurisdictional inquiries, feedback from affected gaming company clients, a review of disciplinary actions, litigation and business credit profiles, as well as a review of the key persons associated with each company.

The results of these investigations were provided to the Missouri Gaming Commission staff for their review and you possess comprehensive summary reports before you which outline our investigative findings for each company.

The following supplier companies are being presented for your consideration. First is Midwest Game Supply Company.

EXECUTIVE DIRECTOR STOTTLEMYRE: And staff recommends approval of Resolution No. 14-060.

VICE CHAIRMAN JONES: Any questions?
Do we have a motion?
COMMISSIONER HOWARD: I'll move for approval of Resolution No. 14-060.
COMMISSIONER BRADLEY: Second.
VICE CHAIRMAN JONES: Angie, call the roll, please.
MS. FRANKS: Commissioner Howard.
COMMISSIONER HOWARD: Approve.
MS. FRANKS: Commissioner Bradley.
COMMISSIONER BRADLEY: Approve.
MS. FRANKS: Vice Chairman Jones.
VICE CHAIRMAN JONES: Approve.
MS. FRANKS: By your vote you have adopted Resolution No. 14-060.
LIEUTENANT BIELAWSKI: And the second is Modern Gaming, Incorporated.
EXECUTIVE DIRECTOR STOTTLEMYRE: And staff recommends approval of Resolution No. 14-061.
COMMISSIONER BRADLEY: I'll make a motion to approve Resolution No. 14-061.
COMMISSIONER HOWARD: Second.
VICE CHAIRMAN JONES: Angie, call the roll, please.
MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution No. 14-061.

EXECUTIVE DIRECTOR STOTTLEMYRE: The next item on the agenda is Consideration of Rules and Regulations. Mr. Grewach will present again.

MR. GREWACH: Under Tab DD we have a proposed amendment to 11 CSR 45-10.040. That is the provision that deals with what we used to term before this change takes place a change of control.

And prior to this we had a provision that said a change of control takes place if any shareholder acquires more than 25 percent of the shares of stock in the company.

So when we went to work on this amendment, we really had three things that we did. The first is we changed that name from change of control to material change in ownership or control.

The old term created some confusion, because if you remember the Affinity case, at one point we had one shareholder acquire over 25 percent of the stock.

They filed a petition to change of control which we considered and granted.

A couple months later another shareholder acquired more than 25 percent of the stock, and so then we had another petition for change of control which the Commission considered and granted.

And, you know, some people would look at that and say, well, who is in control? I mean, because just that term change of control led to that. And we thought this term was a little more accurate and would not lead to that type of confusion.

The second thing that we did is to add into the concept of a material change in ownership of control -- and from here on I'll just talk about a material change for brevity -- is to deal with a situation where a casino would convey its real estate to a third party.

Now, this has come to our attention because there's now a movement or trend in gaming for companies to form a REIT, a Real Estate Investment Trust, and for that REIT to acquire the real estate upon which a casino is located.

We have had one here with Penn National acquiring its own two properties, which didn't create that much concern for us because you basically have the

same shareholders and key persons, that even though the two legally separate companies owning both the real estate and the operational part of the casino.

We've been approached and heard questions presented about that REIT or other REITs. I've personally had some representatives of a nongaming REIT come to visit me and ask what would be the regulatory implications of them acquiring real estate where some of the casinos were located. Obviously they came in saying we really don't need to be licensed, do we, Ed?

And so these rules were drafted before the idea of a REIT acquiring a casino real estate was really on anybody's radar.

So this change, the second change here, is to add a material -- an event that is a material change to any sale, transfer or lease by a licensee of all or any portion of real estate upon which the riverboat gaming operations was conducted.

Now, what this does for the Commission is it requires us to preapprove any such transfer.

The third thing we did that you'll see in paragraph 12, under the old change of control rule it said the Commission had -- there had to be prior approval by the Commission or otherwise the transfer was void.

But there is nothing in the rule that indicated, well, what are the standards, what are the guidelines that the Commission should look at in making that determination? And that vagueness, you know, caused us a little bit of a concern.

So what I've endeavored then to do in paragraph 12 was to set out in 12A through E what factors the Commission should look at in making that determination as to whether or not they should grant this material change.

And I've also put in there to be consistent with other regulations in the statutes that it's actually the Petitioner's burden to prove by clear and convincing evidence that they meet all of these factors and standards that we have set forth.

Now, if approved today there will be a public comment period. There will be a written period. There will be a public hearing on November the 5th, 2014, and then we would anticipate that the final order of rulemaking would be on the Commission's December 3rd, 2014 agenda for final approval.

We have informally received some input from the industry regarding this rule, so we fully anticipate to also get written comments, which will be incorporated along with the staff's recommendation for changes or

reasons why we don't want to change into the final order.

One is the use of the term lease in paragraph 8(2). And the question was I think properly raised, well, does that mean if we lease our restaurant to a chain, do we have to come to the Commission and get prior approval on that?

I can certainly tell from my point as one of the persons who helped draft this, that's not what we had in mind.

So as we go through the formal rulemaking process, we'll get that written input and very well could present to you in the final hearing some language that would try to carve out those situations or somehow limit it to just the gaming floor or something that would alleviate the concerns that the industry has about that.

The only comments that I received from the industry was they felt that some of the standards set forth in 12A through E were overly broad.

Obviously as the attorney for the Commission drafting these, that was intentional on my part. You don't know how many various scenarios may come about, and to limit our ability to say no to a transaction, to pigeonhole us into just having to make certain findings

to do that.

And by analogy we have another -- for example in the anticompetitive regulation. That would look at during the Pinnacle/Ameristar merger, that rule simply said we can turn -- we can deny the request if it's not in the best interest of the state of Missouri, very broad.

I tried to be more focused than that here and give some additional things that we could really hone in on if any company came to us and asked to transfer its real estate to a third party.

COMMISSIONER HOWARD: There might not be recognition as to how broad it is now.

MR. GREWACH: I would have to agree with that. I mean, we go from having no standards stated to at least saying these are the things we have to look at, we have to make findings on.

COMMISSIONER HOWARD: This is actually a narrowing.

MR. GREWACH: It is, from everything under the sun to these --

COMMISSIONER HOWARD: To substandards?

MR. GREWACH: To substandards, which they again believe are too broad. But we'll get their input. We'll get the written comments.

COMMISSIONER HOWARD: That happens sometimes when you establish standards. It brings to attention something that has not been brought to attention before.

MR. GREWACH: Correct. But ultimately it has to come before the Commission. And the industry may very well say, you need to make these more narrow and staff may say we like them to be where they're at, and the Commission will be the ultimate decision maker on that issue.

VICE CHAIRMAN JONES: All right. Thank you. Any comments?

COMMISSIONER HOWARD: An interesting issue. Interesting issues. I look forward to seeing it again.

COMMISSIONER BRADLEY: Do we need approval?

VICE CHAIRMAN JONES: We need a motion.

COMMISSIONER BRADLEY: Motion to approve Proposed Amendment 11 CSR 45-10.040.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you have adopted the Proposed amendment 11 CSR 45-10.040.

EXECUTIVE DIRECTOR STOTTLEMYRE: Vice Chairman, the next item is the Consideration of Licensure of Certain Level I and Key Applicants, and Lieutenant Mark Bielawski will present.

LIEUTENANT BIELAWSKI: Good afternoon again.

COMMISSIONER HOWARD: Good afternoon.

LIEUTENANT BIELAWSKI: Missouri State Highway Patrol investigators, along with the Gaming Commission financial investigators, conducted comprehensive background investigations on multiple key and Level I applicants.

The investigations included, but were not limited to, criminal, financial and general character inquiries which were made in the jurisdictions where the applicants, worked and frequented.

The following individuals are being presented for your consideration: Patricia W. Becker, Compliance Committee Chair, Tropicana Entertainment, Incorporated; Donatella Busso, Independent Director, GTECH, S.p.A.; Derik J. Mooberry, Senior Vice President of Games, Table Game Products and Interactive Research and Development, Bally Gaming, Incorporated doing business as Bally

Technologies; and Tracey Drake Weber, Independent Director, International Gaming Technology.

The results of these investigations were provided to the Gaming Commission staff for their review and you have all related summary reports before you.

EXECUTIVE DIRECTOR STOTTLEMYRE: Staff recommends approval of Resolution No. 14-062.

COMMISSIONER BRADLEY: Motion to approve Resolution No. 14-062.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

MS. FRANKS: By your vote you've adopted Resolution No. 14-062.

EXECUTIVE DIRECTOR STOTTLEMYRE: We're ready for a motion to go into closed, Mr. Vice Chairman.

VICE CHAIRMAN JONES: Okay. Do we have a motion to go into closed meeting, please?

COMMISSIONER BRADLEY: Motion to go into

closed -- I will make the motion to go into closed meeting under Section 313.847 under the Missouri Revised Statutes concerning investigatory, proprietary and application records and Section 610.021, Subsection 1 of the statutes on legal actions, Subsection 3 and Subsection 13, personnel, and Subsection 14, records protected from disclosure by law.

VICE CHAIRMAN JONES: We need a second.

COMMISSIONER HOWARD: Second.

VICE CHAIRMAN JONES: Angie, call the roll, please.

MS. FRANKS: Commissioner Howard.

COMMISSIONER HOWARD: Approve.

MS. FRANKS: Commissioner Bradley.

COMMISSIONER BRADLEY: Approve.

MS. FRANKS: Vice Chairman Jones.

VICE CHAIRMAN JONES: Approve.

WHEREIN, the meeting concluded at 12:15 p.m.

CERTIFICATE OF REPORTER

I, Patricia A. Stewart, RMR, RPR, CCR, a Certified Court Reporter in the State of Missouri, do hereby certify that the testimony that appears in the foregoing transcript was taken by me to the best of my ability and thereafter reduced to typewriting by me; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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Patricia A. Stewart
CCR No. 401