BEFORE THE MISSOURI GAMING COMMISSION

STATE OF MISSOURI

Meeting
December 2, 2015
10:00 a.m.
Central Office
3417 Knipp Drive
Jefferson City, Missouri

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

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BEFORE THE MISSOURI GAMING COMMISSION

STATE OF MISSOURI

Meeting

December 2, 2015

10:00 a.m.

Central Office

3417 Knipp Drive

Jefferson City, Missouri

COMMISSIONERS PRESENT:

Herbert M. Kohn

Brian Jamison

Larry D. Hale

Thomas Neer

Richard F. Lombardo

REPORTED BY:

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* * * WEDNESDAY, DECEMBER 2, 2015 * * *

(Start time of the hearing: 10:03 a.m.)

CHAIRMAN KOHN: If I can get your attention, we'll begin the meeting. I'd like to call the meeting of the December 2 Missouri Gaming Commission to order. I'm Herb Kohn. I'm probably the newest person in this room, in terms of knowing what's going on here. But I'm learning fast. I would also like to introduce Rick Lombardo, who is our other new commissioner, and this is his first meeting. So welcome, Rick. Angie, would you please call the roll.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Present.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Present.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Present.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Present.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Present. We obviously have a quorum, and we're ready to begin the meeting. Two things I'd like to do, which are -- one is not on the agenda, and the other is a change to the agenda.

What's not on the agenda is the role of a

vice chairman. I understand that historically, we have had vice chairmen, and we have had times when we didn't have a vice chairman. I think it's a good idea. Although I think all of us intend to attend all meetings, there may come a time when -- when either I am not able, or someone else is not able. And so I think we should go ahead and elect a vice chair of the Missouri Gaming Commission. And I'll entertain a motion to that effect.

COMMISSIONER NEER: I'd like to nominate Commissioner Jamison.

COMMISSIONER HALE: I'll second that motion.

CHAIRMAN KOHN: Motion's been made and seconded that we nominate Commissioner Jamison as vice chair of the Missouri Gaming Commission. Any discussion? Those in favor, please say aye. Oh, no. We have to call the role. See, I told you I was learning. I can't even vote. Angie, please call the roll.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Abstain.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, Commissioner Jamison is the vice chairman of the Gaming Commission.

CHAIRMAN KOHN: Congratulations.

COMMISSIONER JAMISON: Thank you.

CHAIRMAN KOHN: I said there was one other item that I wanted to bring up. And that is a change of order on the agenda. The first order on the agenda that you see is a discussion of the hearing officer recommendation with Mr. Wolford. And we're going to move that to the end of the agenda. So we'll proceed with everything else first, and then take this matter up at the end.

So moving on with Executive Director Seibert, the licensure.

Oh, the minutes. Okay. All right. I've got to get back to my script. We have the minutes of the meeting of November 4, which I think the commissioners have had an opportunity to review. Is there a motion to review -- to approve the minutes of the meeting of November 4?

COMMISSIONER HALE: Mr. Chairman, I move for approval of the minutes from our November 4, 2015 meeting.

CHAIRMAN KOHN: Is there a second?

COMMISSIONER LOMBARDO: Second.

CHAIRMAN KOHN: Angie, please call the roll.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commission Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted the minutes of the November 4th, 2015 meeting.

CHAIRMAN KOHN: See, I am a quick study. Okay. Now, Director Seibert.

DIRECTOR SEIBERT: The first order of business now is the Consideration of Licensure of Level I and Key Applicants. The presentation will be made by Sergeant John Masters.

MR. MASTERS: Good morning. Mr. Chairman and Commissioners, Missouri State Highway Patrol Investigators, along with MGC 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 lived, worked and visited. The following individuals are being presented for your consideration: Ron Chary, Director, President & CEO for Everi Holdings. Frederick Kleisner, Director for Caesars Entertainment. Julie Lim, Executive Vice President, President, General Counsel and Secretary for Everi Holdings. Gabrielle McDonald, Director for Scientific Games Corporation. Brian Smith, Director for Japan Cash Machine Company. Randy Taylor, Executive Vice President, CFO and Treasurer for Everi Holdings. Koji Yoshikawa, Director for Japan Cash Machine Company. The results of these investigations were provided to the MGC staff for their review, and you have all related summary reports before you. Thank you.

CHAIRMAN KOHN: Are there any questions by the Commissioners?

DIRECTOR SEIBERT: Mr. Chair, Staff does recommend approval.

CHAIRMAN KOHN: Okay. Is there a motion to approve?

COMMISSIONER JAMISON: I'd move for approval of Resolution Number 15-059.

CHAIRMAN KOHN: Is there a second?

COMMISSIONER LOMBARDO: Second.

COMMISSIONER NEER: I'll second.

CHAIRMAN KOHN: Any discussion on the motion? If not, Angie, please call the roll.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-059.

DIRECTOR SEIBERT: The next order of business, Mr. Chair, is Consideration of Re-licensure

of Certain Suppliers. And Sergeant Brian Holcomb will present.

MR. HOLCOMB: Mr. Chairman, Commissioners, behind Tab D, you will notice supplier Everi Payments, Incorporated is being presented for re-licensure. Company was previously known as Global Cash Access, Incorporated, until the name change was announced on August 24th, 2015. Everi Payments, Incorporated provides access to cash at gaming facilities via automated teller machine cash withdrawals, credit card cash access transactions, point-of-sale debit card transactions, and check verification and warranty services; fully integrated gaming industry kiosks that provide cash access and related services; products and services that improve credit decision making, automate cashier operations and enhance patron marketing activities for gaming establishments; compliance, audit and data solutions; and online payment processing solutions for gaming operators in states that offer intrastate, internet-based gaming and lottery activities. The company has been continuously licensed by the Missouri Gaming Commission as a supplier since September 29th, 2010. Highway Patrol and MGC financial investigators conducted the re-licensing investigation, which consisted of

jurisdictional inquiries, feedback from affected gaming company clients, an examination of disciplinary actions, litigation and business credit profiles, as well as a review of key persons associated with the company. The investigation summary was provided to the MGC staff for their review, and investigators are present to answer any questions you might have.

CHAIRMAN KOHN: Are there any questions of the sergeant?

COMMISSIONER JAMISON: I only have one question. I know that they gave an update in one of their litigation cases, in the one that still appears to be pending out there. I'm assuming that that does not have a material effect if they're found on the wrong end of that litigation. It says earlier in the report that it could have a material effect. And then I was trying to figure out if the one that's left does or does not have a material effect, and what would be the outcome of that.

MR. HOLCOMB: Yeah. So Alabama litigation has been kind of a sticky wicket for the companies that were in Alabama at the time. The attorney general began to enforce Alabama law about bingo. Certainly, we've monitored those cases for the entirety. You know, that -- that's why that case is

mentioned, because if their machine is found by a court to have been an illegal gambling device in Alabama, then we'll certainly want to be aware of that, and make you aware of it as well. So what kind of ramifications that could have, that's well above my pay grade, but --

COMMISSIONER JAMISON: Probably mine, too.

MR. HOLCOMB: Yeah. Yeah. But I did -- I did want to include that --

COMMISSIONER JAMISON: Right.

MR. HOLCOMB: -- so you're aware of it.

COMMISSIONER JAMISON: Okay. Thank you.

MR. HOLCOMB: Uh-huh.

CHAIRMAN KOHN: Any other questions?

DIRECTOR SEIBERT: And Mr. Chairman, Staff does recommend approval.

CHAIRMAN KOHN: Thank you. Is there a motion to approve Resolution 15-060?

COMMISSIONER HALE: So moved.

COMMISSIONER JAMISON: Second.

CHAIRMAN KOHN: Any discussion? Angie, please call the roll.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-060.

CHAIRMAN KOHN: Mr. Seibert?

DIRECTOR SEIBERT: Mr. Chairman, the next order of business is Consideration of Rules & Regulations. Mr. Ed Grewach will present.

MR. GREWACH: Thank you. Mr. Chairman, Commissioners, under Tab E, we have items number one through eight, which are all final orders of rulemaking. That is the last step in the statutory procedure for adopting or amending rules. The first step is drafting the rules. And even though the statutes don't provide it, we do seek input from industry in the drafting process of the rules. Once the rule is drafted, then it comes before the Commission for a proposed order of rulemaking. Those -- these eight items came before the Commission on the August agenda, and a motion was passed to

approve them as proposed orders of rulemaking. After that, there's a public comment period. There was a public hearing held November the 4th, 2015. If any comments were made to any of the rules during that comment period, they -- they are incorporated in the final order of rulemaking. And you'll see those specifically if you'd look at item seven, that both the comments made and the response to those comments are contained in there. If there are no comments received through the comment period, then the original proposed order of rulemaking is not reprinted in the final order of rulemaking. For that purpose, I've left copies of the proposed order of rulemaking there on the dais for your reference, so that you can see rule-by-rule what the original amendments, text -- or revisions were in the rulemaking process. When you look at those proposed orders of rulemaking, you'll see the items that are in bold are language that was added. The items that are in brackets are language -- or paragraphs that were deleted from the original draft of the rule. If the Commission approves these final orders of rulemaking, then they would become effective on March the 30th, 2016.

The first item, number one, amendment to 1.090, adds a definition for the term supervisor.

That term appears several places throughout our regulations, but before this change, did not have a specific definition for that term.

Item two deals with the certain Level I licensees that are required to be in certain positions. And the background of this change is that this original rule, 4.020, we set a minimum number and positions that had to be filled by a Level I employee on each casino. And we further provided that if there was a vacancy in one of those positions, that the casino could fill that either with a Level II employee, or with another Level I who was the manager of another one of those areas for a temporary time period not to exceed 180 days. In reviewing that, we realized that the rules -- other rules specifically prohibit the surveillance manager from having any other related duties on the boat. And further, the rules provide that surveillance manager's required to report directly to the corporate entity and not to the general manager of the -- of the boat. So it was necessary for us, then, to add this language to carve out the surveillance manager from one of those people of the five who could step in and manage another department.

Number three is an amendment to 4.030.

The prior draft of the rule required the applicant to list political donations that were made to an office holder in Missouri. However, that was inconsistent with the Statute 313.847.9. So you'll see in the brackets we're deleting the limitation in Missouri and requiring applicants to list all political donations they've made, regardless of jurisdiction.

In paragraph number four, you'll see some deletions of paragraphs that were originally in 9.030. Now, before we started this process, you -- you have rules which we'll call CSRs. And then you have Minimum Internal Control Standards, which we'll call MICS. And we had one CSR, 9.030, which said you have to comply with all these MICS. And then that one CSR listed them all, A through V, I think was the last letter. It became a little cumbersome, because every time we changed a MIC, we'd have to go back and do another revision to 9.030. So that was one of those rules that, when you looked at the history of it, had revision after revision. So we then set out to give every MIC its own individual CSR. And you'll see two of those later on, in items seven and eight, 9.101 and 9.103, so that now when we change a MIC, we just have to change the -- the relating CSR, and not have to go back and -- and change 9.030. So what this is doing

here in 9.030 is just deleting -- we've now accomplished that. We now have a separate CSR for every MIC, and now we're deleting these paragraphs 3.323 that were on the old rule.

In item five, it's a change to submissions of Minimum Internal Control Standards. The old rule had a set fifteen days that they had to submit before approval. Some approvals are very minor, we don't need fifteen days, and it's a help to the industry that they don't have to wait fifteen days. Some are more complex, and we need more than fifteen days. So this just gives us the ability to look at a submission and determine how much time we need before we can review and approve it. Under item six, that's just a housekeeping matter concerning references to Class A and Class B licensees. Initially, we only had one class of riverboat gaming licenses. That was an A. Then at some point in time, we -- we changed that to where we had the Class A licensees, which are the corporate entities, and the Class Bs, which were the boats themselves. And so this is just cleaning up the language as it relates to this particular rule.

Jump ahead to item eight, and you'll see that is just, again, giving that MIC its own specific

CSR.

You'll see that on item seven, that there were comments to this rule. And you'll see in the order of rule making the comments and the response and changes made relative to those comments. Now, this rule deals in Chapter A, a very broad list of topics of general and administrative matters. One item that you will see discussed there -- and you'll see the terms dual rate and dual position employees. The rule is that a Level II licensee -- and that's the employee, the occupational licensee who works on the gaming floor or for the -- for the company, for the Class B -- is licensed for a specific job title. It's in their organizational chart. This rule in this MIC then makes an exception to that. And it allows a couple things. And they're different. A dual rate employee is someone who is an employee in a lower level of a department -- let's say a -- a poker dealer -- who can then be allowed to move up to a supervisor's position -- a poker supervisor, let's say. And that's what that term refers to. And so this rule now sets conditions and limitations for someone who's going to operate in a dual rate status. The other term you'll see in here is dual position. Now, that's somebody who wants to work two different

jobs in two different departments. Let's say that you have a poker dealer who wants to also pick up some shifts as a bartender. Well, that would be a dual position employee. And then again, these rules set forth the limitations and -- and guidelines and conditions for that activity. Other topics you'll see addressed here are accessing sensitive areas of the casino, submission of organizational charts, retention of records, processing variances, and submission of changes in the internal control system.

Open to any questions if there are any.

CHAIRMAN KOHN: Are there any questions of our general counsel?

COMMISSIONER LOMBARDO: Yes. Do I understand correctly you're doing away with the section that has the laundry list of internal control standards? And I'm sorry if I'm repeating what you already said, but I want to make sure I understand it. But those internal control standards still exist, they are each in a separate chapter?

MR. GREWACH: That's correct.

COMMISSIONER LOMBARDO: Okay.

MR. GREWACH: Yes. Yes. They've just been moved. When you see that deletion of three through twenty-three, we're not actually deleting anything,

we're just moving them from that one catch-all CSR to their own individual CSRs.

CHAIRMAN KOHN: Any other questions? I have a couple. One -- one is general and one's specific. Well, maybe I have three. What is the -- the genesis of these proposed rule changes? How does that happen? Is there just an internal review where we think we can clean up some of these rules, or does somebody from the outside suggest that we should do that? How does it happen?

MR. GREWACH: We generally keep on rotation a review of various sections of the CSRs, and of the minimum internal controls. And we review them on a regular basis. You know, we regulate an industry that very rapidly changes, and we learn as time goes on from different experiences that we have. So that's most typically how you'd see a set like this come before you in just the general review process. The next one in the rotation is Chapter A. You know, so that's the one that maybe we're looking at now. Occasionally, they'll come to you because something new has happened, we've seen some pressing need that we need to address. Or for example, when the legislature passed a law allowing credit to be issued by the casinos, we then had to sit down very quickly

and draft a set of regulations to make sure that the casinos were complying with the statutory requirements.

CHAIRMAN KOHN: So it's not an annual event, it could be twice a year, it could be four times a year, it could be --

MR. GREWACH: Yes. And it's -- it's pretty much a constant, ongoing review process. Our -- our policy team is generally working on some -- one -- one rule or internal control standard basically full-time in rotation.

CHAIRMAN KOHN: So one other -- well, two other -- a specific question on number 45-4.030. At the very end of your explanation, you mentioned that licensees were now required to report political contributions in all jurisdictions. Is that what you said?

MR. GREWACH: That's correct. Yes.

CHAIRMAN KOHN: Would that include national candidates as well?

MR. GREWACH: Yes. Yes. Yes.

CHAIRMAN KOHN: And my last question is -- is just curiosity, because I don't know. When you talked about a Level II employee having -- being a -- a poker dealer, but also a bartender, could that

employee also possibly be at two different casinos?

MR. GREWACH: No. Because they're -- they're licensed, and they have a casino access badge for a particular casino.

CHAIRMAN KOHN: Okay. So it's just different jobs within the same --

MR. GREWACH: Within the same location.

CHAIRMAN KOHN: Any other questions?

COMMISSIONER NEER: No, sir.

COMMISSIONER JAMISON: No.

CHAIRMAN KOHN: I understand that we can consolidate all eight of these into one motion. Is that right?

MR. GREWACH: Yes. Correct. One motion can be made to approve all of them. The motion would just have to recite the rule numbers of the eight amendments presented.

CHAIRMAN KOHN: Okay. Mr. Lombardo has volunteered to read all those.

COMMISSIONER LOMBARDO: And I read them all when I was sitting here.

CHAIRMAN KOHN: And make your motion with all eight included, please.

COMMISSIONER JAMISON: I can do it. I can do it. I'll move for approval of 11 CSR 45-1.090,

4.020, 4.030, 9.030, 9.050, 9.060, 9.101 and 9.103.

CHAIRMAN KOHN: All right. Rick, you owe him one.

COMMISSIONER LOMBARDO: Well, it's right here on the agenda.

CHAIRMAN KOHN: Any discussion on the motion? Is there a second?

COMMISSIONER HALE: Yes. I second.

CHAIRMAN KOHN: Any discussion on the motion? Angie?

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approved.

MS. FRANKS: By your vote, you've adopted the final orders of rulemaking 11 CSR 45-1.090, 4.020, 4.030, 9.030, 9.050, 9.060, 9.101 and 9.103.

CHAIRMAN KOHN: Thank you. Mr. Seibert?

DIRECTOR SEIBERT: The next order of

business, Mr. Chair, is Consideration of Delegation of Authority to the Chairman. Mr. Ed Grewach will present.

MR. GREWACH: Thank you. We have a rule, 1.020, subparagraph 4, which allows the Commission to delegate to the chairman the authority to extend a license for up to sixty days. That's very useful to us, because occasionally we'll have situations where a license is set to expire prior to the date of a meeting, or a meeting has to be postponed for some reason, and this gives the chairman that authority. Now, if delegated to the chairman, if he does extend a license for a period of sixty days, it has to be ratified at the next Commission meeting that takes place after that. It -- we -- we do this on an annual basis. The delegation's good for a year, and then it would have to be taken up -- last year. But we have done this on a regular basis from year to year to deal with the potential problem of a license's expiring prior to the date the Commission can meet to -- to approve the renewal.

CHAIRMAN KOHN: Is there a motion to make that recommendation?

COMMISSIONER LOMBARDO: So moved.

CHAIRMAN KOHN: Second?

COMMISSIONER NEER: Second.

CHAIRMAN KOHN: Any discussion? I have a question. Again, being new. Is this something that -- that I would receive after the recommendation of the executive director, or how -- how does that happen?

MR. GREWACH: Yes. What would happen is we would contact you and indicate -- and we had one not too long ago where a supplier -- and actually, it was a case where the application didn't come in on time, and we weren't able to complete the investigation because of that late application. And so we contacted the chairman at the time and said, you know, would you -- would you be willing to sign this extension for the sixty days on this license so that we could get it on the next available Commission meeting. So the contact would come from the executive director to you as chairman, along with a recommendation or request that you enter that.

CHAIRMAN KOHN: And I assume this would be a non-controversial one.

MR. GREWACH: Correct. Because they're existing licensees, and it's just the matter of timing of being able to -- to vote on their renewal before the expiration date on the license.

CHAIRMAN KOHN: And I guess I could, if I wanted to, consult the other commissioners before signing that.

MR. GREWACH: Yes.

CHAIRMAN KOHN: Okay. Any other discussion or questions? Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-061.

DIRECTOR SEIBERT: Next order of business, Mr. Chair, is Consideration of Re-licensure of Certain Bingo Suppliers and Manufacturers. And Sergeant Brian Holcomb will present.

MR. HOLCOMB: Several companies are being presented for re-licensure as suppliers or manufacturers of bingo products in the state of

Missouri. All bingo supplier and manufacturer licenses are issued for the calendar year and expire on December 31st of each year. The re-licensure of both manufacturers and suppliers includes but is not limited to a review of federal and state tax checks, customer and product lists, corporate organization, gaming license checks, various criminal and financial background checks on each company's key persons.

The following two companies have applied for re-licensure of their supplier's license: All American Bingo, Inc., Bingo Supply Center.

The following six companies have applied for re-licensure of their manufacturer's license: Douglas Press, Inc.; Arrow International, Inc.; Fortunet, Inc.; Pollard Games, Inc., doing business as American Games; and VKGS, Inc. Thank you.

CHAIRMAN KOHN: Okay. Any questions?

DIRECTOR SEIBERT: Staff does recommend approval, Mr. Chairman.

CHAIRMAN KOHN: Thank you. Is there a motion to approve the resolution?

COMMISSIONER JAMISON: We need to do these separately. Correct?

MS. FRANKS: Yes.

COMMISSIONER JAMISON: I move for

Resolution Number 15-001-B.

CHAIRMAN KOHN: Is there a second to that motion?

COMMISSIONER LOMBARDO: Second.

CHAIRMAN KOHN: Any discussion? Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-001-B.

CHAIRMAN KOHN: May we have a motion now on Resolution Number 15-002-B.

COMMISSIONER HALE: Move for acceptance of Staff's recommendation relative to Resolution Number 15-002-B.

COMMISSIONER LOMBARDO: Second.

CHAIRMAN KOHN: Any discussion? Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-002-B.

DIRECTOR SEIBERT: Next order of business, Mr. Chair, is Consideration of Waiver of Licensure for Institutional Investor. Ms. Martha LeMond will present.

MS. LEMOND: Good morning. How are you? Mr. Chairman and Commissioners, behind Tab I is a resolution regarding request for waiver of licensure for institutional investors holding and/or requesting to hold publicly traded interest of up to 20 percent in gaming licensees.

This investor has submitted a request for a waiver to hold interest in Missouri licensee in compliance with 11 CSR 44-4. The submitted waiver request certifies the holding is for institutional

investment purposes only, with no intent to be involved in the management or operation of the licensee.

Because the holdings may exceed the 10-percent threshold for which the executive director may grant a waiver of this resolution, it is before the Commission today.

Resolution Number 15-062 is for Mast Capital Management, LLC.

I'd be happy to answer any questions.

CHAIRMAN KOHN: Are there any questions? Larry?

COMMISSIONER HALE: No.

CHAIRMAN KOHN: Is there a motion to approve Resolution 15-00 -- is there a number on this? 15 -- 15-062?

COMMISSIONER NEER: Motion to approve Resolution 15-062.

CHAIRMAN KOHN: Is there a second?

COMMISSIONER HALE: Second.

CHAIRMAN KOHN: Any discussion on the motion? Okay. Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: By your vote, you've adopted Resolution Number 15-062.

DIRECTOR SEIBERT: Mr. Chairman, the next order of business is Consideration of Hearing Officer Recommendation. Mr. Brian Wolford will present.

MR. WOLFORD: Thank you, Mr. Chairman, Commissioners. For your consideration, Resolution Number 15-058, the matter of Cyril Salvo.

For a little background information on this matter, this case was originally presented to the Commission back in March of this year after a hearing which occurred in February. The Commission at that time deferred the decision in an effort to seek the opinion from the Attorney General's office as to what its authority was to revoke or approve the hearing officer's decision.

For a little background on the matter for Chairman Kohn and Commissioner Lombardo, this is the

last in a series of cases where licensees were originally granted occupational gaming licenses in the mid-nineties, and then at a later time, the Commission investigated their licenses and determined that they were not suitable to hold occupational gaming licenses due to prior felony convictions or guilty pleas under the statute, which is 313.812.8 of the Revised Statutes of Missouri. Prior to 2000, the background screening process was done individually at the casino facility where the employee was applying to. There were no standardized methods of performing these checks, and they usually fell to a highway patrol officer assigned to the Commission at that boat. After 2000, the standards were basically made uniform throughout the entire state of Missouri, and the investigation process was done by specific investigators whose sole duty it was to investigate these applicants. And since that time, you know, we've noticed there's been some -- some ones that weren't done right. And we've had several within my tenure here that have had to come back before the Commission once it was determined that based upon the statute, that they were unsuitable to hold a license.

So with that in mind, Mr. Salvo, in 1979, pled guilty to a felony assault, and he received a

suspended imposition of sentence, and three years probation. In March of 1995, he was granted a Level II Occupational Gaming License. And during that time, he did disclose that he thought that his case in 1979 had been dismissed. Obviously some time had passed, and the nature of the suspended imposition of sentence at that time, his attorney would have told him well, you will have no record of this, it's not a conviction after that. At hearing, he wasn't intentionally trying to -- to deceive. He was -- he was being honest. He had a genuinely-held belief that he thought that this 1979 case was gone, was dismissed.

COMMISSIONER HALE: Not to cut you off, but I've got to ask you. At the time he made the original application for licensure, did he also disclose the fact that there had been a guilty plea to a felony conviction in '79?

MR. WOLFORD: At the initial time he made his application, no.

COMMISSIONER HALE: Okay.

MR. WOLFORD: Because, again, he felt that -- that it was -- that it was dismissed, that it wasn't a plea or conviction at that point.

COMMISSIONER LOMBARDO: Did he disclose that he had been charged?

MR. WOLFORD: No, he did not.

MS. KERR: If I might, just real quick.

CHAIRMAN KOHN: I'm sorry. Would you identify yourself.

MS. KERR: I'm sorry. Sure. My name is Carolyn Kerr. I'm an attorney for the Gaming Commission.

CHAIRMAN KOHN: Okay.

MS. KERR: And on his original application, he did disclose the arrest. But then he wrote that it had been dismissed. So --

COMMISSIONER JAMISON: On the question on the application, did it -- what is it? Is it -- I mean, because I know that the applications have changed over a period of time, and now the wording is usually did you plead guilty to. And I'm just wanting to know what the question was for the application.

MS. KERR: Sure. The question, number 19, says if you have ever -- if you have ever been arrested, detained, charged, indicted, convicted, pleaded guilty or nolo contendere or forfeited bail concerning any criminal offense, either a felony or a misdemeanor, or any juvenile violation in any state or foreign country; except for traffic violations the maximum possible punishment for which was a fine not

in excess of $50; complete the following chart. And he -- he wrote down first -- first-degree assault, St. Charles. Then under disposition, he wrote dismissed. Sentence, not applicable. He also disclosed a couple other DWIs, but --

COMMISSIONER JAMISON: Right.

MS. KERR: -- that had already -- and he had pled to a lesser charge on those two. But that's what that question says.

COMMISSIONER JAMISON: Okay.

MS. KERR: And so all he did -- he disclosed the arrest, but that was it, because that's what he thought it was.

COMMISSIONER JAMISON: That was his understanding of the -- of what happened in the proceedings?

MS. KERR: Yes. That's what --

COMMISSIONER JAMISON: That's our belief. That's the hearing officer's belief, that that was his -- his belief of what occurred during the proceedings in court?

MS. KERR: That's the investigator's belief. And I suppose that's -- I'm not going to speak for Mr. Wolford.

COMMISSIONER JAMISON: Right. No. I --

that's why I rephrased my question that that's the hearing officer's belief.

MS. KERR: Yes.

CHAIRMAN KOHN: Mr. Wolford, did you finish?

MR. WOLFORD: No.

CHAIRMAN KOHN: Okay.

MR. WOLFORD: At -- at hearing, it was also the belief of the Commission's investigator, who did the license recheck, that Mr. Salvo was genuine in his belief that it had been dismissed. And yes, that was my opinion in the hearing, that he was very genuine in his belief.

So during the review of his license in 2014, it was revealed that this felony plea had occurred. And again, under the statute, it would bar Mr. Salvo from holding a license. At hearing, he did testify to his honest belief as to this dismissal. He was found to be credible.

He also brought in a bunch of witnesses from the facility that testified that in his twenty years as an employee, he had been nothing but an exemplary employee, a role model for other licensees. I think the -- the assistant director of the casino also testified that it would take about three years to

get an employee trained to the skill level that -- that Mr. Salvo had.

At that time, the hearing officer did find that the controlling statute did disqualify Mr. Salvo from holding a license.

Mr. Grewach, the general counsel, solicited an opinion from the attorney general's office, which is also included in your packet. And the attorney general issued an opinion in October of this year -- October 27 -- that Mr. Salvo -- because he was not qualified at the time of his application, the disqualification continues to this day, and the Commission doesn't have any discretion in the decision to revoke his license.

And the hearing officer's recommendation would be the same as -- as was given in March, that Mr. Salvo's license should be revoked due to the felony plea. I'd be happy to answer any questions from the commissioners.

CHAIRMAN KOHN: Any other questions from the commissioners?

COMMISSIONER LOMBARDO: There is a -- in the materials I've received, there's a request for executive clemency, for a pardon. In your opinion, how would this -- if he was granted the pardon, how

would it affect things?

MR. WOLFORD: The pardon would not remove the fact that a plea occurred. And under the -- the wording of the statute, it does say plea, and the definition. I can let Mr. Salvo's attorney speak on -- on his behalf to what his opinion about the clemency petition when it's his turn to speak.

CHAIRMAN KOHN: We'll get to that in a minute. But are there any other questions for the hearing officer? Okay.

MR. WOLFORD: The clemency or the pardon essentially forgives the -- the commission of the crime, but it doesn't -- it doesn't expunge the record that a plea occurred.

CHAIRMAN KOHN: I have one other question. In your earlier comments, you stated that there have been several of these.

MR. WOLFORD: This is --

CHAIRMAN KOHN: Can you tell us what several means.

MR. WOLFORD: Since I've been here, this is probably the eighth one that I've dealt with at hearing. And this is the last one in -- in that string. The Commission doesn't believe there's any more. That they've all been investigated, and all

these ones that have slipped through the -- or have fell through the cracks have been resolved.

CHAIRMAN KOHN: In what period of time? I mean, this audit occurred when?

MR. WOLFORD: The audit on Mr. Salvo, for example --

CHAIRMAN KOHN: No.

MR. WOLFORD: -- occurred in 2013.

CHAIRMAN KOHN: The general audit.

MR. WOLFORD: It's been occurring ever since the mid two thousands.

CHAIRMAN KOHN: So the audit is a continuing process of going back and checking every application?

MR. WOLFORD: The investigators periodically will review a Level II licensee's license to see if any circumstances have changed. For example, if they've acquired any new charges or convictions, and also look through the entire history of the application process.

CHAIRMAN KOHN: So it's an ongoing process.

MR. WOLFORD: Correct.

CHAIRMAN KOHN: It's not after twenty years, we decided to do an audit.

MR. WOLFORD: Correct. And that's what has

changed since 2000 whenever the standards became universal throughout the state of Missouri, and the investigations were done by specific commission employees, investigators, rather than the boat officers.

COMMISSIONER JAMISON: I have a question. So then when you say that you believe that this is the last person, is that the -- is that as a result of you saying all audits have been done of all previous licensees? Or how do you make the statement that this is the definitive, this is the last one, if we didn't do a general audit and keep track of how many have been -- their histories have been looked through?

MR. WOLFORD: Based on my discussions with Mr. Grewach and with the investigators, they believe that this is the last one of these type of cases that we'll see.

COMMISSIONER JAMISON: Okay.

COMMISSIONER NEER: I have a question.

CHAIRMAN KOHN: Go ahead.

COMMISSIONER NEER: Were all these licensees employed at the time that the investigation indicated they should be revoked?

MR. WOLFORD: Not all of them. There were some, for example, that were seeking re-licensure

because they had either left the employment -- one, for example, went to work in Illinois for ten years, and them came back to Missouri, at which time the previous conviction was discovered. Some were transferring from one casino to another. And in that transfer process, there's another investigation. It wasn't an audit necessarily, but because of the transfer, it was discovered. But the majority of them were employed with their respective casinos at that time. Commissioner Hale, did you have a question?

COMMISSIONER HALE: No. That was pretty much it.

CHAIRMAN KOHN: Well, I -- I need to follow up on that, too. Because something doesn't make sense. You say this is the last one, but there are people applying for licenses probably today.

MR. WOLFORD: Well, that -- correct. And that's not going to affect any of these previous long-time license holders. We're talking about new applicants, where they will have to either -- they'll have to disclose on the application process what -- what Ms. Kerr read to you, if they've had any prior -- we'll just, for simplicity's sake, call it law enforcement contact. And that will determine whether or not they're suitable to hold a license.

CHAIRMAN KOHN: I understand. But -- but you said I think earlier that there are about eight of these that fell through the cracks. That could be happening today, too; couldn't it?

MR. WOLFORD: No.

CHAIRMAN KOHN: Why?

MR. WOLFORD: Because the -- because there is a standardized system of investigation so that if the investigators -- no matter where in the state the person applies for a license, whether it's Cape Girardeau, Booneville, Kansas City, St. Louis, there's a checklist of standards that the investigator follows. There's checks that are done through the Missouri Uniform Law Enforcement System -- MULES -- through NCIC, through regional systems such as REJIS in the Kansas City -- and REJIS has also taken over the St. Louis -- or the Kansas City area and St. Louis as well. So these checks are more thorough. They're standardized, meaning every person who's employed as an investigator does the exact same thing. They're doing the exact same job. Which was not done prior to 2000. So the chance of it happening today -- I don't want to say it's completely zero, because sometimes we're dealing with other states who won't get their information in to inlets. But in today's day and age,

with the databases that law enforcement has access to, I would say it's virtually no chance that these situations are going to fall through the cracks.

COMMISSIONER JAMISON: Would -- would it be safe to say that the fact that this was an SIS also put some -- I'm not going to use the word confusion, but misinterpretation of conviction as opposed to -- or pled guilty to -- as opposed to if it was an actual guilty plea?

MR. WOLFORD: It's still a plea. You're still --

COMMISSIONER JAMISON: I understand. But I'm saying back in the nineties, when it was not uniform, and you had separate boats doing separate approvals and separate -- separate officers doing separate approval, do you believe that an SIS could be viewed differently at that point?

MR. WOLFORD: It certainly is possible. I mean, I can't speak for the individual trooper that would have done this investigation back in 1995.

COMMISSIONER JAMISON: Right.

MR. WOLFORD: But I can certainly see your point. It is plausible.

COMMISSIONER NEER: Are you telling me that prior to 2000, there were no standards for the

background investigations?

MR. WOLFORD: Prior to 2000, the standards were not uniform throughout the state. They were individually done at each boat. So to answer your question, no, there were no uniform statewide standards that were followed at all of the properties.

COMMISSIONER NEER: So to follow up on Mr. Jamison's question, there had been interpretations differently from different investigators exactly what an SIS is.

MR. WOLFORD: Again, without speaking for the mind-set of the individual investigator that did this, I would say that that's a plausible explanation.

COMMISSIONER NEER: Thank you.

COMMISSIONER HALE: So if I understand correctly, sir, the initial investigation was conducted without running a record check on -- on this -- on this applicant. Is that correct?

MR. WOLFORD: I can't speak to that, Mr. Hale. I don't know for sure.

COMMISSIONER HALE: What we do know, however, is that for whatever reason, the investigating officer did not find the 1979 conviction.

MR. WOLFORD: Correct.

COMMISSIONER HALE: The record of a 1979 conviction.

COMMISSIONER JAMISON: Well, I don't think we can say that.

MR. WOLFORD: Did -- did not find that there was a plea that would have disqualified Mr. Salvo from holding a license at that time.

COMMISSIONER HALE: Okay. Another question is was there a -- an application for renewal of the license that was originally issued?

MR. WOLFORD: Mr. Salvo did have his license renewed on an annual and then later a biannual basis. But the -- the investigation process for that is nowhere near as detailed as an initial licensure, or whenever the investigation department does their audits.

COMMISSIONER HALE: But there would presumably be some form of investigation relative to the application for renewal.

MR. WOLFORD: Not an investigation as we think of as we're dealing with an initial application or an audit. It would just be an application where okay, I've held my Level II license, it's going to expire, it's up for renewal, here's my information, essentially.

COMMISSIONER LOMBARDO: Well, on these renewal or re-applications, is there some kind of criminal records check that's done every year or two years when these are processed?

MR. WOLFORD: I can't speak to that definitively. I know it's not done every time.

CHAIRMAN KOHN: Any other questions for Mr. Wolford? We may want to have you back up in a few minutes. But is Mr. Salvo or his attorney present?

MR. ANDRES: Mr. Chairman, yes. Mr. Salvo is to my right. My name is Jonathan Andres. I'm his counsel. And --

CHAIRMAN KOHN: Do you want to address the Commission?

MR. ANDRES: -- we want to be heard. I beg your pardon?

CHAIRMAN KOHN: Did you want to address the Commission?

MR. ANDRES: Yes, please.

CHAIRMAN KOHN: Go ahead.

MR. ANDRES: Thank you. Good morning. Mr. Chairman, Commissioners, it's my privilege to be here this morning on behalf of Mr. Salvo. And I am preceded by his former counsel, Jesse Granneman, who withdrew in October of this year, and I'm now

representing Mr. Salvo.

We're here today on Case 15-058, but that's not where this case started. As you know from the file, this originally was labeled Case 14-197, which was before the Commission for consideration earlier this year. I think it's fair to say this is not a usual case. This is an unusual case.

Mr. Salvo applied for a gaming license in March of 1995, and has held a gaming license continuously since then. In follow-up to a comment by Commissioner Hale, let me just point out that it's my understanding his last renewal was in March, 2015. And the reason that's significant, I'll get to that in a minute. But we're talking twenty years of developing a career. When Mr. Salvo applied for a license, my son was a little bit over a year and a half. He's now almost 22, going to graduate from college. I can tell you that's a long time, and a lot happens. And most importantly, a lot has happened in Mr. Salvo's life. And he's being asked to bear the burden of what we're now hearing was mistakes, mis-uniform or un-uniform procedures for investigation. But we have to deal with the problem, we have to deal with the law, and I'm here to argue on his behalf both under the facts and the law.

The last time this Commission met on this case, the resolution was tabled in order to get an opinion from the attorney general's office on what options this Commission had on accepting, rejecting, et cetera, the resolution. That memorandum came down October 27, 2015. I was provided a copy. But three important things happened relative to that memorandum. One happened before the memorandum, two of them happened after the memorandum.

Before I get to a discussion of what those things are, let me just emphasize a couple things that I think we all agree on. As Mr. Wolford noted, there was a finding of credibility on the part of Mr. Salvo. Procedurally, there was a hearing on February the 10th, 2015, and testimony was taken, witnesses were produced, exhibits were adopted or admitted into evidence.

And Mr. Wolford mentioned that a bunch of -- or Mr. Salvo brought a bunch of witnesses. Those witnesses included, just by way of background, Rebecca Cody, a team relations manager from the casino -- the Ameristar Casino; Robert Gernigin, the casino operations -- assistant casino manager; a woman by the name of Suzanne Marie Wallace, a dual lead supervisor from the casino; and Shawn Ledbetter,

director of regulatory compliance for the casino.

The record that was submitted to the Commission on that date, by my estimation, is in excess of five hundred pages. A lot of it was his personnel file, but a lot of it was also other relevant material.

I would also just point out by way of introduction that Mr. Salvo is accompanied here today by two coworkers, Michael Hughes and Donald Buff. Also present before the Commission this morning are Ward Shaw, the general manager of Ameristar, and Shawn Ledbetter, who I'm sure the commission knows from prior dealings. He's the director of regulatory compliance.

Mr. Salvo enjoys not only a fine reputation in the gaming industry, but he has been whistle clean since his unfortunate incident in 1979. I submitted as part of the record a letter received from the highway patrol. We asked for a criminal background check. It came back clean. They could find no records. I would note that they couldn't -- they didn't even disclose the -- the -- the criminal conviction that we're here on today. But in any event, I think it's undisputed that Mr. Salvo has been an exemplary citizen since 1979. And he has also held

a gaming license, as we've noted, for more than twenty years.

I want to also emphasize a couple conclusions or findings from the findings of fact, conclusions of law and final order that was dated February the 24th, 2015. In his application, it was found that the petitioner disclosed his criminal history, including the information cited in paragraph two of that document. And I'll just read paragraph two for your -- for your recollection. It states on November 5, 1979, petitioner pled guilty to the felony offense of assault, second degree in the circuit court of St. Louis County, Missouri, and sentenced to a suspended imposition of sentence and three years probation. There was a question earlier about whether he disclosed that event in his application. And I want to make sure the record's clear that in response to the Paragraph 19 that Ms. Kerr read into the record, Mr. Salvo, in his own handwriting, noted that he had been charged and arrested for first-degree assault. Well, that was later reduced to a lesser charge, and he noted that it was dismissed. It was good-faith belief on his part. As I understand it, he was represented by counsel in connection with that court appearance. And I think noting that the legal

profession is well represented in the Commission, and the other commissioners' experience, I think we all recognize the difference between an SIS and an SES, notably that a suspended imposition of sentence is more favorable and a lesser charge than a suspended execution of sentence. So we're dealing with something that is not as serious as an SES.

Getting to the three events that I find very important relative to the attorney general's memo, on October 8, 2015, Mr. Salvo filed application for pardon with the parole board. And he did that in part at the urging of this Commission. By way of background, there was a hearing on February -- or February 10. A transcript was prepared. That was followed by a March 25th hearing. A transcript was prepared. I think both transcripts are part of the record. At the March 25th, 2015 hearing, this Commission decided to table the resolution to -- to hear further from the attorney general's office. But before they did, page 32 of the transcript, Commissioner Jamison recommended that Mr. Salvo petition the parole board for application of pardon. And one portion of his comments, we find very significant. He said, quote, it has to go through the governor's office, so it isn't strictly done by the

parole board. But -- and here's the important part -- quote, but that is one way to remove this felony conviction and give you an ability to be licensed again, so I just make that recommendation. Mr. Salvo took that statement and that recommendation to heart, and he made application to the parole board. We have submitted a copy of the application. It is accompanied by more than thirty letters from coworkers. It's accompanied by a copy of the letter that we received from the highway patrol indicating its findings as to Mr. Salvo's record. And we are optimistic on his chances.

I also want to point out that included with the application was a very important affidavit. It was an affidavit by a gentleman by the name of Daniel Murphy. Daniel Murphy is no ordinary person. He happens to be the victim of the assault that brings us here today. And the affidavit states that had I known that pressing charges was going to ace Mr. Salvo out of a job, I wouldn't have brought charges. And the affidavit's in the record, and I would urge the Commission's consideration of that document.

Mr. Murphy also states I do not -- he affirms I do not bear any ill will towards Mr. Salvo. I offer this affidavit voluntarily and hope it will help Mr. Salvo

obtain a pardon. And I fully support Mr. Salvo's application for clemency. So what we have here is almost a textbook, I think, case for -- that cries out for pardon. You've got the victim saying I support it. You've got no harm to the public. You've got an offender who has been clean ever since that event, and has a lot at stake. A lot at stake. A twenty-year career in the gaming industry at stake.

The second event that was important, I think, relative to the attorney general's memo, was that in response to it, Mr. Salvo submitted a letter dated November 2nd, 2015, in which he lays out areas of the law that were not addressed in the attorney general's memorandum. It's important to keep in mind that this Commission's directive to the attorney general's office was do we have discretion to consider other options other than the recommendation for revocation offered by the hearing officer. The attorney general's memorandum, I submit, came back to say you have to abide by the recommendation. The memo does not address the issue of discretion. It doesn't cover whether or not the panel or this Commission has any leeway. So to remedy that shortcoming as we saw it, Mr. Salvo pointed out several areas of the law that bear directly on the issue that the Commission

found so important to ask the attorney general for clarification, and that's discretion. For sake of time, I'm not going to go through with the citations to each section, because they're in the letter, and I -- and I urge that the -- the Commission consider that. But let me just point out a couple things. The code of regulations, 11 CSR 45-4.430, states that the Commission may waive any licensing requirement or procedure for any type of license it determines that the waiver is in the best interest of the public. Goes directly to discretion. In addition, 11 CSR 45-1.100 states the Commission may waive or grant a variance from the provision of Title 11, Division 45, Chapters 1 through 31 of the Code of State Regulations. And that's virtually -- that's all the regulations relating to gaming. Upon a licensee's written application, if the Commission determines that the waiver or variance is in the best interest of the public. I would ask the Commission to consider Mr. Salvo's letter of November 2nd, 2015 to be a written request for a variance. A written request for a variance within the scope of discretion that this Commission enjoys under the law. There's other regulations and citations that we note. And I would just refer that to the court's -- or the Commission's

consideration at the appropriate time.

The hearing officer emphasizes a statute from Missouri law that has general application. That's Section 536.014, subsection 2. And that part of the law states that no department, agency, commission or board rule shall be valid in the event that -- section 2 -- the rule is inconsistent with state law. That's a very general, broad statement. There's no application or no analysis given. It's just a statement as to the basis why you must accept their -- their recommendation. I want to respond very briefly to that. State law includes both the statutes and the regulations. And when you read the statutes and the regulations together, this body has the ability and the discretion to make rules and regulations, to grant variances, and to waive licensing requirements. It also, as we hear from the last hearing, has the ability to recommend certain actions by a person before the Commission to remedy a situation. In this case, go seek a -- an application, a pardon from the parole board, which Mr. Salvo has done. So the second important event relative to the attorney general's memo is the response that Mr. Salvo has submitted to the Commission.

The third event, and which I happen to

think is the most significant, is something that I submitted to Attorney Kerr, and she agreed to make part of the record. And that is a letter dated November 24, 2015 from Robert Porter of the Department of Corrections. Mr. Porter interviewed Mr. Salvo recently -- actually, I think it was on the 24th -- and said I'm going to write a letter on your behalf, because there's a couple points that I want to make, and I have a question -- I have a question for the Commission. And the question in his letter is if Mr. Salvo loses his gaming license in the near future before he receives a decision on his executive clemency application, but it is then later granted, will he be eligible to reapply for a new gaming license and have it approved. Now, everybody likes to -- to guess whether they can, you know, accurately predict a request for a pardon. And nobody's got a lock on that. But I'll tell you this much. In my experience, when I get a letter like that from someone who has interviewed the applicant, it's clear to me, based on that question, they don't want to go through this process if it's not going to make a difference. But more importantly, if it is going to make a difference, I read that letter to indicate a favorable inclination to present this to the governor. What the

governor does, the governor does. But I think that the equities in this case, and the facts in this case, and dare I say the miscarriage of justice in this case warrants heavily in favor of submitting a favorable recommendation to the governor on the pardon application of Mr. Salvo. That remains to be seen. But the issue I think now before this Commission in light of Mr. Porter's letter is is it going to make a difference. And I'm happy to say that based on the hearing -- last hearing on March 25th, we have an indication of an answer. The Commission has said and told Mr. Salvo earlier I encourage you to go get an application for pardon, it's one way to remove the felony conviction. Now, this morning, we heard from Mr. Wolford in response to the Commission's questions about well, what if -- what if this pardon really happens? What happens? Mr. Wolford's opinion was that it would not eliminate the felony -- or the plea of guilty. It would wipe the -- the record clean, but the -- the plea of guilty, as I understood him to say, would remain.

There are several options for this Commission that I'd like to close with -- with -- by presenting.

The Commission has the option to table

this resolution until we learn what the -- the pardon application results in. At page 35 of the March 25th hearing, Chairman Shurin asked do we have to hear this today -- meaning Case Number 14-197 -- can we continue a decision on this. And at page 35, Mr. Grewach, who's well known to the Commission, said absolutely, because under the rule, the Commission has the authority to accept, reject, modify or remand the case. So I think within that discretion, this Commission has the ability to remand this case until we hear from the parole board on the pardon application of Mr. Salvo.

I also think the Commission has the ability to institute new rules, as -- as it has here today. We've heard about the approval of the various things that were presented. And the rule that this Commission, I believe, should consider, is that if a pardon is obtained, then you can hold a gaming license. Because a pardon, by its nature, is a forgiveness of a past wrong-doing. And if the Commission makes a rule that is specific to that, it holds water, it is within the discretion of the Commission, and it allows someone to hold a gaming license. I would point out in support of that -- of that suggestion Section 314.200 of the Missouri

Revised Statutes. And it deals with the denial of a license for criminal conviction when that's prohibited, and the effect. And it states that no board or other agency created pursuant to Missouri law may deny a license to an applicant primarily upon the basis of a felony or a misdemeanor conviction of the applicant. And I won't -- I won't quote the whole -- the whole statute. I'll just leave that for the -- for the Commission's consideration at the appropriate time. But the point is that Missouri law has recognized that you can't hold this conviction against somebody forever. And Mr. Wolford's position is well, the pardon won't eliminate the felony plea of guilty. But if you have a pardon, under the rules of the Commission, I think -- I believe the Commission has the ability to institute a rule and regulation that that is sufficient. And Mr. Salvo is a perfect example of why that rule works. He's someone who pled guilty. We expect -- I hope -- to receive a pardon. And if that happens, given his record, it's clear that someone in his position can hold a gaming license without injuring the public trust or -- or being adverse to the public interest.

I also think that the panel can, in good conscious, and within its discretion, remand this case

and allow Mr. Salvo to continue his occupation while we await the results of the clemency application. And as proof of that, I submit the prior renewal of his application in March, 2015 demonstrates that there's no prohibition -- at least the Commission has not found it necessary to prohibit him from continuing to maintain the license that he was issued twenty years ago.

I would -- I would just close with a comment, and it's this. On the way in this morning -- I haven't been to this facility before, but I noticed in the lobby, there's a mission statement. And it's the mission statement of the Gaming Commission. And part of that mission statement says that it's our mission to provide fair, firm, consistent enforcement of rules and regulations. And the first goal there is a fair enforcement. And I submit to you that what's happening to Mr. Salvo is unfair. He should not be made to bear the burden of mistakes that were made by the highway patrol of all people through inconsistent and non-standard review forms. If you look at the file, you'll see that Mr. Salvo presented his fingerprints. And if you notice on the letter from the Missouri -- Missouri Highway Patrol, it says if we have fingerprints, we can tell everything about

somebody. We can -- we will do a thorough background check. So there's no reason here today -- there's no evidence in the record that the highway patrol lacked the ability or information to do a thorough check.

So the fair resolution Mr. Salvo submits to this Commission is that the Commission table this resolution until we hear from the application for parole -- or for pardon, which he has done at the Commission's suggestion, and which by all indications is on a favorable track for consideration. And further, to table this and allow him to continue his -- his occupation. There may be some things that Mr. Salvo may have in response to any questions. I certainly can answer any questions. But I would just conclude my remarks by -- by asking the panel or the Commission if there are any questions.

COMMISSIONER JAMISON: I have -- I have some questions.

CHAIRMAN KOHN: Yeah. Let me -- before we begin, let me kind of outline how we're going to proceed. We will listen to whoever wants to speak, including the people from the casino, if they want to, if that's necessary, including Mr. Salvo, and back to Ms. Kerr if she wants to add anything. So we'll -- we'll hear everybody.

MR. ANDRES: Thank you.

CHAIRMAN KOHN: But what we're going to do is hear everybody. We will then question whatever we want to ask. And then we will adjourn into closed session to discuss the case and come back out into open session and take whatever action the Commission deems appropriate.

MR. ANDRES: Very well.

CHAIRMAN KOHN: So with that, do you want to ask a question now, or --

COMMISSIONER JAMISON: No. I have some questions I want to ask the attorney.

CHAIRMAN KOHN: Go ahead.

COMMISSIONER JAMISON: Okay. You -- you stated when he applied for clemency, and I missed that date. What was the date that he applied for clemency?

MR. ANDRES: The letter to the board was dated October 8, 2015.

COMMISSIONER JAMISON: Okay. And can you tell me the reason for the eight-month delay.

MR. ANDRES: I can tell you that the delay was a result of a number of things. We wanted to collect letters from employees, supporters of Mr. Salvo. The summer was a busy time for me. And we got together with -- with -- got everything together

and submitted to the -- the board in October.

COMMISSIONER JAMISON: Okay. And you quoted in the discretion that we can make discretionary decisions based on the best interest of the public.

MR. ANDRES: Yes. Section --

COMMISSIONER JAMISON: Can you -- can you refer to me how this decision would be in the best interest of the public, in your opinion.

MR. ANDRES: I think there are many reasons why it would be in the best interest of the public. The public looks to the Gaming Commission as a -- as an arbiter or an enforcer of rules and regulations. But justice is not a one-sided proposition here. The Commission is -- if this -- you know, to just put it in front of the people of the State of Missouri, this Commission and the people that it oversees to run the gaming industry overlooked -- not just once, but as we hear today, multiple times -- the background of individuals who hold -- or who have pled guilty to a felony or were somehow disqualified. This didn't --

COMMISSIONER JAMISON: I might take exception to your word overlooked, but go ahead.

MR. ANDRES: I'll adopt whatever's in the record as the characterization. I mean, I think there

was some earlier testimony or --

COMMISSIONER JAMISON: Overlooked would give the impression that they knew that there was a felony conviction there, and they disregarded it. And that's why I take exception to overlooked. I think there may be some confusion about the SIS and the implications of that. But I take exception to the fact that the Commission overlooked a felony conviction. It may be semantics, but I just take exception to that word.

MR. ANDRES: Okay. There was just reference at the earlier hearing that -- that the highway patrol had failed to do its job. So let's just maybe adopt that comment that was made by -- by the Commission. The public sees a -- a Commission that for one reason or another, through its hierarchy, failed to do its job in investigating this. Resulted in someone having a twenty-year career in the gaming industry. The public doesn't want people in a position of power such as yourselves and the highway patrol to abuse that position. And I'm not suggesting that there's been any abuse by this Commission. What I'm saying is when you look at the equities of this situation, you've got a guy who technically pled guilty, but there was a suspended imposition of

sentence. You've got a twenty-year career. You've got -- you're telling him now sorry, after twenty years, you've got to go, you're 58 years old, good luck to you. I think the -- it's in the public's interest that the Commission recognize the equities of this. And I think the equities cry out for something short of a revocation of his license. So I think in that sense, it is in the public's best interest, because it restores confidence in the Commission's ability to recognize a shortcoming and not come down and make Mr. Salvo bear the burden of a mistake that was not his twenty years ago. So I think in that sense, it's in the public's best interest.

I also think that if the situation arises, it's in the public's best interest that there be a precedent for handling this sort of what I call egregious or miscarriage of justice in the future. And it's an example not only for this body, but for other licensing agencies in the state who come across similar or related situations where the equities cry out for something other than a hammer throw against the non-faulting person who has sought licensure. So I think for a variety of reasons both particularly as to this case and generally, the public's interest is best served by examining the equities and coming up

with a solution within the discretion that this panel has to exercise.

COMMISSIONER JAMISON: By statute, would you agree that he was not eligible for a license when he was issued a license?

MR. ANDRES: By statute, I would agree that he was not eligible. But I would also point out that he was given one, and was allowed to keep one for twenty years. And that's the equities that I'm talking about.

COMMISSIONER JAMISON: Okay. But by -- but when you say that we asked for discretion in our attorney general letter, when you said that we didn't -- we were asking for discretion on how to avoid implication -- application of the statute, I'm not sure that I agree with that assertion of the letter. But you're saying that you do agree with the attorney general's opinion that the statute says that under present conditions, Mr. Salvo is not eligible for that license?

MR. ANDRES: I have no dispute with any quoted section of any portion of Missouri law that is cited in the attorney general's memorandum. Mr. Salvo's position is that the memorandum did not address the specific inquiry or request for

information; and therefore, he supplemented that discussion with more law and more regulations that he believes more directly related to the issue that the panel -- or that the Commission presented to the attorney general's office.

COMMISSIONER JAMISON: But under the -- under the wording of the statute, he's not eligible for a license by that statute.

MR. ANDRES: If you look at that one section in isolation, and that's the only law --

COMMISSIONER JAMISON: When he was issued the license.

MR. ANDRES: Yeah. I agree. However, my -- my point is -- or Mr. Salvo's point is that's not the total embodiment of Missouri law.

COMMISSIONER JAMISON: I understand that. But at the -- you and I agree at the time that he applied for license, the statute did not make him eligible for a license.

MR. ANDRES: The portion of the statute that said someone who has pled guilty to a felony cannot hold a license, I agree. But again, if the panel at the time -- and again, I -- I must confess I don't know what regulations were in effect in 1995. I haven't done that research. But if the regulations

that are currently in effect were in effect then, I think the answer on one hand is yes, but there was discretion, whether -- whether the Commission exercised it or not, to allow someone with a guilty plea to still hold a license, if you take the law in its totality.

COMMISSIONER JAMISON: But if he -- if he wasn't eligible for the -- for the license at the time by statute, it is what it is by the -- by the wording of the statute.

MR. ANDRES: When you say by statute, I'm going to be more specific and say the section of -- of the Missouri Code that says you can't hold a license if you have a guilty plea, I will -- I will agree with you to that point.

COMMISSIONER JAMISON: Right.

MR. ANDRES: I will not agree that that statute is a euphemism for all of the law in Missouri and therefore controls the entire situation.

COMMISSIONER JAMISON: Okay. And you said that the letter -- you do understand, and I think you did quote that -- that while the probation and parole investigator and parole board does their recommendation, it does come down to the governor, that the decision's ultimate -- I think you stated

that it ultimately comes down to the governor's office regardless.

MR. ANDRES: I think a -- as I understand the law in Missouri, the decision on whether to pardon somebody rests with one person.

COMMISSIONER JAMISON: Right.

MR. ANDRES: And that's the governor.

COMMISSIONER JAMISON: Right.

MR. ANDRES: And the parole board makes a recommendation --

COMMISSIONER JAMISON: Correct.

MR. ANDRES: I mean, they can dump these things along the track. But if they work it up and say look, here we think we have one for your consideration --

COMMISSIONER JAMISON: They all get worked up, and they all get sent to the governor.

MR. ANDRES: Okay.

COMMISSIONER JAMISON: It's a matter of if the governor acts on them. But they all get sent there.

MR. ANDRES: I would just footnote that, if I could, for just one second. In Mr. Porter's letter, in addition to the question that he asked, if you read the letter, he volunteers, or he kind of advocates on

behalf of Mr. Salvo in my view, by noting that an SIS is not a felony under Missouri law.

COMMISSIONER JAMISON: Correct.

MR. ANDRES: Now, he doesn't --

COMMISSIONER HALE: It's not a conviction.

MR. ANDRES: -- deal with the issue of the felony conviction -- right. He doesn't. Right. Yes. But he is -- he's, as I read the letter, kind of on Mr. Salvo's side in saying hey, well, you guys keep in mind that an SIS is not a felony -- I understand the finer points. I'm not trying to read more into the letter than it is.

COMMISSIONER JAMISON: No. No. I agree with you.

MR. ANDRES: I'm just responding to, you know, your question about the decision. The governor makes a decision, but he is given recommendations by the parole board.

COMMISSIONER JAMISON: What they do is they review those if there is a -- a negative impact by that, even though it's not a conviction. And so what the reason it -- but what he's stating is that there is no felony conviction to pardon from, but there can be relief from the effects of a criminal proceeding that can negatively affect someone's ability to do

things, and so they still run it through the clemency process. That's what he's kind of referring to there.

MR. ANDRES: Okay.

CHAIRMAN KOHN: Any other questions?

COMMISSIONER LOMBARDO: Yeah. I had two questions. You cited a statute which the gist of it was that somebody cannot be denied a license based solely upon a criminal conviction.

MR. ANDRES: Yeah. Yes, I did.

COMMISSIONER LOMBARDO: What is that statute?

MR. ANDRES: The statute is Revised Statutes of Missouri, Section 314.200.

COMMISSIONER LOMBARDO: Does that appear in any particular section of the Missouri Statutes? Is it related to anything in particular?

MR. ANDRES: It falls under the general category of discriminatory practices.

COMMISSIONER LOMBARDO: Okay. And then could you explain again what the authority is that this Commission would have discretion to waive licensing requirements.

MR. ANDRES: Sure. The section that I referred to earlier is found in the Code of State Regulations, and it is recited in our letter of

November 2nd. The particular sections are 11 CSR 45-4.430. The next is Code of State Regulations 11 CSR 45-1.100. And the other one that we cite in our letter, which I didn't mention, but I'll just list, 11 CSR 45-4.260. We cited that for the language which says with respect to the suspension or revocation of the license of a Level II occupational licensee, the Commission may revoke or suspend an occupational license of any person -- and so the word may there is not -- it doesn't -- it's not a shall. The other section that we noted was section -- Missouri Revised Statute, Section 313.805(6) --

COMMISSIONER LOMBARDO: Sorry. Go through that one again.

MR. ANDRES: Oh, I'm sorry. Sure. Section 313.805(6). And that provides the Commission with discretion to assess any appropriate administrative penalty against a licensee, including but not limited to suspension, revocation and penalties. So that language provides discretion for an appropriate remedy, but it's not limited to the -- to the ones that are listed in the statute. So that opens up the door to other means of redress.

COMMISSIONER LOMBARDO: Thank you.

MR. ANDRES: As far as we're talking about

penalty, I mean, we're penalizing Mr. Salvo here -- I mean, that's what's being proposed -- for something he didn't do. But being the statute as it is, we're here to work out a solution, and we're here advocating for a penalty, if you will, that allows him to continue with his gaming career within the discretion and parameters of the law.

CHAIRMAN KOHN: Any other questions from any other commissioners?

COMMISSIONER NEER: No.

CHAIRMAN KOHN: Mr. Salvo, do you have anything to add?

MR. SALVO: No, thank you.

CHAIRMAN KOHN: Anyone -- I'm not sure where I'm looking, but anyone from the casino contingency want to be heard? Maybe one of you.

MR. HUGHES: Yeah. I'll say something. I've just got to say, I've been working with him for twenty years. Very outstanding guy. Everybody that comes in there, any player that comes in there knows him. It's -- it's killing me that this is happening to him. I just hope you guys have some kind of remorse and power to keep his badge.

CHAIRMAN KOHN: Thank you very much.

THE REPORTER: What is your name, sir?

MR. ANDRES: That was Michael Hughes, for the record.

CHAIRMAN KOHN: Michael Hughes?

MR. ANDRES: Michael Hughes. H-U-G-H-E-S.

CHAIRMAN KOHN: All right.

MR. ANDRES: And I don't know if any member of the casino that's here today might want to say something.

CHAIRMAN KOHN: Would you identify yourself, please.

MR. SHAW: Be happy to. Good morning Mr. Commissioner, and -- or Mr. Chairman and Commissioners. My name's Ward Shaw. I'm the vice president and general manager of Ameristar Casino and Resort Spa in St. Charles where Mr. Salvo is employed. I've been the general manager at Ameristar in St. Charles for about a year and a half. So only more recently in Mr. Salvo's twenty-plus-year career there. I would tell you that based on both my observations, and more -- more directly from the feedback from our management team that directly oversees casino operations at Ameristar, Mr. Salvo's career has been nothing short of outstanding. And I say that based on numerous guest feedback and comments that we have over the years. As Mr. Hughes referred to, a string of

outstanding performance reviews that fall in the highest category that we're able to rate employees at Ameristar over the years, a string of about ten nominations or awards as team member of the month, just in the last ten years, including, in two thousand and -- I believe 2012, winning team member of the year at Ameristar. That's Missouri's largest casino. It employs over 1600 team members. And even in reviewing Mr. Salvo's record, a -- a note of a compliance directive, which is essentially from a local enforcement agent on our property that's essentially a -- a corrective action or a notification that an error's been made -- you know, those happen on a reasonable basis. We're human beings in the casino industry, and sometimes we make minor mistakes. That's what those compliance directives typically just notify you of. Mr. Salvo's had one in over twenty years, which is, in my history in the industry, exemplary, and probably puts him in the top two or three percent of all of our dealers in the -- in the property there at Ameristar. So really just would emphasize from a performance standpoint, and someone who has represented not only our company, but I would argue the industry over the last twenty years in nothing but truly an exemplary form.

CHAIRMAN KOHN: Thank you very much. Is there anyone else in the audience that wants to be heard on this matter? Ms. Kerr, anything else?

MS. KERR: I have a few things --

CHAIRMAN KOHN: Okay.

MS. KERR: -- if I might. Thank you, Chairman and Commissioners. I wanted to clarify a few things, some of the discussion that's been -- been had today first, before I -- before I conclude. First of all -- and I want to make sure that everybody's in the same understanding. The -- the statute that we're looking at, the statute that really is the basis of this, is Section 313.812.8 of the Revised Statutes of Missouri. That states -- and I stated it in full in my last letter to Mr. Andres. But in relevant part, it states that a license shall not be granted if the applicant has pled guilty to or has been convicted of a felony. That statute is mandatory.

CHAIRMAN KOHN: Oh. I forgot to ask you to silence your cell phones. What a great reminder. Go ahead.

MS. KERR: A regulation such as the one that Mr. Andres cited -- a regulation can't provide a waiver or discretion to change a statute. We do have -- we do get waivers from companies -- from the

casinos all the time, you know, can we -- instead of counting our cash this way, can we count it this way. Well, that's based on a rule, and we have the power to waive that particular rule for that particular action. But the -- the regulations can't give the Commission the power to waive a statutory requirement. And the -- the attorney general's -- not decision -- the attorney general's opinion stated that as well. The last paragraph in that October 27th memo reads given the above, it's my opinion that the Gaming Commission does not have discretion and is required to revoke Mr. Salvo's license. Moreover, if a reviewing court determined they have discretion, a decision to revoke -- to revoke would be justified based on his guilty plea. And it's -- but the point here that I'm trying to make is that there isn't a statute or a regulation that allows this Commission to change the words of the specific statute that deals with the licensing of a Missouri gaming license holder. There's some -- there might be some more broad statutes, but rule of statutory construction specific trumps a broad statute.

And I also wanted to let you know about the review that was done in -- it was done in 2014. That was based on -- in the December, 2013 Commission

meeting, which was before I started, there was -- the Commission heard a case of a Level II licensee who had applied for a transfer, and apparently had had a felony. And that person was granted a license. The Commission said well, how did this happen. And what the Commission at that time asked -- asked us to do -- asked MGC staff to do was conduct a review of all licensees from 1994 through 1999 that were given a license that were still employed and that were still licensed, to find out if there was anybody else that had fallen through the cracks. And at that point, there -- they found three currently licensed Level II licensees who should not have been initially licensed. Mr. Salvo was one of those three. And so based on that particular review, yes, Mr. Salvo is the last one of that -- that review. All the other ones have been taken care of one way or another, either they -- they left, there was -- or their license was revoked at a Commission meeting, based on the fact that they had a conviction or a plea of guilty. So I don't know if that -- I hope that answers some of the questions that you had had about -- about the review and the audit. When it -- when we do -- when licensees renew their licenses, there isn't a full background check done at that time. I think the question is basically has

anything happened since the last time you renewed that we need to know about. So if -- so if they had reviewed Mr. Salvo's renewal license, he had already disclosed the -- the arrest or the guilty plea in '95. They wouldn't go back and look back to 1979 again.

COMMISSIONER LOMBARDO: I'm sorry to interrupt, but --

MS. KERR: Sure. I'm sorry.

COMMISSIONER LOMBARDO: During this renewal process -- and I asked this question directly last time -- is there a highway patrol criminal records check done at every renewal to make sure nothing has cropped up in the last year or so?

MS. KERR: I don't think there's a full review.

COMMISSIONER LOMBARDO: Okay.

MS. KERR: Rick? If I could --

MR. WILHOIT: My name's Rick Wilhoit. I'm an assistant deputy director here at the Gaming Commission.

COMMISSIONER LOMBARDO: I'm Rick Lombardo. Good to meet you.

MR. WILHOIT: Nice to meet you. The only vehicle through which licensees can have a criminal history check done is through fingerprints. So the

only way that a Level II licensee could be rerun through the system would be to be re-fingerprinted every year. And that becomes a financial burden on the licensee and/or the company, because of the cost of the license of -- of the fingerprints being run through the system.

COMMISSIONER LOMBARDO: Okay. I may be showing my ignorance here. I was a prosecutor thirty years ago. But don't you have the fingerprints on file from the original application?

MR. WILHOIT: Fingerprints are kept on file until they are -- the file is transmitted to Jefferson City and then put into the archives here. And at that point in time, the fingerprints are removed, because they are -- they are closed documents.

COMMISSIONER LOMBARDO: Okay. Thank you.

COMMISSIONER HALE: I understand that the term investigation has been used here relative to what happens when there's a renewal application. I guess my issue is not so much with a full-blown investigation as much as it is with just running a rap sheet on the guy. Just running a rap sheet on him. I think that's a relatively -- I believe that to be a relatively simple matter. But I understand that that also is not done when the -- when the applicant comes

up for renewal. Would that be accurate?

MR. WILHOIT: We wish that the FBI agreed with you. But in fact -- and within the last five to six years, the -- the access to non-law-enforcement agencies -- which is how the FBI classifies the Gaming Commission -- is that the only way that we can run a rap sheet, as you would call it, on an individual is to do that through the fingerprint process. We cannot, as a non-law-enforcement agency, conduct a computer check to do that.

COMMISSIONER HALE: How about -- how about the highway patrol?

MR. WILHOIT: Well, the highway patrol can. But they are an agent of the -- or they work with the Gaming Commission through a memorandum of understanding.

COMMISSIONER HALE: Okay.

MR. WILHOIT: And they would be -- the only way that they can do that is for a law-enforcement purpose. And licensing is classified as a non-law-enforcement purpose.

COMMISSIONER HALE: Okay. Okay. All right. And I have one -- one question for Ms. Kerr.

MS. KERR: Kerr. Yes.

COMMISSIONER HALE: Ms. Kerr --

MS. KERR: Sure.

COMMISSIONER HALE: -- we've heard from Mr. Wolford relative to his thoughts as to the effect of the pardon from the governor's office on what we're doing here, and asked to do here. Is that -- is that your position as well, that a pardon would not change our ability to -- to produce some kind of favorable remedy for Mr. Salvo?

MS. KERR: Well, I think technically a full pardon doesn't erase the conviction or the plea of guilty. But there's a note added to the -- the record that a full pardon was granted. Practically speaking, a pardon gets -- my understanding is that a pardon would get rid of all the -- the encumbrances that would have come from pleading guilty or a conviction. And again, practically speaking, I think if he -- if he received a full pardon and he reapplied, we -- he probably would be eligible at that time. But until that -- until that actually happens, he's still -- the statute still says plea of guilty, and --

COMMISSIONER HALE: Uh-huh. So in the event that that action by this body were somehow, for whatever reason, to be postponed pending the decision by the parole board and ultimately the governor, in light of what you've said, would that then result --

if a pardon were granted by Governor Nixon, would that then eliminate the risk that Mr. Salvo faces of losing his license if the pardon is granted by the governor?

MS. KERR: Probably.

COMMISSIONER HALE: Okay. That was very helpful. Thank you, ma'am.

MS. KERR: I mean, I think from our understanding is the report from the parole board isn't going to go to the governor's office or wherever he submits it to until at least January.

COMMISSIONER HALE: Correct.

MS. KERR: And then from there, you know, we don't know how long --

COMMISSIONER HALE: We don't know --

MS. KERR: You know, could be a month, it could be ten months.

COMMISSIONER JAMISON: Could be years from now.

MS. KERR: Right.

COMMISSIONER HALE: I understand.

COMMISSIONER JAMISON: It could be --

MS. KERR: We could have --

COMMISSIONER JAMISON: -- an indeterminate amount of time.

MS. KERR: Right. I mean, it could be -- I

mean --

CHAIRMAN KOHN: Anything else for Ms. Kerr?

COMMISSIONER HALE: I have nothing else.

CHAIRMAN KOHN: Anything else for Mr. Wolford?

COMMISSIONER NEER: I have one question.

CHAIRMAN KOHN: Oh, I'm sorry.

COMMISSIONER NEER: One question, Ms. Kerr. You indicated that Mr. Salvo was one of three --

MS. KERR: Yes.

COMMISSIONER NEER: -- that fell under that investigation or review. Do you know if the other two had SIS or anything -- I don't want to drag this out, but anything specific in their case that --

MS. KERR: Let's see.

COMMISSIONER NEER: -- would have raised a question?

MS. KERR: Apparently two of the licensees had disclosed a felony. I don't know whether that meant -- I don't know the specific, whether that meant felony plea or felony conviction. But they were granted a license anyway. One of them failed to disclose, but the non-disclose was not noted when their fingerprints were returned. I'd have to go back and look. I don't know whether they were pleas or

convictions. But it -- in any case, they were -- they were originally ineligible to receive the license, regardless of whether it was a plea or conviction.

COMMISSIONER NEER: Okay. Thank you. I have no other questions.

CHAIRMAN KOHN: Anybody have any questions for anybody here?

COMMISSIONER JAMISON: I'd just -- first of all, Mr. Andres, I appreciate you being here today. Appreciate your comments.

MR. ANDRES: Thank you very much. If I could just say two things in response to Ms. Kerr. As part of the file, his fingerprints are still around. They're in the file. So -- but more importantly, the statute says that you cannot issue a license to someone with a guilty plea. That's not the point here. The issue -- the license has been issued. And it has been issued for twenty years. And the equities demand that this Commission consider the facts, and what is the current situation. There's nothing in the law, no one has cited anything that says you must revoke a license twenty years after it's improperly issued. So I would just urge the Commission to consider -- we're not talking about issuing a license here. The license's already been issued. And it's

been issued when my son was two years old, and he's graduating from college in May. So a lot of time has passed.

COMMISSIONER JAMISON: Understood.

MR. ANDRES: Okay. Thank you.

COMMISSIONER JAMISON: And my other comment is to Mr. Salvo. And I do want to commend you on your career, different path that you've obviously taken in your life from when this plea took place. And I just want to commend you on that. I want to assure you that at least on my part, this is not a personal issue. This is -- it's a very difficult issue, and it's not taken lightly. And I just want to commend you on your career and life up to this point.

MR. SALVO: Thank you very much.

CHAIRMAN KOHN: I think we all join in that. And Mr. Salvo, you've been standing now for over an hour. Your lawyer gets paid to stand. You don't need -- I think what we're going to do now -- Mr. Wolford, if you want to introduce the resolution, we will not vote on it at this time. We will adjourn to closed session, come back, and vote or do whatever else we're going to do when we come out of closed session. So you want to present that now? Or Ms. Kerr? Who has it?

MS. KERR: Well, he has the --

CHAIRMAN KOHN: Somebody has the resolution.

MS. KERR: If I might just make one final conclusion.

COMMISSIONER LOMBARDO: Make it fast.

MS. KERR: I will.

COMMISSIONER LOMBARDO: We've been doing this a long time now.

MS. KERR: I just wanted to point the Commission to the State v Young case that was cited in their opinion. That was where Herschel Young had -- he was not qualified to be a candidate for a Commission. He was -- he won the election, he became -- he held that office. Like the statute in the Young case, which is Section 115.350, Revised Statutes, 313.812.8 makes Mr. Salvo unqualified to hold the license. The fact that we issued Mr. Salvo a gaming license in the first place doesn't change the legal conclusion that the Commission didn't have the power in the first place to give him that license. And as such, we would concur with the hearing officer's recommendation. But I will --

MR. GREWACH: And just, Mr. Chairman, as a procedural point, I think it's Mr. Wolford -- he just

presents his findings of fact, conclusions --

COMMISSIONER JAMISON: The resolution is --

CHAIRMAN KOHN: There is no resolution.

COMMISSIONER JAMISON: -- you know, in front of us.

CHAIRMAN KOHN: Okay.

MR. GREWACH: So after the deliberation, then the Commission would come out and make whatever motion to either accept, reject, modify or remand the case at that point in time, or continue it to another date, whatever the Commission's pleasure would be at that time.

CHAIRMAN KOHN: Thank you very much.

COMMISSIONER JAMISON: I'll make a motion.

CHAIRMAN KOHN: Yeah. Well, let me just ask. Mr. Seibert, is there anything else that -- that this Commission needs to do, other than adjourning to closed session?

DIRECTOR SEIBERT: We have no other business.

COMMISSIONER JAMISON: I move to -- motion for a closed meeting under Section 313.847, Revised Missouri Statutes, Investigatory, Proprietary and Application Records, and under 610.021 subsection 1, Revised Missouri Statutes, Legal Actions, subsection

3, subsection 13, Personnel, and subsection 14, Records Protected from Disclosure by Law.

CHAIRMAN KOHN: Is there a second?

COMMISSIONER NEER: I'll second.

CHAIRMAN KOHN: Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve. I can't tell you how long we're going to be in closed session. But obviously you're all welcome to wait until we come out, if you want.

(OFF THE RECORD.)

CHAIRMAN KOHN: Okay. We'll reopen the meeting of December 2, and ask for a roll call.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Present.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Present.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Present.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Present.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Present. We're here -- we're going to report to you on the discussion that we've had, and the motion that we're going to make in connection with the Salvo matter.

But before that, we want to talk about a possible date change for the January meeting. And historically -- correct me if I'm wrong -- the meetings have been on the last Wednesday of the month. Is that right?

MS. FRANKS: Correct.

CHAIRMAN KOHN: And that for some reason got changed.

MS. FRANKS: Correct.

CHAIRMAN KOHN: And Rick, I don't know if this is a problem for you or not, but if we went back to the last meeting of the month for let's say January -- what would that be? The last Wednesday of the month?

MS. FRANKS: 27th, I believe.

CHAIRMAN KOHN: Is that a problem?

COMMISSIONER LOMBARDO: Yeah. I'm going to be in a jury trial in Jackson County, Missouri that starts on the 25th, and so I'll still be in trial on the 27th. So it is a problem. That one month, it'll be a problem.

COMMISSIONER JAMISON: I'll be out of the country also.

CHAIRMAN KOHN: On the 27th?

COMMISSIONER JAMISON: That's the reason we moved it.

CHAIRMAN KOHN: Okay.

COMMISSIONER JAMISON: We were down to three or four people.

CHAIRMAN KOHN: And I'm going to be out until the -- until the 16th. Is there -- is there another Wednesday --

DIRECTOR SEIBERT: The 20th.

CHAIRMAN KOHN: The 20th? How about then?

COMMISSIONER LOMBARDO: I could do that.

COMMISSIONER HALE: I've got a problem.

COMMISSIONER NEER: No. I'm not available.

CHAIRMAN KOHN: So am I the only one that could not do it on the -- what does that mean?

DIRECTOR SEIBERT: No. I was saying four are available on the 20th.

COMMISSIONER JAMISON: You could do it on the 20th.

CHAIRMAN KOHN: That's okay with you?

COMMISSIONER JAMISON: If he won't be here, he won't be here.

COMMISSIONER HALE: Two of us won't be here. I've got a problem on the 20th, too.

CHAIRMAN KOHN: And the 27th, it's just one?

COMMISSIONER JAMISON: There's two of us gone on the 20th and two of us gone on the 27th. The only issue that that creates is if there's an illness or something, then you don't have a quorum.

CHAIRMAN KOHN: So if we left it on the -- on the 13th, I'd be the only one missing. So let's do that.

MS. FRANKS: Okay.

COMMISSIONER LOMBARDO: That's why we have a vice chairman.

CHAIRMAN KOHN: Okay. Okay. Now, so the second half of that question is for the rest of the year, do you want to go back to the last Wednesday, or do you want to leave it where it is?

MS. FRANKS: I believe that's the way it is.

CHAIRMAN KOHN: On the last --

MS. FRANKS: Yes.

CHAIRMAN KOHN: Oh, so this is the only one that got changed.

MS. FRANKS: Yes.

CHAIRMAN KOHN: All right. Good.

MS. FRANKS: Except for December. And we don't traditionally have a meeting in November, we have it the first week of December.

CHAIRMAN KOHN: So the meeting will be on the 27th, and Brian will chair that meeting.

COMMISSIONER JAMISON: No. On the 13th.

COMMISSIONER HALE: 13th.

CHAIRMAN KOHN: On the 13th. Correct. 13th, and Brian will chair. Okay.

So a report to you from our closed session regarding the Salvo matter. Let me say, first, that I think everyone that presented in connection with it on both sides did an outstanding job. And -- and you made it very clear. You made very clear what is a very difficult issue. And we appreciate everyone's help in doing that. We -- we did talk about it. We realize it's a serious matter. We realize that the law is the law, and we're not about to try and change that. That's not our jobs.

But within everything we heard, we do have a motion to present to you. Commissioner Lombardo will make that motion.

COMMISSIONER LOMBARDO: I move that with respect to Resolution Number 15-058, that any further proceedings on that be continued until there's a final resolution of the request for executive clemency.

CHAIRMAN KOHN: Is there a second to that motion?

COMMISSIONER NEER: I'll second.

CHAIRMAN KOHN: Discussion? Roll call?

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Approve.

MS. FRANKS: Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: No.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve.

MS. FRANKS: Okay.

CHAIRMAN KOHN: So the resolution, whatever that number is --

MS. FRANKS: Well --

CHAIRMAN KOHN: Doesn't haven't a number.

MS. FRANKS: Right.

CHAIRMAN KOHN: Okay. The resolution --

COMMISSIONER LOMBARDO: Well, according to the agenda, it did have a resolution number.

COMMISSIONER JAMISON: But we didn't vote --

COMMISSIONER HALE: We're not addressing that.

COMMISSIONER LOMBARDO: No. We're addressing the motion.

CHAIRMAN KOHN: So the resolution made by Commissioner Lombardo is approved. Is there any other business to come before the meeting? How do we adjourn?

COMMISSIONER JAMISON: You need a motion for adjournment, and I so move.

COMMISSIONER HALE: Second.

CHAIRMAN KOHN: Angie.

MS. FRANKS: Commissioner Lombardo.

COMMISSIONER LOMBARDO: Approve.

MS. FRANKS: Commissioner Neer.

COMMISSIONER NEER: Before I approve, I'd just like to say about two weeks ago, I had the privilege, I guess you could say, of attending the

basic gaming class. And I want to commend the Missouri Gaming Commission instructors, training coordinator. It was an extremely eye-opening and educational experience. And I would urge any other Commissioners who get the opportunity to attend. It's a dedicated and very intelligent group down there. And they made me feel at home, for some reason. And I approve.

MS. FRANKS: Okay. Commissioner Hale.

COMMISSIONER HALE: Approve.

MS. FRANKS: Commissioner Jamison.

COMMISSIONER JAMISON: Approve.

MS. FRANKS: Chairman Kohn.

CHAIRMAN KOHN: Approve. And we are adjourned. Thank you all.

(Ending time of the hearing: 12:41 p.m.)

CERTIFICATE OF REPORTER

I, Sarah J. Pokorski, 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.

Sarah J. Pokorski

CCR No. 745