

1 BEFORE THE MISSOURI GAMING COMMISSION

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HEARING

6

AT MISSOURI GAMING COMMISSION

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3417 KNIPP DRIVE

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JEFFERSON CITY, MISSOURI 65102

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DATE TAKEN: SEPTEMBER 30, 2020

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STATE TIME: 9:30 a.m.

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1                   CHAIRMAN LEARA: We'll call the meeting to  
2 order. Angie, please call the roll.

3                   MS. FRANKS: Commissioner Hane.

4                   COMMISSIONER HANE: Present.

5                   MS. FRANKS: Commissioner Conway.

6                   COMMISSIONER CONWAY: Present.

7                   MS. FRANKS: Commissioner Boulware.

8                   COMMISSIONER BOULWARE: Present.

9                   MS. FRANKS: Commissioner Finney?

10                  COMMISSIONER FINNEY: Present.

11                  MS. FRANKS: Chairman Leara.

12                  CHAIRMAN LEARA: Present.

13                  The first item is to adopt the agenda. I  
14 move that we adopt the agenda as printed. Do we have a  
15 second?

16                  COMMISSIONER FINNEY: Second.

17                  CHAIRMAN LEARA: Any discussion? Angie,  
18 please call the roll.

19                  MS. FRANKS: Commissioner Hane.

20                  COMMISSIONER HANE: Approved.

21                  MS. FRANKS: Commissioner Conway.

22                  COMMISSIONER CONWAY: Approved.

23                  MS. FRANKS: Commissioner Boulware.

24                  COMMISSIONER BOULWARE: Approved.

25                  MS. FRANKS: Commissioner Finney.

1 COMMISSIONER FINNEY: Approved.

2 MS. FRANKS: Chairman Leara.

3 CHAIRMAN LEARA: Approved.

4 MS. FRANKS: By your vote, the agenda has  
5 been adopted.

6 CHAIRMAN LEARA: The next item is the  
7 consideration of the minutes of August 26, 2020. I will  
8 move for approval of the minutes and ask for a second.

9 COMMISSIONER BOULWARE: Second.

10 CHAIRMAN LEARA: Any discussion? Seeing  
11 none, Angie, please call the roll.

12 MS. FRANKS: Commissioner Hane.

13 COMMISSIONER HANE: Approved.

14 MS. FRANKS: Commissioner Conway.

15 COMMISSIONER CONWAY: Approved.

16 MS. FRANKS: Commissioner Boulware.

17 COMMISSIONER BOULWARE: Approved.

18 MS. FRANKS: Commissioner Finney.

19 COMMISSIONER FINNEY: Approved.

20 MS. FRANKS: Chairman Leara.

21 CHAIRMAN LEARA: Approved.

22 MS. FRANKS: By your vote, you've adopted  
23 the minutes of the August 26, 2020 meeting.

24 CHAIRMAN LEARA: The next item is  
25 Consideration of Licensure of a Supplier, Midwest Game

1 Supply Company. Do we have anyone speaking to it?

2 MR. GREWACH: Sergeant Holcomb is presenting.

3 CHAIRMAN LEARA: Sergeant Holcomb.

4 SERGENT HOLCOMB: Good morning Mr. Chairman,  
5 Commissioners. Under Tab B you'll find the  
6 investigative summary report for the licensing of  
7 Midwest Game Supply Company, which is located in  
8 Kearney, Missouri.

9 The licensing investigation was conducted by  
10 Missouri State Highway Patrol investigators and Missouri  
11 Gaming Commission financial investigators and consisted  
12 of financial reviews, feedback from Missouri gaming  
13 facility operators, gaming jurisdictional inquiries, a  
14 review of disciplinary actions, litigation, business  
15 credit profiles, and a review of the key persons that  
16 are associated with the company.

17 The results of the investigation were  
18 provided to the Missouri Gaming Commission staff for  
19 their review and I'd be happy to answer any questions  
20 that you might have.

21 CHAIRMAN LEARA: Any questions for Sergeant  
22 Holcomb? Seeing none, thank you.

23 SERGENT HOLCOMB: Thank you.

24 CHAIRMAN LEARA: Any further discussion on  
25 the licensure? I will move for approval and ask for a

1 second.

2 COMMISSIONER CONWAY: Second.

3 CHAIRMAN LEARA: A second from  
4 Commissioner Conway. Any further discussion? Seeing  
5 none, Angie, please call the roll.

6 MS. FRANKS: Commissioner Hane.

7 COMMISSIONER HANE: Approved.

8 MS. FRANKS: Commissioner Conway.

9 COMMISSIONER CONWAY: Approved.

10 MS. FRANKS: Commissioner Boulware.

11 COMMISSIONER BOULWARE: Approved.

12 MS. FRANKS: Commissioner Finney.

13 COMMISSIONER FINNEY: Approved.

14 MS. FRANKS: Chairman Leara.

15 CHAIRMAN LEARA: Approved.

16 MS. FRANKS: By your vote, you've adopted  
17 Resolution No. 20-028.

18 CHAIRMAN LEARA: Next item is Consideration  
19 of Licensure for Certain Level I/Key Applicants.  
20 Resolution No. 20-029.

21 MR. GREWACH: Lieutenant Aylward will be  
22 speaking to that.

23 CHAIRMAN LEARA: Lieutenant, you have the  
24 floor when you're ready.

25 LIEUTENANT AYLWARD: Mr. Chairman,

1 Commissioners. Investigators with the Missouri State  
2 Highway Patrol and the Missouri Gaming Commission, along  
3 with Financial Investigators from the Missouri Gaming  
4 Commission, conducted comprehensive background  
5 investigations on Key and Level 1 applicants.

6 The investigations include, but are not  
7 limited to, criminal, financial and general character  
8 inquiries which are made in the jurisdictions where the  
9 applicants live, work and frequent.

10 The following applicants are being presented  
11 for your consideration: Samuel Lawrence Levy, Ainsworth  
12 Game Technology Limited, Chief Executive Officer; Hector  
13 Leonardo Fernandez, Aristocrat Technologies, Inc.,  
14 President and Director; Alfred Randall Thoman, Boyd  
15 Gaming Corporation, Director; Brian K. McGowan, Century  
16 Casino, Caruthersville, Surveillance Manager; Cyril  
17 Aloysious Wick, Lumiere Place Casino & Hotels, Director  
18 of Surveillance; James A. Waggoner, River City Casino,  
19 Director of Casino Operations.

20 Investigative findings were provided to the  
21 Missouri Gaming Commission staff for their review and  
22 all investigators are available to answer any questions  
23 you may have. Thank you.

24 CHAIRMAN LEARA: Any questions for  
25 Lieutenant Aylward? I see none. Thank you, Lieutenant.

1 Questions on the resolution to approve. Seeing none, I  
2 will move for the adoption of Resolution No. 20-029 and  
3 ask for a second.

4 COMMISSIONER HANE: Second.

5 CHAIRMAN LEARA: Second from Commissioner  
6 Hane. If there is no further discussion, Angie, please  
7 call the roll.

8 MS. FRANKS: Commissioner Hane.

9 COMMISSIONER HANE: Approved.

10 MS. FRANKS: Commissioner Conway.

11 COMMISSIONER CONWAY: Approved.

12 MS. FRANKS: Commissioner Boulware.

13 COMMISSIONER BOULWARE: Approved.

14 MS. FRANKS: Commissioner Finney.

15 COMMISSIONER FINNEY: Approved.

16 MS. FRANKS: Chairman Leara.

17 CHAIRMAN LEARA: Approved.

18 MS. FRANKS: By your vote, you've adopted  
19 Resolution No. 20-029.

20 CHAIRMAN LEARA: Next item is Consideration  
21 of Ratification of Extension of Licensure, BMM North  
22 America. Resolution No. 20-030. Ed, you have the  
23 floor.

24 MR. GREWACH: Thank you Mr. Chairman,  
25 Commissioners. Under Tab D we have a resolution

1 ratifying the Chairman's extension of BMM North,  
2 Incorporated's license. BMM is one of the two  
3 independent testing laboratories licensed by the  
4 Commission.

5 Their license was set to expire today, on  
6 September 30th, however, due to COVID restrictions, they  
7 were unable to provide us with their most recent audited  
8 financial statements until the first week of September.  
9 That left insufficient time for the staff to review and  
10 complete the report. We do anticipate that this renewal  
11 will be on the October meeting agenda.

12 CHAIRMAN LEARA: Any discussion? Questions  
13 for Ed? Seeing none. Thank you.

14 I will move for the ratification of the  
15 extension of BMM North America, Inc., Resolution No.  
16 20-030, and ask for a second.

17 COMMISSIONER FINNEY: Second.

18 CHAIRMAN LEARA: Second Commissioner Finney.  
19 Any other discussion? Seeing none, Angie, please call  
20 the roll.

21 MS. FRANKS: Commissioner Hane.

22 COMMISSIONER HANE: Approved.

23 MS. FRANKS: Commissioner Conway.

24 COMMISSIONER CONWAY: Approved.

25 MS. FRANKS: Commissioner Boulware.

1 COMMISSIONER BOULWARE: Approved.

2 MS. FRANKS: Commissioner Finney.

3 COMMISSIONER FINNEY: Approved.

4 MS. FRANKS: Chairman Leara.

5 CHAIRMAN LEARA: Approved.

6 MS. FRANKS: By your vote, you've adopted  
7 Resolution No. 20-030.

8 CHAIRMAN LEARA: Next item is Consideration  
9 of Disciplinary Actions. First one is Ameristar Casino,  
10 Disciplinary Action No. 20-045. Mr. Grewach.

11 MR. GREWACH: Thank you. Under Tab E we  
12 have a Preliminary Order of Discipline directed to  
13 Ameristar Kansas City for failing to properly configure  
14 the jackpot lock-up limit on an electronic gaming  
15 device. Any jackpot of \$1200 or more triggers two  
16 requirements.

17 The first one is an IRS regulation that  
18 requires a W-2G form be filled out for that jackpot.  
19 The second is a state statute that requires a four  
20 percent withholding for state income tax purposes.

21 To ensure those two requirements are met, we  
22 have a regulation that requires the casinos to set up  
23 their electronic gaming devices so that they lock up for  
24 any jackpot of \$1,200 or more and that jackpot is hand  
25 paid to ensure the proper identification forms are

1 filled out and withholding is taken.

2 On January 8th of 2020 a patron won a \$1600  
3 jackpot at a video poker machine and the machine did not  
4 lock up. The patron continued playing, however, the  
5 patron was an experienced player and she knew that the  
6 machine should have locked up for that jackpot. So she  
7 notified one of the casino slot technicians.

8 That slot technician looked at the machine,  
9 found the incorrect setting and corrected it. The  
10 casino then notified the MGC of the issue. Our  
11 investigation indicated that that lock-up limit was  
12 changed sometime after March 1st, 2017; that on 13  
13 occasions since that date there had been lock-up  
14 jackpots of \$1,999 or more. That was an incorrect  
15 setting. Instead of setting the setting at \$1,199, they  
16 set it at \$1999.89.

17 The Discipline Review Board recommended a  
18 \$2,500 fine. In response to the 14 day letter, the  
19 casino attributed the problem to a lack of security  
20 features by their vendor and requested that we  
21 reconsider the amount of the fine.

22 In our investigation we found that that was  
23 not the case for this particular electronic gaming  
24 device and the configuration could only be changed by  
25 someone with a controlled main door access key. And

1 therefore the DRB voted to retain its recommendation of  
2 a \$2,500 fine.

3 CHAIRMAN LEARA: Questions for Mr. Grewach?

4 COMMISSIONER FINNEY: Did they give you an  
5 amount that they thought would have been fair under the  
6 circumstances?

7 MR. GREWACH: They did not. And when you  
8 look at this, we really can't determine. And that's one  
9 of the problems with this particular violation, because  
10 without it locking up, we can't really look back and see  
11 how many jackpots were won that were between \$1,200 and  
12 \$2000 during that time period.

13 We can tell how many tickets were printed  
14 for \$1200, but that doesn't mean it was a jackpot of  
15 \$1200. He could be playing for quite some time, might  
16 even be losing money and end up cashing out a ticket of  
17 \$1200 or more.

18 We do know when we looked at it that -- when  
19 we looked for comparison for the prior years before  
20 2017, there were two jackpots in one six-month period  
21 once it was put in place, six jackpots of \$1,200 or more  
22 in the next two-year period, but we really can't  
23 speculate to say whether there were or weren't or prove  
24 whether there were or weren't any jackpots between \$1200  
25 to \$2000 during the time following the misconfiguration

1 of the jackpot limit.

2 CHAIRMAN LEARA: Any other questions for  
3 Mr. Grewach?

4 COMMISSIONER HANE: So actually a patron was  
5 the one that called the attention of the staff to the  
6 faulty machine?

7 MR. GREWACH: That is correct.

8 CHAIRMAN LEARA: No other discussion? So I  
9 will move for the approval of Disciplinary Action No.  
10 20-045 and ask for a second.

11 COMMISSIONER BOULWARE: Second.

12 CHAIRMAN LEARA: Second Commissioner  
13 Boulware. Any other discussion? Everyone is okay with  
14 the fine? Angie, please call the roll.

15 MS. FRANKS: Commissioner Hane.

16 COMMISSIONER HANE: Approved.

17 MS. FRANKS: Commissioner Conway.

18 COMMISSIONER CONWAY: Approved.

19 MS. FRANKS: Commissioner Boulware.

20 COMMISSIONER BOULWARE: Approved.

21 MS. FRANKS: Commissioner Finney.

22 COMMISSIONER FINNEY: Approved.

23 MS. FRANKS: Chairman Leara.

24 CHAIRMAN LEARA: Approved.

25 MS. FRANKS: By your vote, you've adopted

1 DC-20-045.

2 CHAIRMAN LEARA: Next item is Disciplinary  
3 Action 20-046, Isle of Capri-Boonville. Mr. Grewach.

4 MR. GREWACH: Thank you, Mr. Chairman.  
5 Under Tab F we have a preliminary order of discipline  
6 directed to Isle of Capri-Boonville for violations  
7 arising out of their failure on two promotions to award  
8 the correct amount of entries into drawings in  
9 accordance with their promotional rules.

10 The violations were discovered during a  
11 regularly scheduled compliance audit. The rules of the  
12 first drawing, the first promotion, provided the patrons  
13 would receive entries for every 50 Tier points earned  
14 during a certain 12-day time period when the promotion  
15 was running.

16 However, the software in the kiosk used for  
17 the drawings deleted any points over 50 at the end of  
18 each gaming day. For example, if you earned 75 Tier  
19 points on Monday and 75 Tier points on Tuesday, you  
20 should have received three entries, but the software  
21 would delete anything over 50 at the end of Monday and  
22 50 at the end of Tuesday, so, in fact, patrons only  
23 received two entries. The investigation determined that  
24 957 patrons did not receive the proper amount of  
25 entries.

1           The rules for the second promotion provided  
2 that patrons would receive one additional entry for each  
3 hour of rated play on an electronic gaming device or  
4 table game for the three week period of October 1st  
5 through the 25th when the promotion was running.

6           Due to an error arising out of a system save  
7 that the casino performed, there were 56 guests who did  
8 not receive a total of 127 entries into the promotion,  
9 into the drawing. The Discipline Review Board  
10 recommended a fine of \$2,500.

11           In the casino's response, they indicated  
12 that they only started using this kiosk on May 23rd,  
13 2019. The first promotion began on 7/7/2019. And they  
14 were not aware of the functionality of the kiosk that  
15 deleted any entries over 50 at the end of each gaming  
16 day.

17           On the second issue, they indicated they  
18 performed the system save on August 19, 2019. They said  
19 that the vendor who set up the system kiosk did not turn  
20 on the error notification and because this happened on  
21 one day, it wasn't an obvious imbalance in the numbers  
22 when they looked at them.

23           They stated when they did find that problem,  
24 they did activate the error notification and they added  
25 additional entries for the affected patrons for a

1 drawing in the month of November. And they requested  
2 that the fine in this matter be waived.

3           The Discipline Review Board voted to keep  
4 the fine, noting that the response was not found by the  
5 property or not self-reported, but only found during the  
6 course of an MGC audit. It's long been our position  
7 that a vendor error is not a defense for failing to  
8 comply with promotional rules. It's the responsibility  
9 ultimately the casino. And promotional issues like this  
10 do directly affect patrons.

11           And, third, the property had a prior  
12 promotional violation on July 1st, 2019, in which they  
13 received a nonpunitive letter or a warning letter at  
14 that point in time. And we did also feel that this fine  
15 was consistent with fines in similar cases.

16           CHAIRMAN LEARA: Any questions for  
17 Mr. Grewach? Seeing none, I will move for the approval  
18 of Disciplinary Action No. 20-046, Isle of Capri-  
19 Boonville, and ask for a second.

20           COMMISSIONER BOULWARE: Second.

21           CHAIRMAN LEARA: Second Commissioner  
22 Boulware. Any other discussion? Seeing none, Angie.

23           MS. FRANKS: Commissioner Hane.

24           COMMISSIONER HANE: Approved.

25           MS. FRANKS: Commissioner Conway.

1 COMMISSIONER CONWAY: Approved.

2 MS. FRANKS: Commissioner Boulware.

3 COMMISSIONER BOULWARE: Approved.

4 MS. FRANKS: Commissioner Finney?

5 COMMISSIONER FINNEY: Approved.

6 CHAIRMAN LEARA: Approved.

7 MS. FRANKS: By your vote, you've adopted  
8 DC-20-046.

9 CHAIRMAN LEARA: Next agenda item,  
10 Disciplinary Action No. 20-047, The Missouri Gaming  
11 Company, LLC. Mr. Grewach.

12 MR. GREWACH: Under Tab G you have a  
13 Preliminary Order of Discipline directed at Argosy  
14 Riverside Casino. This discipline combines five  
15 separate promotional violations that occurred during a  
16 time period from September 6th, 2019 through November  
17 22nd, 2019 into one discipline.

18 The rules involved include a provision that  
19 requires the casino to have dated written rules  
20 immediately available to patrons and to the Commission  
21 for every promotion. It requires that all prizes be  
22 awarded according to those promotional rules. It  
23 prohibits any misleading statements or advertising  
24 regarding a promotion. It prohibits a promotion from  
25 being conducted in any manner that reflects negatively

1 on the licensee. And if a promotion uses coupons, the  
2 face value of the coupon must be clearly legible to  
3 surveillance.

4                   The first violation that is outlined in  
5 Paragraph 6 of your preliminary order involved a  
6 violation where coupons were not legible to a  
7 surveillance.

8                   This issue was self-reported by the casino  
9 to us on September 6th, 2019, and the print and the font  
10 on the coupons was too small for surveillance to be able  
11 to legibly read.

12                   The investigation determined that 13,952 of  
13 these coupons had been sent out in the months of August  
14 and September of 2019, and 8,820 of them had been  
15 redeemed.

16                   The second promotion is outlined in  
17 Paragraph 7 of your Preliminary Order of Discipline. It  
18 involves the violation of the rule prohibiting  
19 misleading statements relating to a promotion. This was  
20 an issue self-reported to us by the casino on September  
21 9, 2019.

22                   Argosy, along with another property,  
23 Hollywood Kansas Speedway, had a joint promotion which  
24 was going to offer a total of \$200,000 in prizes between  
25 the two properties. However, the advertisement on the

1 billboard and on the company's website only included the  
2 Argosy logo, which could potentially mislead a patron  
3 believing all \$200,000 of the prize money would be paid  
4 at the Argosy Riverside property.

5           The third violation outlined in Paragraph 8  
6 of your Preliminary Order of Discipline involves a  
7 failure to award prizes according to promotional rules.  
8 This issue was self-reported to us by the casino on  
9 September 21st, 2019. That promotion was the same  
10 promotion that was at issue with the billboard.

11           And in the particular promotion, the  
12 promotional rules provided that the promotion was going  
13 to run for all 17 weeks of the NFL season, and from 6  
14 a.m. Tuesday to 11:59 p.m. Saturday the entries were to  
15 be awarded to patrons during that time period. The  
16 casino self-reported to us that the promotion was  
17 incorrectly set up to end at 11:59 a.m. on Saturday  
18 instead of 11:59 p.m. on Saturday.

19           The casino also self-reported to us the  
20 fourth violation, which is outlined in Paragraph 9 of  
21 your Preliminary Order of Discipline on September 24,  
22 2009, and involved the violation of the rule that  
23 requires casinos to have dated written rules  
24 immediately available to the Commission and patrons.

25           There were rules for a promotion that was to

1 run on specific dates in July of 2019, however, they  
2 continued to run that promotion in the months of August  
3 and September without updating the rules or identifying  
4 specific dates in those two months that the promotion  
5 would be available to patrons.

6           The fifth violation, which is outlined in  
7 Paragraph 10 of your Preliminary Order of Discipline,  
8 was self-reported to us by the casino on November 22nd  
9 2019. It involved a violation of the rule requiring  
10 prizes to be paid out according to the promotional  
11 rules.

12           These promotional rules stated that patrons  
13 were eligible for drawings if they inserted their player  
14 card into a slot machine during specified periods. They  
15 were not required by the rules of the promotion to play  
16 those machines. They could simply insert the card and  
17 take it out to be eligible.

18           Unfortunately, the software was set up in  
19 such a manner that did require the patrons to play in  
20 order to earn points, and also it would not award any  
21 drawings if the card was still in the machine at the end  
22 of the gaming day. There were 197 patrons who did not  
23 receive entries into the drawing.

24           The DRB recommended a \$20,000 fine. In  
25 response, the casino pointed out that all five problems

1 were self-reported by the casino and immediately  
2 corrected. On the small font for the coupons, they said  
3 their marketing department was reminded to obtain sample  
4 coupons in the future to ensure they did comply.

5                   In relation to the billboard and website  
6 issue, they indicate that they received no patron  
7 complaints.

8                   For the incorrect setting of the end time of  
9 the promotion, they indicated they terminated the  
10 responsible employee. They also indicated they  
11 terminated the responsible employee for failing to  
12 update the rules of the promotion. And they also  
13 pointed out they awarded patrons over \$190,000 in  
14 prizes.

15                   On the issue of the software, they indicated  
16 they were not aware that the entries -- that the patrons  
17 were not being properly credited. They indicated for  
18 those 197 patrons affected, that they award a total of  
19 \$4,525 of free slot pay.

20                   They requested the fine to be reduced to  
21 \$10,000. DRB voted to continue with its recommendation  
22 of the \$20,000 fine, primarily due to the number of  
23 violations involved and the prior history of promotional  
24 issues that Argosy has had.

25                   CHAIRMAN LEARA: Any questions for

1 Mr. Grewach? Ed, I have one. With all of these issues  
2 being self-reported, if they were not self-reported,  
3 what would be the typical fine for something of this  
4 nature if it was discovered in an audit or by, as we've  
5 seen, customers.

6 MR. GREWACH: I couldn't give you a number,  
7 Mr. Chairman, but it would be higher. I mean, we do  
8 take that into account. And even when you look at  
9 Argosy's promotional record, we get the sense that  
10 Argosy is good at self-reporting. We obviously don't  
11 know if other people aren't because if they don't report  
12 it, we don't know.

13 But from this case you can see that they  
14 reported things such as the billboard that another  
15 property might say, well, that's not really a violation.  
16 That's not necessarily misleading. I get a sense that  
17 Argosy is very good at self-reporting and I think the  
18 DRB does take that into account when they pick a  
19 specific number. To answer the question if they hadn't  
20 self-reported where would it be, it would be probably  
21 somewhat higher than this number.

22 COMMISSIONER BOULWARE: I'm curious what  
23 they attribute the high number of violations during a  
24 finite period to? Was there a change in the marketing  
25 department? What was going on?

1                   MR. GREWACH: They didn't really give any  
2 explanation other than they fired two employees that  
3 were directly responsible for two of those issues. One  
4 of them, Ms. Thompson, as a matter of fact, was head of  
5 the department that oversaw quite a bit of this  
6 promotional activity.

7                   COMMISSIONER CONWAY: Promotional  
8 violations, just to kind of give us some general  
9 background, promotional violations would be those that  
10 don't necessarily affect the actual gaming. A slot  
11 paying off incorrectly or something like that would not  
12 be a promotional violation. This deals more, I guess,  
13 with activities or points acquired?

14                   MR. GREWACH: Yes, it deals with promotions  
15 that they offer a patron as an incentive to get the  
16 patrons in. Special drawings like you've seen here.  
17 But to answer the question, it does not affect the  
18 adjusted gross revenue. It doesn't affect taxes or the  
19 outcome of games.

20                   When we look at a promotional issue, what  
21 really we look at is the fact that it does negatively  
22 affect a patron because the patron was induced to come  
23 to the property on the representation that this  
24 promotion was going to be conducted and these were going  
25 to be the prizes and, in fact, it doesn't happen.

1 That's really the basis of a promotional violation.

2 COMMISSIONER CONWAY: So we only regulate  
3 when a promotional violation doesn't live up to the  
4 expectation of what the promotion is. Do we regulate  
5 the amount of points that can be acquired by patrons?  
6 Those aren't necessarily equal from patron to patron,  
7 are they?

8 MR. GREWACH: No, we do not regulate that.  
9 Our only requirement for their player reward system is  
10 that they have rules and that they comply with them.  
11 They get to decide what those rules are and how you  
12 acquire points. They can change those rules as long as  
13 that change is in writing and available to the patrons.

14 COMMISSIONER CONWAY: I think that's great.  
15 I think it would be very difficult to have to regulate  
16 the activities of the acquisition of points for  
17 different patrons and things like that. Thank you.

18 CHAIRMAN LEARA: Any other questions?

19 COMMISSIONER FINNEY: Just on Commissioner  
20 Boulware's point, we don't really know why these  
21 mistakes were made, except that potentially two  
22 employees were responsible and those employees were  
23 terminated?

24 MR. GREWACH: That's correct. That's the  
25 only explanation I would have to offer.

1                   COMMISSIONER FINNEY: Obviously I understand  
2 the end result, but have we been able to identify what  
3 the failure was that led to the infractions?

4                   MR. GREWACH: Well, in each particular  
5 instance it was something different. Marketing not  
6 getting a sample of the coupons to verify with  
7 surveillance that they were legible. With the billboard  
8 and website issue, no one double checking that to make  
9 sure that it did include both properties in the  
10 description. Sometimes there are software glitches like  
11 with the kiosk and with the other promotion that was not  
12 acknowledging patrons who put their card in and took it  
13 out.

14                   It is a software glitch and sometimes the  
15 casino says, well, we didn't know about that. But to  
16 us, it's their obligation to comply with the rules,  
17 whatever the source of the issue is. Now, we don't tell  
18 them you've got to do a test run to make sure it works.  
19 But certainly if they don't do a test run and it doesn't  
20 work, then they end up before us.

21                   COMMISSIONER HANE: It's their game, so  
22 let's make sure that it works.

23                   MR. GREWACH: Right.

24                   COMMISSIONER FINNEY: So we would say  
25 basically it would be a lack of diligence or negligence

1 ultimately, carelessness?

2 MR. GREWACH: Yes. Negligence in every one  
3 of these five, yes.

4 COMMISSIONER FINNEY: It seems a little  
5 high. For self-reported negligence, \$20,000 seems a  
6 little high. But I'll yield to the Commission.

7 CHAIRMAN LEARA: If there's no motion, I'm  
8 somewhat indifferent on the amount.

9 COMMISSIONER FINNEY: I guess I'd move to  
10 amend to \$15,000. They asked for ten. We're at 20. So  
11 that would be our motion. Move to amend to 15.

12 CHAIRMAN LEARA: There's a motion to amend.  
13 We need a second.

14 COMMISSIONER HANE: I'll second.

15 CHAIRMAN LEARA: Discussion?

16 COMMISSIONER CONWAY: I don't know I feel  
17 all that strongly about it. Given the number of  
18 violations, five in a three-month period, it just seems  
19 pretty egregious. We don't have anything in front of us  
20 to suggest it was intentional, but, you know, making one  
21 mistake is bad. Two is even worse. Five, that's really  
22 problematic. Based on that, I don't have any reason to  
23 second guess the recommended \$20,000 penalty.

24 COMMISSIONER FINNEY: To respond to that  
25 real quickly, I don't necessarily disagree that 20 isn't

1 in the realm of reason. I guess the reason for my  
2 motion to amend is because we have, as you know, levied  
3 \$100,000 fine for something that was, in my opinion,  
4 intentional and egregious and repeated.

5 So notwithstanding the number of violations,  
6 my thinking on it was that it was self-reported and so I  
7 just felt that \$20,000, in proportion to the \$100,000  
8 fine that we had given before, where it was so much  
9 worse, that \$15,000 was reasonable. So that's why I  
10 made the motion.

11 CHAIRMAN LEARA: Any thoughts,  
12 Commissioner Conway? I hate to put you on the spot.

13 COMMISSIONER CONWAY: I understand where  
14 Mr. Finney is coming from. I think the wording that  
15 would make me agree with it is that it was self-reported  
16 and they have a reputation for self-reporting these  
17 issues.

18 MR. GREWACH: That's our sense that they do  
19 because of the number of reports we received from them.

20 COMMISSIONER CONWAY: They've been a good  
21 player.

22 COMMISSIONER HANE: Plus the fact they  
23 obviously have done some sort of -- they self-reported,  
24 so they've done their own internal investigation. They  
25 have discovered or think they have discovered the

1 problem and taking pretty serious steps to correct that  
2 by dismissing two employees, one being the head of the  
3 marketing outfit. So, you know, I think that they've  
4 done -- shown that they have -- are serious about  
5 correcting their own problems.

6 CHAIRMAN LEARA: I think we'll call the  
7 vote. I don't know where this will land. We're voting  
8 on the motion to amend the fine to \$15,000. If there's  
9 no other discussion, we'll call the roll.

10 MS. FRANKS: Commissioner Hane.

11 COMMISSIONER HANE: Approved.

12 MS. FRANKS: Commissioner Conway.

13 COMMISSIONER CONWAY: Approved.

14 MS. FRANKS: Commissioner Boulware.

15 COMMISSIONER BOULWARE: Not approved.

16 MS. FRANKS: Commissioner Finney.

17 COMMISSIONER FINNEY: Approved.

18 MS. FRANKS: Chairman Leara.

19 CHAIRMAN LEARA: Approved.

20 So now we've amended the disciplinary action  
21 of No. 20-047 to a fine of \$15,000. Is there any  
22 discussion on the action and approval? Seeing none, I  
23 will move for the approval of said disciplinary order.  
24 Second anyone?

25 COMMISSIONER FINNEY: Second.

1 CHAIRMAN LEARA: Second Commissioner Finney.

2 Any other discussion? Seeing none, Angie.

3 MS. FRANKS: Commissioner Hane?

4 COMMISSIONER HANE: Approved.

5 MS. FRANKS: Commissioner Conway.

6 COMMISSIONER CONWAY: Approved.

7 MS. FRANKS: Commissioner Boulware?

8 COMMISSIONER BOULWARE: Approved.

9 MS. FRANKS: Commissioner Finney.

10 COMMISSIONER FINNEY: Approved.

11 MS. FRANKS: Chairman Leara.

12 CHAIRMAN LEARA: Approved.

13 MS. FRANKS: By your vote, you've adopted

14 Disciplinary Action DC-20-047 as amended.

15 CHAIRMAN LEARA: Next item is Consideration

16 of Waiver of Institutional Investors. First one being

17 AustralianSuper Party Limited. Mr. Grewach.

18 MR. GREWACH: Mr. Chairman, under Roman

19 Numeral VIII, we have three requests for waiver of

20 licensures by institutional investors. Item H is

21 AustralianSuper Party Ltd, which is an Australian

22 pension plan. Items I and J are Rice Hall James &

23 Associates, LLC, and Royce & Associates, LP.

24 Those two companies are investment companies

25 that invest in small to mid-size capital companies and

1 they all three are requesting authority to acquire up to  
2 20 percent in shares of stock in Missouri Gaming  
3 Commission licensees as institutional investors.

4 CHAIRMAN LEARA: Were they publically  
5 traded, these three?

6 MR. GREWACH: They are not.

7 CHAIRMAN LEARA: So they don't have any  
8 considerations with the SEC, then, I suppose?

9 MR. GREWACH: I'd like to address that  
10 question to Pete Studer.

11 MR. STUDER: Pete Studer, financial  
12 investigator. I believe they do have SEC numbers.  
13 They're not themselves registered, but they have to be  
14 registered to transact securities.

15 CHAIRMAN LEARA: Right. Right. Is there an  
16 approval or denial process? That's just a notice to the  
17 SEC, I think.

18 MR. STUDER: Yes.

19 CHAIRMAN LEARA: Thank you. Any other  
20 questions? And I think we're just on AustralianSuper  
21 Party?

22 MR. GREWACH: Correct.

23 CHAIRMAN LEARA: Seeing none, I will move  
24 for the approval on Resolution No. 20-031 and ask for a  
25 second.

1 COMMISSIONER CONWAY: Second.

2 CHAIRMAN LEARA: If no other discussion,  
3 Angie, please call the roll.

4 MS. FRANKS: Commissioner Hane.

5 COMMISSIONER HANE: Approved.

6 MS. FRANKS: Commissioner Conway.

7 COMMISSIONER CONWAY: Approved.

8 MS. FRANKS: Commissioner Boulware.

9 COMMISSIONER BOULWARE: Approved.

10 MS. FRANKS: Commissioner Finney.

11 COMMISSIONER FINNEY: Approved.

12 MS. FRANKS: Chairman Leara.

13 CHAIRMAN LEARA: Approved.

14 MS. FRANKS: By your vote, you've adopted  
15 Resolution No. 20-031.

16 CHAIRMAN LEARA: Next item under section I,  
17 Rice Hall James & Associates. Same issue. Mr. Grewach.

18 MR. GREWACH: That is, again, an  
19 institutional waiver request to acquire up to 20 percent  
20 in Missouri licensees.

21 CHAIRMAN LEARA: Same thing, up to 20  
22 percent?

23 MR. GREWACH: Yes.

24 CHAIRMAN LEARA: Any discussion or further  
25 questions for Mr. Grewach? I will move for the approval

1 of the waiver for Rice Hall James & Associates,  
2 Resolution No. 20-032, and look for a second.

3 COMMISSIONER FINNEY: Second.

4 CHAIRMAN LEARA: Commissioner Finney gets it  
5 that time. Any other discussion? Seeing none, Angie,  
6 please call the roll.

7 MS. FRANKS: Commissioner Hane.

8 COMMISSIONER HANE: Approved.

9 MS. FRANKS: Commissioner Conway.

10 COMMISSIONER CONWAY: Approved.

11 MS. FRANKS: Commissioner Boulware.

12 COMMISSIONER BOULWARE: Approved.

13 MS. FRANKS: Commissioner Finney.

14 COMMISSIONER FINNEY: Approved.

15 MS. FRANKS: Chairman Leara.

16 CHAIRMAN LEARA: Approved.

17 MS. FRANKS: By your vote, you've adopted  
18 Resolution No. 20-032.

19 CHAIRMAN LEARA: Next item, J, Royce &  
20 Associates. Same thing, Mr. Grewach?

21 MR. GREWACH: It is. That company is  
22 requesting to be authorized to acquire up to 20 percent  
23 interest in gaming Missouri licensees.

24 CHAIRMAN LEARA: Any questions for  
25 Mr. Grewach?

1                   COMMISSIONER CONWAY: Just one question.  
2 The 20 percent figure is locked in stone, I guess,  
3 correct? So what they're requesting, the max is 20  
4 percent?

5                   MR. GREWACH: Correct. The way the rule  
6 works is that anyone who acquires more than five percent  
7 in any of our licensees has to either be licensed or get  
8 an institutional investor waiver. You can get a waiver  
9 up to 20 percent, but once you acquire more than 20  
10 percent, you do have to be licensed. You can't go over  
11 20 percent under the rule without a license.

12                   COMMISSIONER CONWAY: Thank you.

13                   CHAIRMAN LEARA: Any other questions for  
14 Mr. Grewach? Seeing none, I will move for the approval  
15 of Resolution No. 20-033 and ask for a second.

16                   COMMISSIONER FINNEY: Second.

17                   CHAIRMAN LEARA: Commissioner Finney second.  
18 Any other discussion? Seeing none, Angie.

19                   MS. FRANKS: Commissioner Hane.

20                   COMMISSIONER HANE: Approved.

21                   MS. FRANKS: Commissioner Conway.

22                   COMMISSIONER CONWAY: Approved.

23                   MS. FRANKS: Commissioner Boulware.

24                   COMMISSIONER BOULWARE: Approved.

25                   MS. FRANKS: Commissioner Finney.

1 COMMISSIONER FINNEY: Approved.

2 MS. FRANKS: Chairman Leara.

3 CHAIRMAN LEARA: Approved.

4 MS. FRANKS: By your vote, you've adopted  
5 Resolution No. 20-033.

6 CHAIRMAN LEARA: Item No. IX, I will make a  
7 motion for closed meeting under Sections 313.847 of the  
8 Revised Statutes of Missouri, Investigatory, Proprietary  
9 and Application Records and under 610.021(1), Revised  
10 Statutes of Missouri, Legal Actions and Matters Subject  
11 to Attorney/Client Privilege, (3) & (13) Personnel, (12)  
12 Contracts and (14) Records Protected from Disclosure by  
13 Law. And I'll ask for a second.

14 COMMISSIONER FINNEY: Second.

15 CHAIRMAN LEARA: We have a second. Any  
16 discussion? Seeing no, Angie, please call the roll.

17 MS. FRANKS: Commissioner Hane.

18 COMMISSIONER HANE: Approved.

19 MS. FRANKS: Commissioner Conway.

20 COMMISSIONER CONWAY: Approved.

21 MS. FRANKS: Commissioner Boulware.

22 COMMISSIONER BOULWARE: Approved.

23 MS. FRANKS: Commissioner Finney.

24 COMMISSIONER FINNEY: Approved.

25 MS. FRANKS: Chairman Leara.

1 CHAIRMAN LEARA: Approved.

2 We will now go to closed. Thank you.

3 Hearing concluded at 10:25 a.m.]

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## 1 C E R T I F I C A T E

2 I, Joann Renee Richardson, Certified Court  
3 Reporter, do hereby certify that pursuant to Notice  
4 there came before me on September 30, 2020, Missouri  
5 Gaming Commission, at 3417 Knipp Drive, City of  
6 Jefferson City, County of Cole, who was first sworn by  
7 me to testify the whole truth of all knowledge  
8 concerning the matter in controversy aforesaid; that  
9 they were examined, and their examination then and there  
10 was written in machine shorthand by me and afterwards  
11 transcribed and is fully and correctly set forth in the  
12 foregoing pages; and this hearing is herewith returned.

13 I further certify that I am neither attorney or  
14 counsel for, nor related to, nor employed by any of the  
15 parties to this action in which this hearing is taken;  
16 and further that I am not a relative or employee of any  
17 attorney or counsel employed by the parties hereto, or  
18 financially interested in this action.

19 Given at my office in the City of St. James,  
20 County of Phelps, State of Missouri, this 18th day of  
21 October, 2020.

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Joann Renee Richardson, CCR

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**MISSOURI GAMING COMMISSION**  
**Second Open Session Minutes**  
**September 30, 2020**

The Missouri Gaming Commission (the “Commission”) went into the second open session at approximately 11:35 a.m. on September 30, 2020, at the Missouri Gaming Commission, 3417 Knipp Drive, Jefferson City, Missouri.

**Commissioner Hane moved to adjourn the second open session meeting. Commissioner Finney seconded the motion and after a roll call vote was taken, Hane – yes, Conway – yes, Boulware – yes, Finney – yes, and Leara – yes, the motion passed unanimously.**

The meeting ended at 11:40 a.m.