

BEFORE THE MISSOURI GAMING COMMISSION

STATE OF MISSOURI

MEETING

July 27, 2011

Missouri Gaming Commission

3417 Knipp Drive

Jefferson City, Missouri

COMMISSIONERS PRESENT:

James L. Matthewson, Chairman

Suzanne Bocell Bradley

Barrett Hatches

Darryl Jones

Jack L. Merritt

REPORTED BY:

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IX. Old Business

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1 CHAIRMAN MATTHEWSON: Okay. All the
2 Commissioners are present and accounted for; that's good.
3 Nice to see everybody. Thank y'all for being here. First
4 of all, let me make a quick introduction, one that I'm very
5 proud of. If you look in the back of the room back there,
6 there's a little girl back there. That is my
7 granddaughter; her name Abigail Brook Matthewson. She
8 lives in Lee's Summit, and that's her right there.

9 COMMISSIONER JONES: That's not going to
10 help you. We're still going to get you.

11 CHAIRMAN MATTHEWSON: I thought if I brought
12 her --

13 COMMISSIONER JONES: Brought her in here for
14 protection, huh?

15 CHAIRMAN MATTHEWSON: Yeah. I brought her.
16 Might be a little protection there. Yeah. She's my
17 sweetheart. She's spending the week with us, so she and I
18 are just running around.

19 We're going to go over to the Capitol after
20 while and take a look at that, because she's going to be a
21 fourth grader and that's when they make the field trip down
22 here. So she's going to be over there, so, Mike Winter,
23 don't be hanging around over there. That's when you
24 started over there, wasn't, Mike? About the fourth grade?

25 MR. WINTER: About that age.

1 CHAIRMAN MATTHEWSON: One other thing,
2 Roger, before we start actually on the agenda. I was -- I
3 want to thank you-all for putting together that Port
4 Authority -- did everyone get a copy of that, the Port
5 Authority history? Because I had asked two or three times
6 that I didn't understand how that all happened. I'm not
7 sure I totally still could understand.

8 But I appreciate, Roger, that the time and
9 effort went into this to try to explain this to me and
10 others, the members of the Commission, so we at least have
11 a little better grasp of how that all evolved and where we
12 are with that situation today. That's interesting how that
13 all came together.

14 So with that, Ang, would you call role,
15 please?

16 MS. FRANKS: Commissioner Merritt?

17 COMMISSIONER MERRITT: Present.

18 MS. FRANKS: Commissioner Hatches?

19 COMMISSIONER HATCHES: Present.

20 MS. FRANKS: Commissioner Jones?

21 COMMISSIONER JONES: Present.

22 MS. FRANKS: Commissioner Bradley?

23 COMMISSIONER BRADLEY: Present.

24 MS. FRANKS: Chairman Matthewson?

25 CHAIRMAN MATTHEWSON: Present.

1 I think we would -- as Chairman, I think we
2 would have to recognize how pretty everybody looks this
3 morning. But, Darryl, will you just stand up because I'm
4 going to tell you something, man, you be looking good.
5 Look at that. Ain't he pretty?

6 COMMISSIONER JONES: And you know what? I
7 want to make a motion that this is the standard uniform --
8 summer uniform for the Commission.

9 COMMISSIONER MERRITT: You'll have trouble
10 getting a second on that.

11 CHAIRMAN MATTHEWSON: Yeah. Yeah. Bless
12 your heart. Now we'll get serious. Okay, Rog?

13 MR. STOTTLEMYRE: Okay.

14 CHAIRMAN MATTHEWSON: We need to do the
15 minutes from the June 22nd meeting. So Chair would accept
16 a motion to do that, please.

17 COMMISSIONER MERRITT: So moved.

18 COMMISSIONER JONES: Second.

19 CHAIRMAN MATTHEWSON: Any discussion?

20 (No response.)

21 CHAIRMAN MATTHEWSON: Call the role, Angie,
22 please.

23 MS. FRANKS: Commissioner Merritt?

24 COMMISSIONER MERRITT: Approve.

25 MS. FRANKS: Commissioner Hatches?

1 COMMISSIONER HATCHES: Approve.

2 MS. FRANKS: Commissioner Jones?

3 COMMISSIONER JONES: Approve.

4 MS. FRANKS: Commissioner Bradley?

5 COMMISSIONER BRADLEY: Approve.

6 MS. FRANKS: Chairman Matthewson?

7 CHAIRMAN MATTHEWSON: Approve.

8 MS. FRANKS: By your vote you've adopted the
9 minutes of the June 22, 2011 meeting.

10 CHAIRMAN MATTHEWSON: Roger?

11 MR. STOTTLEMYRE: Mr. Chairman, the Item III
12 on the agenda is the Consideration of Hearing Officer
13 Recommendations. The first one is a Mr. Jeffrey Sauls, who
14 was -- this was tabled at the June meeting, and
15 Mr. Grewach will present.

16 MR. GREWACH: Mr. Chairman, members of the
17 Commission, at the last meeting, the Commission asked me to
18 take a look at the legal aspects of this case. Mr. Stark
19 had presented his Findings of Fact and Conclusions of Law.

20 In looking at this, I think the significant
21 thing about the Statute 313.812.8 is that it says that,
22 License shall not be granted to anyone who has pled guilty
23 to a felony or been convicted of a felony. It goes on to
24 say -- now, this is in a section that deals with the casino
25 licenses with the Class B licensee. But that same

1 subsection goes on to say that, No licensee shall employ
2 any person who has pled guilty or been convicted of a
3 felony.

4 Now, our CSRs that deal with occupational
5 licensees use that same language, except in ours it says,
6 we may revoke a licensee who has pled guilty or been found
7 guilty. Now, the significance of that pled guilty or been
8 found guilty is that just the act of pleading guilty, that
9 historical fact that that occurred, disqualifies you from
10 having an occupational license, such as Mr. Sauls.

11 Looked at other law in Missouri that had
12 similar language. For example, the DWI laws have
13 enhancement provisions where it says that if you've pled
14 guilty to a prior offense, that can be used to enhance your
15 charge to make this a second offense.

16 And that's true even if your first offense
17 you got an SIS and it's not on your record and you
18 completed your probation, the record's closed. You know,
19 just the fact, again, that historical fact that you pled
20 guilty back here in 2003, whenever it was, and now you have
21 this new offense in 2011, makes it a second offense.

22 There's case law too that deals with
23 impeachment of witnesses, which says that if you had pled
24 guilty to a charge, but not been -- later on that was set
25 aside, or there's no conviction on your record, that actual

1 plea could be used to impeach you in a criminal case if you
2 testified. So when you look at everything, you look at
3 that statutory scheme where the legislature made a point of
4 putting that language, pled guilty or been found guilty.

5 Now, as that specifically applies to
6 Mr. Sauls' case, Mr. Sauls pled guilty to a felony DWI on
7 July 15, 2010. He was then placed in the drug court -- DWI
8 court in St. Louis County. I have the court records if
9 anybody would like to see those. Technically, according to
10 the court records, his -- from CaseNet, his sentencing is
11 not even scheduled until July 15, 2013.

12 Now, Mr. Sauls tells me that he's scheduled
13 to graduate from drug court either in November of this year
14 or February of next year. He further tells me that when he
15 hits graduation that the court will permit him to withdraw
16 his plea of guilty.

17 But from my point of view, the significant
18 thing is that that hasn't happened yet. And at the time
19 the discipline was imposed, at the time the hearing took
20 place, and even as we're here today, the historical fact
21 still is on the record that Mr. Sauls has pled guilty to a
22 felony.

23 You know, things can happen between now and
24 then. I mean, I've talked to Mr. Sauls several times. I
25 don't doubt his sincerity, his intent to complete the

1 program, or his ability to. But he hasn't yet. So
2 something could happen. Something could happen to the
3 program between now and then.

4 Now, if he gets to November and he completes
5 the program and the judge orders his plea withdrawn, then I
6 think at that point in time we have a different situation.
7 But I think with the facts that we have now and the law
8 that we have now, I don't know that we have any discretion
9 but to revoke his occupational license.

10 And Mr. Sauls is here today.

11 CHAIRMAN MATTHEWSON: Any question of
12 counsel at this time before we call on Mr. Sauls?

13 COMMISSIONER BRADLEY: Could I see that --

14 MR. GREWACH: Oh, yes. I have a copy for
15 everybody too.

16 COMMISSIONER BRADLEY: And this has a
17 guilty -- can you look at the sheet with me? It says
18 guilty plea for either May 27th -- guilty plea to what? Am
19 I not reading it right?

20 MR. GREWACH: I believe it was July 15th,
21 and I have a separate document here that shows the charge
22 pled guilty to and the date of the plea.

23 COMMISSIONER BRADLEY: This is not a docket
24 sheet and I'm just -- I --

25 MR. GREWACH: I just made one of that, and I

1 apologize. Now, that actually -- the reason I only made
2 one copy of that was that was in your packet, so --

3 COMMISSIONER BRADLEY: Right. This is what
4 I'd seen before. So what you're saying, if -- today our
5 action that the Commission might possibly take could
6 be a different action in November after he
7 completes the program; is that correct?

8 MR. GREWACH: I believe so. If he came back
9 and applied in November and the Court had authorized and
10 ordered his plea withdrawn, you know, then I think at that
11 point in time --

12 COMMISSIONER BRADLEY: It would be a
13 different situation.

14 MR. GREWACH: Yeah. He would be -- he would
15 no longer be unsuitable because he would no longer have
16 that plea on his record. But as of today he does. We have
17 a speculation that when November comes, if all goes well,
18 you know, it will be withdrawn, but that hasn't happened
19 yet.

20 And so I guess it's Staff's position that
21 he's disqualified from his occupational license because of
22 the fact that he has pled guilty to a felony, and that
23 hasn't changed as far as the record is concerned.

24 COMMISSIONER MERRITT: Go ahead.

25 COMMISSIONER HATCHES: I just want to make

1 sure that I understand what you're saying. And if a person
2 pleads guilty, according to the statute, the adjudication
3 of the case really doesn't have any bearing on our
4 responsibility of -- of the Commission's responsibility of
5 saying that person no longer qualifies to hold a license.

6 MR. GREWACH: The only way that I could see
7 it being different is -- I guess Commissioner Bradley's
8 question: If he came to apply in December of this year and
9 he'd already gotten an order from the Court to withdraw his
10 guilty plea, then in that case we would look at it and say,
11 Well, okay. He pled guilty, but then again you have an
12 order of the Court to withdraw a guilty plea. So now, as
13 we sit here in December, there is no guilty plea because
14 it's been wiped out by that Court's order. But other than
15 that you're correct.

16 And I think really -- you'll see this a lot
17 in an SIS. So if somebody gets a suspended imposition of
18 sentence and they're placed on probation for two years,
19 five years, whatever the case may be, very common -- and
20 guilty of that myself when I was in private practice -- to
21 tell the client, Well, once you complete your probation,
22 then this won't be on your record.

23 So we'll see some nonreporting too. They'll
24 come in and they won't report that. Well, my lawyer told
25 me, you know, when I finish probation, it wouldn't be on my

1 record. Well, that's true for most purposes, and there's
2 just those exceptions. Enhancement purposes for DWIs is
3 one. We're another because we have a statute that says, If
4 you've ever pled guilty.

5 So to stray from Mr. Sauls' specific fact
6 example, if somebody had pled guilty, got an SIS, completed
7 it, there was no crime on his record. But as law
8 enforcement officers or background people could find that
9 plea that happened four or five, six years ago, that would
10 show up in the background and find that he would be
11 disqualified, unsuitable to hold the license. And I think
12 the only exception to that, again, would be where you have
13 an order entered by a judge ordering the withdrawal of a
14 plea of guilty.

15 Other than that I would have to agree,
16 Doctor, that the disposition of the prior case ultimately
17 wouldn't matter because we have a statute that says, If you
18 have pled guilty to this offense, you're ineligible, and
19 that's a historical fact. You did plead guilty on this, on
20 this date.

21 COMMISSIONER HATCHES: Thank you.

22 CHAIRMAN MATTHEWSON: So help my memory. Is
23 he still employed?

24 MR. GREWACH: I believe he is.

25 MR. SAULS: Yes, I am.

1 CHAIRMAN MATTHEWSON: Okay. Okay. Let
2 me -- this case actually started -- and I'm trying to track
3 like Commissioner Bradley here. This case -- the guilty
4 plea was actually given on -- in 2010 on 05/27. Am I
5 understanding that correctly? Is that the first time that
6 that guilty plea was before the Court and given?

7 MR. GREWACH: I have July 15, 2010.

8 CHAIRMAN MATTHEWSON: Oh, okay. Well, I
9 guess scheduled. Okay. So the point being -- or my
10 question to you, sir, is if this has now been going on for
11 a year -- okay?

12 MR. GREWACH: Yes.

13 CHAIRMAN MATTHEWSON: And part of that was
14 because we asked for further study because he was kind
15 enough to be here and -- and show cause, at least to us,
16 that he was making every effort to get to that final
17 destination down the road. Okay?

18 So this has been held for a year. During
19 that time we have -- this is a question, sir. Do we have
20 any indication that he's not complied with what he
21 should've been doing during that year's time?

22 MR. GREWACH: I attempted to find that out.
23 I called the St. Louis County drug court. And since I
24 wasn't his attorney, they took the position that his
25 participation was confidential --

1 CHAIRMAN MATTHEWSON: Yeah. Yeah.

2 Confidential. Okay.

3 MR. GREWACH: -- and they wouldn't share it
4 with me. They directed me to the website, which I also
5 have if anybody wants to know about the guidelines in drug
6 court and what -- you know, what is and isn't, you know,
7 provided in that. So I ran off copies of that.

8 So I can't tell you -- I can tell you
9 secondhand from Mr. Sauls. He's indicated that he is
10 complying, that his graduation is scheduled for November or
11 February of this year or next year.

12 But, again, you know, we, as Staff, when we
13 look at this, don't know that. I mean, something could --
14 even if everything's been perfect up until now, something
15 could go wrong and then all of a sudden, you know, we'd
16 have licensed somebody who wouldn't have been eligible
17 under the statute.

18 Because, you know, at the time of the
19 hearing -- and also, I guess, Chairman, to -- not to
20 broaden the discussion anymore, but I think there was some
21 failure to disclose allegation too. But, again, Mr. Sauls
22 believed he didn't have to because he'd been told that if
23 he pled guilty, entered this program, it wouldn't be on his
24 record. And I think that was his honest belief going in.

25 So I really haven't focused on that. I've

1 just focused on, okay, the way the statute's written, if
2 you've pled guilty to a felony, can you be --

3 CHAIRMAN MATTHEWSON: See, unfortunately,
4 maybe not every one of our monthly meetings, but it's not
5 uncommon for us to run into that suspended imposition of
6 sentence. Time and time again, we have found that that
7 person, that employee, was told -- as you said, you had
8 even said that to your clients, and I'm not being critical
9 of that. I mean, if they were my clients, I'd probably say
10 the same thing. But, you know, we keep running into it.

11 I guess that's where I get some heartburn
12 here. I -- number one, Mr. Sauls showed a lot of class to
13 me to -- number one, to show up down here, two times, two
14 months in a row. We have investigated him. We've put him
15 through most of the trials and tribulation of trying to keep
16 a job, you know. And that's all he wants is, Leave me
17 alone. Let me keep my job, you know.

18 MR. SAULS: I'll complete --

19 CHAIRMAN MATTHEWSON: On the other hand of
20 that though, see, if we -- if we don't now make a decision,
21 we are setting a precedent that can be used time and time
22 again on these same things that keep coming before us, on
23 these suspended impositions. So --

24 COMMISSIONER MERRITT: Mr. Chairman?

25 CHAIRMAN MATTHEWSON: Yes, Jack, please.

1 Somebody jump in here and help me out. I --

2 COMMISSIONER MERRITT: I know Ed's tried to
3 get the records on that and they are closely guarded, but I
4 would be interested to know how often Mr. Sauls has to give
5 a sample for a UA and if they have all been --

6 CHAIRMAN MATTHEWSON: We're going to go to
7 him in just a minute.

8 COMMISSIONER MERRITT: Okay.

9 CHAIRMAN MATTHEWSON: Okay. Why don't
10 you -- would you mind just standing by for a minute because
11 we might have some more questions.

12 MR. GREWACH: Sure.

13 CHAIRMAN MATTHEWSON: And let's go to
14 Mr. Sauls and listen to his side of it, and then we will
15 have both of them here. Is that okay with everybody?
16 Okay.

17 Mr. Sauls, why don't you step up to that
18 microphone. Did you hear the question that Jack --

19 MR. SAULS: Yes. I have to call every day.
20 I also wear an ankle bracelet. It costs me \$300 a month.
21 Up until I graduate, I'll have to maintain the bracelet and
22 it monitors your blood alcohol. So I cannot consume
23 anything that's alcoholic. Anything. I cannot use shaving
24 lotions, cleaning products.

25 I can't even get gasoline on me. Let's say

1 I go to a pump and it pops out on me, they call it
2 environmental. I will go to jail for 24 hours. That's how
3 strict this is.

4 Also, it's called a drop line. I have to
5 call every day, and it's color-coded. So the men are
6 red/blue and -- depending on what phase you're in of drug
7 court -- and the girls are green/yellow. As you go through
8 this you still have to maintain the urinalysis. And that
9 is also for drugs and alcohol.

10 And also, I spoke with my probation officer.
11 She said this is not similar to an SIS. She actually asked
12 if you wanted to call her, that she would actually talk to
13 you over the phone. And you'll have to forgive me. I got
14 in a hurry this morning and I forgot her card. I was in a
15 hurry to get here.

16 And she explained the whole situation to me.
17 She said it's not even near an SIS. The reason being, I
18 believe, if I have this correct, is that I pled into that
19 court. I had to give up all my rights in order to go into
20 this court.

21 COMMISSIONER MERRITT: So you, in fact, pled
22 guilty to the charge?

23 MR. SAULS: Yes, I did.

24 COMMISSIONER MERRITT: Okay. I think that's
25 the bottom line.

1 MR. SAULS: I thought I was pleading into
2 this court and was told that once I complete this -- which
3 I will do, even if you revoke my license. Now, another
4 thing that's really odd is, we have doctors that do this.
5 I found this out: The only thing they did was make him
6 reapply for a narcotics license, which they granted him;
7 the nurses, RNs, they do not pull their licenses, and they
8 are in charge of people's health care. We also have
9 attorneys; they don't send them to the Bar Association and
10 revoke their license.

11 My job pays \$6.12 an hour, plus tips. As
12 the economy dwindles, the tips go down. So I don't even
13 make minimum wage. I have to depend on tips, but it's
14 still a job. I've done it for over 30 years. The only --
15 I got into this program to actually help myself and I've
16 been sober for over three years.

17 COMMISSIONER MERRITT: How many
18 alcohol-related arrests have you had in your history here?

19 MR. SAULS: Alcohol related? Three.

20 COMMISSIONER MERRITT: Started in '07?

21 MR. SAULS: No. Way previous. Way, way
22 back.

23 COMMISSIONER MERRITT: Okay. Well, I saw
24 '07 and '08 and '09. I thought maybe that was -- that you
25 had some prior to that.

1 MR. SAULS: Not that I can remember.

2 COMMISSIONER MERRITT: Okay. It just seems
3 to me like you're placing yourself in a difficult
4 environment, if you do have a problem. That you're in an
5 environment where there's alcohol being served and you're
6 in constant contact with it. Looks like kind of putting
7 the fox in the henhouse there.

8 MR. SAULS: No, not at all. I work with
9 several other people -- I've worked in the state of Nevada
10 also where a lot of people are alcoholic and do not drink.
11 I have no way of actually drinking on the job. I mean, and
12 I really don't have any desire. It's a job. I go and
13 perform my duties. I deal the people with chips, money,
14 and, like, I said, I have over 30 years experience.

15 The alcohol problem is not related to my
16 job. It's never been a problem with that. My problem was
17 driving a vehicle, which was not a good thing to do. We
18 all know that. So what I decided with my life is to
19 eliminate the problem is to just quit drinking, and that's
20 what I did. I've been sober for over three years.

21 CHAIRMAN MATTHEWSON: Do you have any more?

22 COMMISSIONER MERRITT: No.

23 CHAIRMAN MATTHEWSON: Let me -- again, I'm
24 trying to -- because you've just made a couple of comments
25 there that I was not aware even existed. Number one, when

1 you -- you had an option at that time when you pled guilty,
2 you could've pled not guilty and fought that or taken the
3 sentence or whatever. But at that time the option under
4 the Court was -- you correct me here or maybe attorney
5 needs to correct me if I'm not going the right direction
6 here. But your option was to get into the program, you had
7 to plead guilty.

8 MR. SAULS: Yes, sir. That's exactly what
9 the Judge told me, Ms. Dolan.

10 CHAIRMAN MATTHEWSON: Okay.

11 MR. SAULS: You have to plead guilty in
12 order to go into this program.

13 CHAIRMAN MATTHEWSON: Sure. And I -- yeah.
14 Often laws don't make sense, but maybe that one does, you
15 know.

16 MR. SAULS: But that's exactly -- they tell
17 you, you know, In order to get into this program, you have
18 to plead guilty. I had to plead guilty to get help.

19 CHAIRMAN MATTHEWSON: Okay. I mean, that
20 kind of makes sense to me, okay, that maybe that would be
21 the right way. Now, the other thing, you stated that the
22 bracelet that you wear is color-coded -- I mean, it -- it
23 reports to, I assume, a computer somewhere. Right?

24 MR. SAULS: Yes, sir. I have a monitor in
25 my home and it -- what it does is it tests your alcohol

1 blood content. If I consume any alcohol whatsoever, it --
2 it monitors my blood.

3 CHAIRMAN MATTHEWSON: Okay. Now, who pays
4 for that?

5 MR. SAULS: I do. It's \$300 a month.

6 CHAIRMAN MATTHEWSON: See, there we are. I
7 thought maybe someone had to be paying for it --

8 MR. SAULS: No, I do.

9 CHAIRMAN MATTHEWSON: -- you know, and I
10 assumed it wasn't the tax payers, which God bless America.

11 MR. SAULS: No.

12 CHAIRMAN MATTHEWSON: But okay. So you've
13 been paying \$300 a month ever since you've been wearing
14 that, and that's how long?

15 MR. SAULS: A year.

16 CHAIRMAN MATTHEWSON: You know, Mr. Sauls?
17 I'm going to tell you, this is just serious as heck to me.
18 I mean, I -- I'm reaching out here trying to find a way to
19 help you. But you know what? If you're paying \$300 a
20 month for that and you're only making \$6 and something an
21 hour, hell, we'd do you a favor to get you fired.

22 MR. SAULS: Well, I depend on tips too.

23 CHAIRMAN MATTHEWSON: You know, I mean, it
24 just -- I mean, that doesn't add up.

25 MR. SAULS: Well, I depend on tips too.

1 That's my base --

2 CHAIRMAN MATTHEWSON: Yeah. I understand.

3 I understand. I understand. Interesting case. Okay. Any
4 other --

5 COMMISSIONER BRADLEY: May I ask a question?

6 CHAIRMAN MATTHEWSON: Yeah. Suzanne, sure.

7 COMMISSIONER BRADLEY: From our legal
8 counsel.

9 CHAIRMAN MATTHEWSON: Yeah. Sure.

10 COMMISSIONER BRADLEY: So help us figure out
11 what our options are right now. Number one would be -- and
12 what our job is here. Number one, because of the situation
13 at this moment, we could revoke Mr. Sauls license.
14 Correct?

15 MR. GREWACH: Correct.

16 COMMISSIONER BRADLEY: All right. Number
17 two -- and tell me if these are options. Okay? Number
18 two, because there is a question that the situation could
19 be different three months from now than it is today, is it
20 an option that we -- that we table this and pick it up in
21 November when we actually -- when there's a different legal
22 situation and we, as a Commission, make a ruling on this
23 kind of a situation at the proper time? Is that an option?

24 MR. GREWACH: That's an option.

25 COMMISSIONER BRADLEY: Okay. Is there

1 another option that I can't -- that I'm not thinking of?

2 MR. GREWACH: Not in my opinion. I think
3 that statute that has the "shall" word in that makes it
4 mandatory that says, You shall not issue a license to
5 someone who has pled guilty. Unfortunately, Mr. Sauls fits
6 that definition. He's one of those persons that by statute
7 we are told we shall not issue a license to.

8 In our CSRs we use the word "may." If it
9 was "may," then you'd have the discretion among the
10 Commission to say, Well, let's look at this particular
11 circumstance and say, Well, do we or don't we.

12 I think you get back to the Chairman's --
13 then are we setting a precedent? Are we -- you know, if
14 we're going to exercise that discretion in this case, are
15 we always going to do it? Are we going to do it in certain
16 circumstances and not -- what are our guidelines going to
17 be.

18 But I don't think you get that far because,
19 yeah, that statutory prohibition from Mr. Sauls having a
20 license when his record indicates a plea of guilty. So I
21 think your only option other than revoking his license
22 would be to table this. And I don't guess we have a
23 November meeting, so it would actually be the December 7th
24 meeting that it would get tabled to.

25 If he could produce documentation showing

1 the judge had ordered his plea withdrawn, then -- and, of
2 course, I hate to commit myself. I mean, I want to look at
3 the order and see what it says. But just conceptually, it
4 makes sense if you plead guilty on day one and on day two,
5 you file a motion to set that guilty plea aside, and the
6 judge grants it, we no longer have a guilty plea because
7 the judge has set aside -- or assuming the language is in
8 there -- set that -- made that null and void. So I'd say
9 those would really be the Commission's only two options at
10 this point.

11 COMMISSIONER JONES: Just some housekeeping
12 on that now. In the event that that happens, will he have
13 to amend his application? Because the application has on
14 it, did you plead? You know, because now you get into a
15 situation where the application is saying one thing, and I
16 don't want something to come back later and say, Well, wait
17 a minute, you know, you lied on your application because
18 you did plead.

19 MR. GREWACH: If I was an applicant, I would
20 put in, I pled guilty in July 15, 2010, and the judge
21 ordered that plea withdrawn on November 15, 2011. I mean,
22 I think the only safe thing for an applicant is full
23 disclosure. And then, from a legal standpoint, when we
24 look at it, we'd say, well, that's fine. He's told us this
25 happened; we've been able to verify it and it's not -- you

1 know, it's not --

2 COMMISSIONER JONES: Well, absolutely. But
3 in this case would he have to go back and amend that to
4 have that part of his application or his file, his personal
5 records?

6 MR. GREWACH: Yes. Because the licensees
7 are required --

8 COMMISSIONER JONES: Okay.

9 MR. GREWACH: -- from ten days of an event
10 happening that changes the information on their prior
11 application, they need, within that time frame, to notify
12 us of that change.

13 COMMISSIONER JONES: Okay.

14 CHAIRMAN MATTHEWSON: Yes, Mr. Sauls?

15 MR. SAULS: I may not graduate until
16 February. They -- they go in three-month phases, and if
17 you -- they're really strict, so it may be November or
18 February. They usually to -- what it'll say is a 15-month
19 program, but usually it winds up to be 18 months.

20 COMMISSIONER HATCHES: And I just want to be
21 clear that if we do, indeed, vote to table this, we're, in
22 essence, saying we're agreeing to table this until a judge
23 makes a ruling on whether or not --

24 CHAIRMAN MATTHEWSON: He has completed --

25 COMMISSIONER HATCHES: -- he has completed

1 and then maybe --

2 CHAIRMAN MATTHEWSON: Which is then --

3 COMMISSIONER HATCHES: So it may be
4 November. It may be February. Circumstances may push it
5 further. So I just want to be sure that's what we're
6 agreeing to, to wait until a judge hears his case after
7 he's completed the program.

8 MR. GREWACH: I think the Commission would
9 have to table it to a specific date, you know, because it
10 was on for hearing on the last meeting, tabled to this
11 date. And I think really without getting the rules out and
12 dissecting them, I don't think there'd be any really
13 practical way to do it except to say, We're going to table
14 this to the December meeting. And then it would be on the
15 December meeting agenda, and then you could look at it at
16 that point in time and make a determination.

17 If you leave it open-ended, we don't know
18 what triggers this getting back on and -- you know, because
19 it's been submitted. Mr. Stark submitted it -- had his
20 hearing, submitted his Findings of Fact, Conclusions of
21 Law. Now it's before the Commission to accept or reject or
22 modify that recommendation, and that's really the issue
23 that we'd be tabling for that -- do that December --

24 COMMISSIONER HATCHES: So if we table it to
25 a date in December, and he's not completed his program, can

1 we then at that meeting table it again?

2 MR. GREWACH: Yes.

3 CHAIRMAN MATTHEWSON: You can table it into
4 infinitum, huh?

5 COMMISSIONER JONES: Yeah.

6 CHAIRMAN MATTHEWSON: If you chose to do
7 that.

8 MR. GREWACH: But I think you'd have to,
9 every time, table it to a specific date, a specific meeting
10 that you're going to consider.

11 COMMISSIONER HATCHES: I'd just rather it
12 get to a position where we can make a decision on it,
13 rather than table a case multiple times. So, I mean --

14 CHAIRMAN MATTHEWSON: Look. Let me ask both
15 of you one other question, then I'll go to you, Jack,
16 please. In the event that you showed negative on your
17 machine that you're paying \$300 a month for, how would we
18 ever know that?

19 MR. SAULS: They know it automatically.

20 CHAIR: Who's they?

21 MR. SAULS: It is -- it's through an EMASS
22 program. I actually, I have to go do battery changes --

23 CHAIRMAN MATTHEWSON: That's a private
24 entity that --

25 MR. SAULS: Yes. Uh-huh.

1 CHAIRMAN MATTHEWSON: -- rents you that
2 equipment?

3 MR. SAULS: It's like SATOP, EMASS.

4 CHAIRMAN MATTHEWSON: Then they report to a
5 Court?

6 MR. SAULS: Yes. Immediately to the Court.

7 CHAIRMAN MATTHEWSON: Okay. And then, at
8 that time, the Court does what?

9 MR. SAULS: They take disciplinary actions
10 against you.

11 CHAIRMAN MATTHEWSON: Does that generally
12 move as slow as most court?

13 MR. SAULS: No. She's a really strict lady,
14 Ms. Dolan. She is a very fair person, but you don't screw
15 up.

16 COMMISSIONER BRADLEY: She's a good judge.
17 I know Colleen.

18 MR. SAULS: It's Judge Colleen Dolan.

19 CHAIRMAN MATTHEWSON: Okay. Did you have
20 one more thing you want to say and then we're going to take
21 a motion.

22 MR. SAULS: Yes, sir. If you do help me
23 with this, I can actually bring you status reports. I
24 tried to get my probation officer to come with me today to
25 give you further explanation. She knows exactly what's

1 going on. That's why she tried to educate me about the
2 difference in an SIS and what I'm going through. And at
3 any time I can supply you with any information that you
4 need, through her, to let you know my status, whatever you
5 need to know.

6 As far as right now, I haven't missed one
7 court date. I've never been late. I've never missed any
8 -- and I also have to go to a Bridgeway Behavioral
9 outpatient program. I've never been late, never missed,
10 never had a sanction, never had a bad drop. That's what
11 they call the urinalysis.

12 And the only thing I can say is it may be
13 February. They tell you it's from 15 to 18 months. Now,
14 my 18-month period will be ending in February. And they're
15 very strict. I go to AA meetings. I have to have a
16 sponsor that they notify to see if I'm working the 12-step
17 program. And so, I mean, it's really not a joke. It's a
18 serious thing, and I'm doing very well. I maintain my job.
19 It doesn't affect me that way.

20 CHAIRMAN MATTHEWSON: Okay. Any other
21 questions of either?

22 (No response.)

23 CHAIRMAN MATTHEWSON: Jack, do you have a
24 motion?

25 COMMISSIONER MERRITT: I do. I'd like to

1 present a motion. I'm certainly not unsympathetic to
2 Mr. Sauls. But for us to follow the letter of the law and
3 for us to keep some clarification for this Commission and
4 further Commissions in anything like this -- similar to
5 this, I would recommend that we approve Resolution
6 No. 11-060 -- 030. I'm sorry. Got caught in my bifocals.

7 CHAIRMAN MATTHEWSON: Is there a second?

8 (No response.)

9 CHAIRMAN MATTHEWSON: Are there other
10 motions? Somebody do something?

11 COMMISSIONER BRADLEY: I would move that we
12 table --

13 CHAIRMAN MATTHEWSON: We have a substitute
14 motion?

15 COMMISSIONER BRADLEY: Substitute -- yes. I
16 guess. Since that one failed for lack of a second --

17 CHAIRMAN MATTHEWSON: No. Well, okay.
18 Yeah. There's a question mark, but go ahead.

19 COMMISSIONER BRADLEY: Then, I would move
20 that we table this matter until the November meeting.

21 MR. GREWACH: There's actually none in
22 November. I think --

23 COMMISSIONER BRADLEY: December, excuse me.
24 December.

25 CHAIRMAN MATTHEWSON: Could -- could I

1 offer -- hate to do this as Chair, but could I offer an
2 amendment to your motion, that Mr. Sauls be instructed --
3 if this were to carry, this motion, substitute motion -- to
4 carry to -- that he submit a letter from his probation
5 officer that he's complied with all areas of his obligation
6 monthly.

7 And we would have that submitted to Staff in
8 care of Roger or whoever, however you guys structure that
9 with him. That he submit that so that we have that prior
10 to our meeting each month. So that at any time, we can --
11 we could, if this motion were to pass, rescind that motion
12 and pull his license.

13 I think -- I think I want some more
14 assurance. Now, he, you know, from what we hear from him,
15 he's doing a good job, and that's the reason why I'm
16 totally sympathetic to his situation, you know. But I also
17 understand what Jack said. I mean, if you're going to --
18 you know, we may be setting a precedent here that somewhere
19 down the road someone's going to have to worry about. But
20 I'll only be here until next April and then I won't have to
21 worry about it. So, at any rate --

22 COMMISSIONER BRADLEY: I accept that.

23 CHAIRMAN MATTHEWSON: Okay.

24 COMMISSIONER BRADLEY: Accept your addition,
25 yes.

1 CHAIRMAN MATTHEWSON: Okay.

2 COMMISSIONER HATCHES: Discussion about that

3 motion?

4 CHAIRMAN MATTHEWSON: Yes.

5 COMMISSIONER HATCHES: What I understand

6 from what Mr. Sauls is saying that -- to get to your

7 motion -- to the point of your motion, I'm not certain that

8 by tracking his behavior every month serves a purpose in

9 our deliberation. Because from what I understand him

10 saying, that even if he has a dirty drop, it just means

11 that there would be some form of discipline. It does not mean

12 he gets kicked out of the program.

13 MR. SAULS: Yes, sir. That's true.

14 COMMISSIONER HATCHES: Does not mean he will

15 not graduate.

16 CHAIRMAN MATTHEWSON: Excuse me. Go ahead.

17 No. I want -- you don't talk until I ask you to, please.

18 Okay. Go ahead.

19 COMMISSIONER HATCHES: So it does not mean

20 he doesn't -- he gets kicked out of the program just

21 because he has a dirty drop, doesn't mean he doesn't

22 graduate. So unless we're saying if he has a dirty drop,

23 for the purpose of this Commission, we'll vote to rescind

24 his license, I don't know what benefit that information

25 has.

1 I can see your point if -- if delivering a
2 dirty drop means he gets kicked out of the program, which
3 means it's over for him, and then we react to that, because
4 that's a resolution. But just a dirty drop doesn't kick
5 him out of the program.

6 COMMISSIONER MERRITT: Extends it.

7 COMMISSIONER HATCHES: Or does not mean that
8 he's not going to graduate, so --

9 CHAIRMAN MATTHEWSON: And, Commissioner, you
10 may be exactly right.

11 COMMISSIONER HATCHES: I understand where
12 you're going, Mr. Chairman, and I do appreciate it. I
13 don't think there's a person sitting up here who's not real
14 sympathetic. Because if there was ever a case to pay
15 attention to the way we are with this one, this is
16 absolutely the one, given his performance and his behavior
17 here.

18 But I -- I agree with Jack too that I just
19 want to be careful that we're not doing outside of the
20 bounds of what's considered our area of responsibility,
21 normal, or responding to the law, and creating a brand new
22 environment that every month we're going to have to change.

23 And it's hard -- it's hard when you have
24 cases like this. It's hard when you have cases like this
25 to stick to the letter of the law as we make our decision.

1 Absolutely hard. And, again, I don't think there's a
2 person up here who wants to see Mr. Sauls lose his job.

3 But just as with reporting -- or pleading
4 guilty, what happens after that, you know, is not in our
5 framework. And so I just want -- I just want to be careful
6 here and not extend this to a point where we assume his
7 actions are going to give us -- is going to put us in a
8 position to make a different decision or make our decision
9 a little bit easier.

10 And I don't want to track his behavior every
11 month -- I think there are enough folk doing that -- unless
12 it has a direct impact on the decision that I'm going to
13 make. So I just want to be careful and I don't know how
14 you do it.

15 COMMISSIONER BRADLEY: I've got another
16 question. If -- and I don't know if you can answer this or
17 not. If we take the stand today, the way it is today, and
18 we revoke Mr. Sauls' license, then at what time can he come
19 back and reapply? Based on his experience, could he get
20 rehired after all his stuff is done -- after he gets
21 everything done?

22 MR. GREWACH: In my opinion, yes. If
23 February came, even push it out that far, and the judge
24 entered in an order withdrawing that prior plea of guilty,
25 then it would be my opinion then that there is no plea of

1 guilty. It's been ordered withdrawn by the Court, and he
2 would therefore be eligible for a license.

3 COMMISSIONER BRADLEY: But it would be a
4 time factor. I mean, it would be after that period of time
5 he could -- he could reapply?

6 MR. GREWACH: Correct. I think -- yeah.
7 Upon the entry of the judge of that order, then the prior
8 plea would become a nullity and then he would -- his record
9 actually would be free of that guilty plea and then he
10 would no longer be disqualified from applying. He could
11 apply for his occupational license then, at that point.

12 COMMISSIONER MERRITT: Which would be
13 following the law.

14 COMMISSIONER BRADLEY: Exactly. Exactly.
15 Sometimes we have to talk about these things enough to --
16 to pull together and get -- and find the best resolution
17 and have to follow the law.

18 COMMISSIONER MERRITT: Certainly.

19 COMMISSIONER BRADLEY: No question.

20 COMMISSIONER MERRITT: We could end up being
21 a body that monitors several different individuals on
22 several -- in several different arenas if we just want to
23 put it off until we think they're going to do right.

24 COMMISSIONER BRADLEY: And that's not our
25 job.

1 COMMISSIONER MERRITT: We can't take that
2 up.

3 COMMISSIONER HATCHES: In my short tenure on
4 this Commission, I know we've not had this level of
5 discussion about a case.

6 CHAIRMAN MATTHEWSON: You're right.

7 COMMISSIONER HATCHES: And so, again, I -- I
8 think that goes again to all of our sincerity in trying to
9 do what we have a responsibility to do, and at the same
10 time take into consideration the impact that it has on the
11 people. And that's why all of us were asked to serve in
12 these roles, because the governor felt that we could sit
13 here and make these kinds of decisions and not be so cold
14 that you don't take the impact that it has on humans.

15 And I feel very good about the fact that
16 we're having these discussions. I feel just as strong
17 though about making sure I'm doing what's expected of me,
18 and that is following the law.

19 CHAIRMAN MATTHEWSON: Any other discussion?
20 We have a motion.

21 COMMISSIONER BRADLEY: No. There's no
22 second.

23 COMMISSIONER JONES: There was no second on
24 that.

25 COMMISSIONER BRADLEY: No second to that --

1 my motion failed too. We have no motion. Right? Isn't
2 that right?

3 COMMISSIONER JONES: Let's try again.

4 COMMISSIONER MERRITT: With that --

5 CHAIRMAN MATTHEWSON: Okay. Let's settle
6 that right now. Legal counsel, do you believe that a
7 motion requires a second?

8 MR. GREWACH: Yes. And this is a funny
9 stage because typically discussion doesn't come until after
10 the second takes place, but we've kind of got a little
11 ahead of the cart by having the discussion before the
12 second. But, yes, this motion is there. At some point in
13 time, the Chairman can declare it died for lack of a
14 second, if he thinks a sufficient time period has passed
15 without a second, but if a second's made --

16 CHAIRMAN MATTHEWSON: See, I always thought
17 that was a chairman's option. If he wanted to get rid of
18 something, he could do it that way.

19 MR. GREWACH: Yeah. I --

20 CHAIRMAN MATTHEWSON: But that's a sneaky
21 way to do it, I think. You know, I don't think --

22 COMMISSIONER MERRITT: I'd say it's almost
23 political.

24 CHAIRMAN MATTHEWSON: I think there's a
25 motion before us whether it's got or not. That's what I

1 believe. But then --

2 COMMISSIONER MERRITT: With a clarification,
3 I would restate my motion --

4 CHAIRMAN MATTHEWSON: All right. We have no
5 motion before us. Everybody agree that's where we are
6 right now? Trying to be fair. State your motion, sir,
7 please.

8 COMMISSIONER MERRITT: My motion is that we
9 approve Resolution No. 11-030.

10 COMMISSIONER HATCHES: Second.

11 CHAIRMAN MATTHEWSON: Okay. Any discussion
12 on that motion?

13 COMMISSIONER HATCHES: I'm all discussed
14 out.

15 CHAIRMAN MATTHEWSON: Yeah.

16 COMMISSIONER MERRITT: We've kicked that dog
17 long enough.

18 CHAIRMAN MATTHEWSON: Call the role, Angie.

19 MS. FRANKS: Commissioner Merritt?

20 COMMISSIONER MERRITT: Approve.

21 MS. FRANKS: Commissioner Hatches?

22 COMMISSIONER HATCHES: Approve.

23 MS. FRANKS: Commissioner Jones?

24 COMMISSIONER JONES: Approve.

25 MS. FRANKS: Commissioner Bradley?

1 COMMISSIONER BRADLEY: Approve.

2 MS. FRANKS: Chairman Matthewson?

3 CHAIRMAN MATTHEWSON: Approve.

4 MS. FRANKS: By your vote you've adopted
5 Resolution No. 11-030.

6 CHAIRMAN MATTHEWSON: Mr. Sauls, this -- one
7 more comment. I hope even though it went against you,
8 okay, for today, I hope you understand the sincerity in
9 which we've done this. I mean, we didn't -- we weren't
10 shotgunning you. Okay? I just want you to understand.
11 Please understand that we were trying to do the right thing
12 here, but stay in the law. Okay?

13 I wish you good luck. I hope you continue
14 where you're headed and that one of these days in the
15 not-too-distant future -- be a long time for you, but for
16 us -- that we see your application back before us for a
17 license.

18 MR. SAULS: Well, I hope with the economy
19 that I can get my job back.

20 CHAIRMAN MATTHEWSON: Okay. Yeah. We all
21 do too.

22 MR. SAULS: I hope I don't lose my house in
23 the meantime.

24 CHAIRMAN MATTHEWSON: Yeah. I understand.
25 I understand. Thank you, sir. Be safe.

1 Okay. Roger -- good discussion, guys. I
2 thought that was worth the time.

3 MR. STOTTLEMYRE: Mr. Chairman, the
4 following consideration -- that will be the Consideration
5 of Hearing Officer Recommendations and Mr. Stephen Stark
6 will present.

7 CHAIRMAN MATTHEWSON: Morning, Steve.

8 MR. STARK: Good morning, Commissioners.
9 Item letter C, Daniel Thiede. Mr. Thiede was a holder of a
10 Level I occupational license. Level I being that he was
11 the Director of Security for a casino.

12 The facts of the case entail a report to the
13 casino's corporate office ethics and compliance hotline
14 when three different phone calls went to the hotline at
15 their corporate headquarters relative to complaints against
16 the licensee. Those complaints consisted of anonymous
17 callers.

18 The first call basically stated that there
19 was an employee -- a different employee of the casino that
20 had abused cocaine on the job site. The caller did say
21 that he, himself or herself, did not observe the use of
22 cocaine at work, but believed that this particular employee
23 was using cocaine regularly.

24 The second phone call related to the same
25 employee that was alleged to have used cocaine on the job,

1 further indicating that he had an altercation or pushed
2 another employee out of his office, supposedly under the
3 influence of cocaine.

4 The third phone call, again, complained
5 about this employee having use of cocaine on the job site.
6 On and off the property was the allegation at that time.
7 And that he -- this employee had drastic mood changes,
8 spent most of his time locked up in the office, and had
9 sinus problems. The allegation in this third anonymous
10 phone call specifically identified the licensee, the
11 Director of Security, knowing of this employee's drug use
12 on the job site.

13 The corporate headquarters submitted these
14 complaints or these hotline calls to the Human Resource
15 director at the casino. The Human Resource person at the
16 casino had a conversation, a meeting, with Mr. Thiede, the
17 licensee, and they concluded that the phone calls on the
18 hotline were, basically, unsubstantiated. So nothing was
19 done from the Human Resource person or from the licensee,
20 as Director of Security.

21 Two employees approached the Gaming
22 Commission officer on the casino to reiterate these
23 complaints that were made to the hotline. The Commission
24 agent conducted an investigation, interviewing former and
25 current employees of the casino, and came to the conclusion

1 that cocaine use on the job site was present, had been
2 present, and that the licensee, as Director of Security,
3 knew or should have known that his employee, one of his
4 supervisees, had used cocaine on the casino.

5 Mr. Thiede denied in the hearing that he had
6 this knowledge. But the weight of the evidence would
7 indicate that he knew this employee well enough, it was a
8 supervisee, they had some off-site socialization, and it
9 was my conclusion that Mr. Thiede was not credible in his
10 own testimony in his denial.

11 The preliminary order made the request of
12 revocation of his license. That is a harsh -- obviously, a
13 very harsh discipline. But given the state of the law with
14 regard to strict regulation, and his burden -- the
15 licensee's burden to present himself by clear and
16 convincing evidence, my conclusion was that revocation was
17 appropriate.

18 In my written recommendation, at the end I
19 do have a typo I'd like to direct the Commission too. I
20 identified him as having a Level II license in my final
21 sentence there, so I would like to correct that. He did
22 have a Level I. He was Director of Security. That
23 necessitated the higher level license.

24 So my recommendation of revocation is,
25 indeed, appropriate.

1 CHAIRMAN MATTHEWSON: Steve, this event
2 occurred June 17, 2009; two years ago?

3 HEARING OFFICER STARK: Those are when the
4 three phone calls went in. So, yes, the events were
5 probably occurring before June of 2009.

6 CHAIRMAN MATTHEWSON: Is he still an
7 employee? Do you know?

8 HEARING OFFICER STARK: At the time of the
9 hearing, no. I think he had been terminated as an
10 employee.

11 CHAIRMAN MATTHEWSON: I'm just always
12 curious about why it takes two years to get something like
13 that processed. Could you shed any light on that for me?

14 HEARING OFFICER STARK: Well, let's see. I
15 guess I could take part of the blame in that --

16 CHAIRMAN MATTHEWSON: Well, take it.

17 HEARING OFFICER STARK: -- scheduled --
18 hearing schedule takes--

19 CHAIRMAN MATTHEWSON: Just kidding.

20 HEARING OFFICER STARK: -- some time. But
21 it looks like the disciplinary action was dated -- the
22 preliminary order was dated June 8, 2010, and we had our
23 hearing in March of 2011. So there was some --

24 CHAIRMAN MATTHEWSON: That was a year before
25 it even started the action then. Okay.

1 HEARING OFFICER STARK: Yeah.

2 COMMISSIONER HATCHES: Didn't we have some
3 other cases, some other related cases with this one?

4 MR. STOTTLEMYRE: Yes, we have.

5 COMMISSIONER HATCHES: So because there was
6 so many people involved with this --

7 MR. STOTTLEMYRE: That's correct.

8 COMMISSIONER HATCHES: So we've had this
9 before us.

10 CHAIRMAN MATTHEWSON: Yeah. Okay.

11 COMMISSIONER HATCHES: We're just getting to
12 this --

13 CHAIRMAN MATTHEWSON: This particular one.
14 Okay.

15 COMMISSIONER MERRITT: Sounded like a bunch
16 of them needed to go to jail when you read all this.

17 CHAIRMAN MATTHEWSON: What do you want?

18 MS. HUTCHISON: Well, I thought I'd shed a
19 little bit of light. This actually --

20 CHAIRMAN MATTHEWSON: Okay. Identify
21 yourself, hon, for the deal there. I know you, but
22 identify yourself.

23 MS. HUTCHISON: Terri Hutchison, Missouri
24 Gaming Commission. Actually, this wasn't reported for a
25 while to our agents. And it wasn't written into the system

1 until October of 2009 when we started investigating it.

2 And then, yes, there was tons of people
3 involved. A lot of investigation had to go into this. And
4 the Commissioners actually heard about this case and they
5 fined the casino back in April of 2010. So, yeah. It has
6 been ongoing. This is the last part of this case, but it
7 was a lot of people involved and trying to get everybody.
8 But it took a while for us to know about it. If that can
9 shed some light.

10 CHAIRMAN MATTHEWSON: Okay. Thanks, Terri.
11 Okay. Any further discussion or questions of Steve on
12 this?

13 (No response.)

14 CHAIRMAN MATTHEWSON: Chair would accept a
15 motion, please. Is Mr. Thiede here?

16 (No response.)

17 COMMISSIONER JONES: Move for the acceptance
18 of Resolution No. 11-044.

19 COMMISSIONER BRADLEY: Second.

20 CHAIRMAN MATTHEWSON: Any discussion?

21 (No response.)

22 CHAIRMAN MATTHEWSON: Call the role, Angie,
23 please.

24 MS. FRANKS: Commissioner Merritt?

25 COMMISSIONER MERRITT: Approve.

1 MS. FRANKS: Commissioner Hatches?

2 COMMISSIONER HATCHES: Approve.

3 MS. FRANKS: Commissioner Jones?

4 COMMISSIONER JONES: Approve.

5 MS. FRANKS: Commissioner Bradley?

6 COMMISSIONER BRADLEY: Approve.

7 MS. FRANKS: Chairman Matthewson?

8 CHAIRMAN MATTHEWSON: Approve.

9 MS. FRANKS: By your vote you've adopted
10 Resolution No. 11-044.

11 HEARING OFFICER STARK: Commissioners, our
12 next case, Item D, Toby Ditterline. Mr. Ditterline is a
13 holder of a Level II occupation license, employed as a
14 tables games manager on the poker floor at the casino.

15 On the date of June 6, 2010, a patron by the
16 name of Vickie Powers (ph.) entered the casino at 6:54 p.m.
17 There's video of her entrance as well as her visit at the
18 casino. In looking at the video, I was able to observe her
19 appearance, and at the entrance of the casino, it did
20 appear that she was staggering and needed assistance in
21 walking.

22 She entered the casino and stayed for about
23 six hours or so -- five hours, I guess. During that time
24 she had at least five shots of liquor and one beer.

25 The observations on video during her game

1 playing did confirm that she had some difficulties playing
2 at the card table. She was swaying in her chair, did not
3 really give attention to the game, had struggles picking up
4 cards, would not guard her cards from observation of
5 others, even flipping over cards on occasions before she
6 really needed to show her cards. Furthermore, when
7 standing or walking, she did have difficulties in
8 maintaining her balance.

9 Mr. Dittliner [sic] was called over to the
10 table by the card dealer at 11:48 p.m. that same date of
11 June 6, 2010. The card dealer indicated that the patron,
12 Ms. Powers, needed to go. The reference being that she was
13 intoxicated. Mr. Ditterline made face-to-face contact with
14 Ms. Powers at the gaming table and did no action
15 whatsoever.

16 The Gaming Commission regulations provide
17 that, A licensed casino is expressly prohibited from the
18 following activities, one being permitting persons who are
19 visibly intoxicated to participate in gaming activities.
20 Furthermore, additionally, the casino itself has internal
21 controls that state that, persons intoxicated or who appear
22 to be intoxicated shall be ejected from the premises. It
23 is the responsibility of casino management in tandem with
24 security to determine if the patron is to be ejected.

25 Mr. Dittline [sic] indicated at the hearing

1 that he did not believe Ms. Powers to be intoxicated. The
2 casino agent testified in his investigation and in the
3 discussion with several employees that they concluded that
4 she was, indeed, intoxicated. And, in fact, this
5 particular patron was a regular patron of the casino and
6 had been escorted off the gaming floor on several occasions
7 before for behavior associated with intoxication.

8 So it appeared to me that everybody but
9 Mr. Ditterline knew that she was intoxicated. So I
10 discounted his testimony and did not find him credible.
11 And my conclusion was that he failed to appropriately
12 monitor the patron, and because of her intoxication, he did
13 not take action to take her off the gaming floor.

14 For that my recommendation would be the same
15 as the Gaming Commission, which was a discipline of a
16 two-calendar-day suspension. That discipline would be more
17 than appropriate.

18 CHAIRMAN MATTHEWSON: Is he still an
19 employee there?

20 MR. GREWACH: I believe he was at the time
21 of the hearing.

22 CHAIRMAN MATTHEWSON: Is he here today?

23 (No response.)

24 CHAIRMAN MATTHEWSON: Well, that's pretty
25 light, seems to me like for that much action. Holy crap.

1 COMMISSIONER MERRITT: Do we know if he has
2 any previous disciplinary actions?

3 HEARING OFFICER STARK: That did not come
4 before me at the hearing, so I don't know.

5 MR. GREWACH: My records indicate he did
6 not.

7 CHAIRMAN MATTHEWSON: He did not.

8 COMMISSIONER MERRITT: First time.

9 COMMISSIONER BRADLEY: And he was a
10 long-term employee; is that right? I mean, I read in here,
11 he said he's been an employee for 13 years?

12 HEARING OFFICER STARK: I believe that's
13 correct, and has a management level position as well.

14 CHAIRMAN MATTHEWSON: Okay. Chair would
15 accept a motion.

16 COMMISSIONER HATCHES: Move for approval of
17 Resolution No. 11-045.

18 COMMISSIONER MERRITT: Second.

19 CHAIRMAN MATTHEWSON: Any discussion?

20 (No response.)

21 CHAIRMAN MATTHEWSON: Call the role, Angie,
22 please.

23 MS. FRANKS: Commissioner Merritt?

24 COMMISSIONER MERRITT: Approve.

25 MS. FRANKS: Commissioner Hatches?

1 COMMISSIONER HATCHES: Approve.

2 MS. FRANKS: Commissioner Jones?

3 COMMISSIONER JONES: Approve.

4 MS. FRANKS: Commissioner Bradley?

5 COMMISSIONER BRADLEY: Approve.

6 MS. FRANKS: Chairman Matthewson?

7 CHAIRMAN MATTHEWSON: Approve.

8 MS. FRANKS: By your vote you've adopted

9 Resolution No. 11-045.

10 CHAIRMAN MATTHEWSON: Stephen.

11 HEARING OFFICER STARK: Next item, E,

12 Salvatore Mandacina. Mr. Mandacina is a holder a Level II
13 occupational license. On June 18, 2010, he was employed as
14 a poker room manager. This particular casino had poker
15 tournaments that were to start at certain times, but the
16 players had to sign up beforehand in order to participate
17 in that particular poker tournament.

18 On June 18, 2010, there was an eleven
19 o'clock poker tournament scheduled. At 9:35 a.m. a female
20 patron registered to play for the eleven o'clock tournament
21 and asked an employee of the casino if she could go ahead
22 and register her daughter to also participate in this poker
23 tournament. The daughter was not present; she was going to
24 come later, in time for the eleven o'clock tournament.

25 The rules are that a person has to register

1 and has to present themselves in person to register, as
2 well as have an unexpired government ID to prove who they
3 are.

4 Mr. Mandacina was observing this lady trying
5 to have her daughter registered. And he -- being the poker
6 room manager, he instructed the other employee to go ahead
7 and register the daughter, who was not present, who had no
8 ID presented on her behalf, to go ahead and allow the
9 daughter to be registered for the eleven o'clock
10 tournament.

11 One purpose with regard to registering
12 before the tournament in person and with proper ID is that
13 the Gaming Commission maintains a list of Disassociated
14 Persons. That is for the purpose of allowing problem
15 gamblers to formally notify the Commission that they do not
16 want to visit the gaming boats anymore. And, in fact, they
17 are excluded from appearance at the casinos.

18 So the casino had this procedure in place
19 that the person who's going to register for a poker
20 tournament would have to be there in person to register, as
21 well as show their ID. Therefore, what Mr. Mandacina did
22 was, as a supervisor, instruct a fellow employee to violate
23 the law, as well as himself.

24 And for that reason the Gaming Commission
25 has suggested that his license be revoked. The evidence

1 also showed that there were some previous disciplinary
2 actions against the licensee as well, less severe, but
3 basically for his lack of attention to compliance.

4 Mr. Mandacina, in the hearing, did admit
5 that he did this. The purpose being to develop good
6 customer relations. He was trying to develop the gaming --
7 or the tournament popularity by having more people
8 participate. And apparently he had known this lady before
9 that wanted her daughter to participate as well. So he was
10 doing a favor for a patron, but at the same time, violated
11 the law in allowing the daughter to be registered.

12 Mr. Mandacina's argument basically revolved
13 around the harshness of the penalty. He did not believe
14 the severity of the violation warranted a revocation.
15 Given past disciplinary actions, given his clear violation
16 of the rules, as well in a supervisory capacity instructing
17 another employee to violate the law, revocation does seem
18 appropriate, and that would be my recommendation.

19 CHAIRMAN MATTHEWSON: Is Mr. Mandacina here?

20 (No response.)

21 CHAIRMAN MATTHEWSON: Okay. Chair would
22 accept a motion.

23 COMMISSIONER HATCHES: Move for acceptance
24 of Resolution 11-046.

25 COMMISSIONER JONES: Second.

1 CHAIRMAN MATTHEWSON: Any discussion?

2 (No response.)

3 CHAIRMAN MATTHEWSON: Call the role, Angie,
4 please.

5 MS. FRANKS: Commissioner Merritt?

6 COMMISSIONER MERRITT: Approve.

7 MS. FRANKS: Commissioner Hatches?

8 COMMISSIONER HATCHES: Approve.

9 MS. FRANKS: Commissioner Jones?

10 COMMISSIONER JONES: Approve.

11 MS. FRANKS: Commissioner Bradley?

12 COMMISSIONER BRADLEY: Approve.

13 MS. FRANKS: Chairman Matthewson?

14 CHAIRMAN MATTHEWSON: Approve.

15 MS. FRANKS: By your vote you've adopted

16 Resolution No. 11-046.

17 HEARING OFFICER STARK: Thank you very much.

18 CHAIRMAN MATTHEWSON: Thanks,
19 Steve. Could we take about a five-minute break there, Mr.
20 Chairman?

21 MR. STOTTLEMYRE: If you say so.

22 (Off the record.)

23 CHAIRMAN MATTHEWSON: We need to get
24 started. Roger, are you ready to roll there?

25 MR. STOTTLEMYRE: Okay. The next item on

1 the agenda is Item IV, which is Consideration of
2 Disciplinary Actions and Mr. Ed Grewach will present.

3 MR. GREWACH: This is directed against
4 Ameristar Casino Kansas City. We have a CSR that states
5 that no occupational licensee may accept a gift or a tip
6 from any patron. We also have internal control standards
7 which say the same thing, and the company adopted its own
8 internal control standard that also says the same thing.

9 In this occasion there were eight Level II
10 licensees that accepted a variety of gifts, from free meals
11 to stay at a hotel room, that are more particularly
12 outlined in your materials. When questioned about that,
13 the focus turned to the casino because all eight of the
14 persons told the investigator that they were under the
15 impression and belief that they could accept these gifts;
16 they just had to report any gifts that were over \$25.

17 Now, that's a rule that specifically
18 pertains only to vendors. Vendors can give gifts, not
19 patrons. And if you get a gift from a vendor over \$25, you
20 have to report that.

21 In addition, when the investigator looked at
22 the preshift meeting checklist, it just said, Remember the
23 holiday time is near and you have to report any gift that's
24 over \$25.

25 In addition to that, two of the participants

1 here of these eight were actually managers that -- who --
2 one was a food and beverage manager, Virginia Summer, and
3 food and beverage manager Stacy Strathmann. And both of
4 them also indicated that it was their understanding that
5 they could accept gifts from patrons; they just had to
6 report them if they were over \$25.

7 So looking at that, it came to Staff's
8 conclusion that it was a training problem, a systemic
9 problem and therefore it's the Staff's recommendation of a
10 \$10,000 fine against the Ameristar Kansas City.

11 CHAIRMAN MATTHEWSON: I'm trying to catch up
12 to you here.

13 COMMISSIONER JONES: Question, Mr. Chairman.

14 CHAIRMAN MATTHEWSON: Sure.

15 COMMISSIONER JONES: Did they report -- I
16 just want to know, did they report that they received this
17 gift, you know, even though they didn't understand that it
18 couldn't -- that there was nothing in there that said -- or
19 their understanding was that it had to be reported and
20 didn't distinguish between patrons and vendors or whatever?

21 But did the people that were involved, the
22 guest -- or the party, did they report that they received a
23 gift of 25 or more? Because if you divide the eight into
24 \$500, that's about 40 bucks.

25 MR. GREWACH: I don't know the answer to

1 that, and I might ask Terri here if she does possibly. But
2 the reporting does give you a certain amount of time. So
3 from the time of the incident, the time of the
4 investigation, the reporting period may not have run yet,
5 but I don't know that for sure either.

6 It was brought to our attention by the --
7 Julie Allen, who is the Director of Regulatory Compliance
8 with the casino and the HR team Relations Manager. And
9 they started the investigation and they reported the
10 investigation to us, which is what they should've done. I
11 mean, that's obviously within the rules, and they complied
12 with that.

13 But, Terri, I don't know if you have any
14 further information about whether the Level IIs reported
15 the gifts themselves.

16 MS. ALONZO: The employees at that time
17 didn't know they were supposed to do this. This is also --
18 what they received was at another casino. They went to
19 another casino -- worked at another casino. So we'll
20 double check. We're going to check right now, but it was
21 my impression when we read the case that they didn't make a
22 claim to have reported because of it being at another
23 property. Oh, Cheryl Alonzo, Missouri Gaming --

24 THE COURT REPORTER: I'm sorry?

25 MS. ALONZO: Cheryl Alonzo.

1 CHAIRMAN MATTHEWSON: Okay. Because I
2 was -- I was having -- you just identified it. I was
3 having a real problem here because it seemed like the act
4 all happened at Harrah's, but we're fining Ameristar.
5 That's why I was --

6 MS. ALONZO: Right.

7 CHAIRMAN MATTHEWSON: -- kind of confused
8 about why and how that all happened, but --

9 MS. ALONZO: They were patrons at both
10 casinos.

11 CHAIRMAN MATTHEWSON: Okay.

12 COMMISSIONER JONES: Again, another
13 question. Have they gone through -- since this event
14 happened, have they gone through some type of retraining so
15 that everyone understands the rule of statute?

16 MR. GREWACH: That I don't know. Terri, do
17 you have any information on whether there's been any
18 remedial measures taken?

19 MS. HUTCHISON: I don't know if they have.
20 We'd have to check with Ameristar.

21 CHAIRMAN MATTHEWSON: Who are we checking
22 with right now, Terri? What are we checking on?

23 MS. HUTCHISON: On -- with what? Oh, Cheryl
24 Alonzo?

25 CHAIRMAN MATTHEWSON: Yeah.

1 MS. HUTCHISON: She's checking to see if the
2 employees wrote it down on a gift log. They would have to
3 write it down on a gift log that they received this gift.

4 CHAIRMAN MATTHEWSON: Okay.

5 MS. HUTCHISON: As far as we knew, that they
6 did not. She said it was not wrote on the gift log, that
7 they did not report it. But, again, from the report, it
8 was understood they didn't feel like they had to report it.

9 COMMISSIONER JONES: Because they were at
10 another property.

11 MS. HUTCHISON: It happened at another
12 casino.

13 COMMISSIONER JONES: Okay.

14 MR. GREWACH: Just to clarify in case
15 there's -- but these Level IIs were employees of Ameristar
16 Kansas City, and that's the reason the discipline's
17 directed at that particular casino, not the casino where
18 the hotel room was or the meals were eaten. It's just a
19 blanket prohibition against accepting any gifts from
20 patrons.

21 And we just felt that, in the investigation,
22 there was a severely inadequate training by the Ameristar
23 for their employees where even the written documents, their
24 managers, and their -- their servers and bartenders and
25 other, you know, line-level employees, none of them

1 professed to know that that was the rule.

2 COMMISSIONER HATCHES: If we approve this
3 and accept the \$10,000 fine recommendation, do we have any
4 authority to have a conversation with them about the
5 importance of reiterating to employees -- to Mr. Jones
6 point -- reiterating to employees this policy? Or do we
7 just fine them and we'll see this again?

8 MR. GREWACH: Well, there's certainly
9 nothing to prohibit us from sending them a letter saying,
10 We fined you and we expect you to fix this problem in the
11 future. But we can't take additional disciplinary action
12 for this event once we adopt this resolution.

13 COMMISSIONER HATCHES: I just think whatever
14 we can do to make sure there's some notice on record that,
15 Not only are we fining you, but this is something that they
16 need to pay attention to and reiterate to employees. So if
17 we have another case, I don't want to look at that for
18 anything other than what it should be, and that is, you
19 know, a blatant disregard, after having been warned and
20 fined, to do it again. Because this could happen again if
21 the employees -- they're given this kind of information and
22 not aware of it, it could happen again.

23 MR. GREWACH: I agree.

24 CHAIRMAN MATTHEWSON: Do we have any record
25 that indicates that this sort -- that we've fined other for

1 this same type of an act? Because I -- you know, I'm
2 getting old, so my memory's isn't always 100 percent on all
3 these things.

4 But I -- but, you know, it just seems -- you
5 know, I think we all, as Commissioners, kind of try to put
6 ourselves in some of these situations and look at that from
7 what our thought would've been. And I can see how those
8 employees would've thought that, to be honest with you.
9 Particularly -- it goes back to what two Commissioners have
10 said, I guess. Maybe we were lacking -- the casino was
11 lacking in making sure that the employees understood that.
12 You know, I -- that's the fault, I guess, that we're
13 looking at, isn't it?

14 MR. GREWACH: It is. That was certainly the
15 Staff's evaluation of the investigation. As a matter of
16 fact, we didn't take any action against the employees
17 because we believe, in the written documents and what they
18 all said consistently among all eight of them, that they
19 were told that this was proper. And that's why we
20 recommended the fine directly to the casino.

21 CHAIRMAN MATTHEWSON: Any of the
22 Commissioners have a problem if we ask some information
23 here from a representative of Ameristar? That's who you
24 were --

25 MR. BLOCK: Matthew Block with Ameristar.

1 CHAIRMAN MATTHEWSON: Yeah. Anybody have a
2 problem with that?

3 (No response.)

4 CHAIRMAN MATTHEWSON: Okay.

5 MR. BLOCK: Just to answer your concern
6 about whether or not the employees were trained on this, we
7 did submit a letter once we were made aware of this
8 situation of this proposed disciplinary action. On
9 June 2nd we sent a letter to Mr. Seaburg which outlined all
10 the training that we've done. Going back to -- the first
11 or at least to the most recent was October 31, 2007;
12 another, December of 2008; December 2009, November 2010; so
13 on and on; March of 2011; and on and on and on. All the
14 different times which the employees were told of this
15 policy, that they could not accept gifts from guests.

16 So how these eight people didn't know about
17 that, you know, I wouldn't know based on, you know, seven
18 or eight times, at least on the annual basis, that they
19 were reminded of the policy.

20 COMMISSIONER HATCHES: Can I ask a question?
21 Do you have any idea why a supervisor or manager would've
22 led them to believe something different?

23 MR. BLOCK: You know, again, I mean, same
24 whether or not they didn't pay attention to the updates,
25 you know, and unfortunately, that happens. But I don't

1 know that you would call it systemic in that -- you know
2 that this was something that was brought to mind for us as
3 a company, that we reiterated to our employees. But with,
4 you know, 2,700 employees, you know, apparently, you know,
5 there are times when I think people don't realize what's in
6 front of them, unfortunately, or don't remember it. I
7 can't speak to that manager in particular.

8 COMMISSIONER MERRITT: Question.

9 CHAIRMAN MATTHEWSON: Yes, sir.

10 COMMISSIONER MERRITT: In the personnel
11 records of these individuals, would it reflect if they had
12 received training on --

13 MR. BLOCK: Yes. There were some -- I
14 believe that there were some times when they actually did
15 sign an acknowledgement form, I believe. I can double
16 check. I apologize. I was trying to scan through it real
17 quick.

18 COMMISSIONER MERRITT: When they're first
19 hired, are they provided that training where it would be
20 reflected that they did hear and know that?

21 MR. BLOCK: Yes.

22 COMMISSIONER MERRITT: Sounds like a
23 conspiracy of eight. I don't know and you don't know.

24 COMMISSIONER JONES: Yeah.

25 COMMISSIONER BRADLEY: Are they going to

1 have any disciplinary action taken against them?

2 CHAIRMAN MATTHEWSON: That probably depends
3 on what action we take right here, whether the casino's
4 going to go back and do that. Right?

5 MR. GREWACH: The eight persons that we
6 identified, again, we felt it was consistent, you know --
7 we believed they were telling the truth, from the
8 interviewer who saw them personally. So we took no action
9 against them, under the belief that they were doing exactly
10 what they were told and believed was the proper thing to
11 do. Now, I believe the casino, themselves, terminated
12 three of the Level IIs that I know of.

13 COMMISSIONER HATCHES: And it was out of
14 this case?

15 MR. GREWACH: Out of this case. Correct.
16 That's the information I have. I don't know if there have
17 been more that have been disciplined by the casino itself,
18 but that's what my records indicate.

19 COMMISSIONER MERRITT: When you reviewed
20 this case, did you look at the records that he's indicating
21 here of when they received training that they would have
22 known this?

23 MR. BLOCK: I can leave this with you if you
24 like. I apologize. I only have one copy. I assumed you
25 would have had this ahead of time.

1 CHAIRMAN MATTHEWSON: Well, I think that's
2 the question, isn't it, Jack, whether or not we did have
3 that information.

4 COMMISSIONER MERRITT: Ed, was this looked
5 at before your decision was made, or your predecessor's
6 decision, whoever made it?

7 MR. GREWACH: Yeah. My predecessor --

8 COMMISSIONER MERRITT: We'll blame it on
9 him.

10 MR. GREWACH: This came in on June the 1st,
11 2011. In this course, as y'all know the process, we sent a
12 14-day, you know, letter of our intent to discipline, and
13 then this soon came in response to that 14-day letter. And
14 so I can't tell you definitely that the DRB went back and
15 looked at that. I don't know if it got back on DRB agenda
16 or not, but -- I mean, this was in our possession prior to
17 tonight.

18 Occasionally we'll get a response to the
19 14-day letter and reconvene DRB and present it to them.
20 Or maybe even reverse our position and say, ell, now that
21 you show me that -- but apparently, you know, the
22 information on this letter wasn't sufficient to cause us to
23 reverse our position.

24 CHAIRMAN MATTHEWSON: Or you didn't read it.
25 I mean, seriously. I wasn't being negative there, Ed. I

1 just -- you know, sometimes we get caught up in our own
2 paperwork.

3 COMMISSIONER MERRITT: As you're being made
4 aware of that, does that change your attitude on this any?

5 MR. GREWACH: Honestly, I'd have really
6 reread it and see --

7 CHAIRMAN MATTHEWSON: Well, why don't we
8 give you a chance to do that? I mean, I --

9 MR. STOTTLEMYRE: Mr. Chairman?

10 CHAIRMAN MATTHEWSON: Seriously. Yes, sir.

11 MR. STOTTLEMYRE: I can say that those are
12 always reviewed. We ask for those letters, if they want to
13 send them back in, and they are reviewed whenever we get
14 them back in. Sometimes we feel like there's not enough
15 there to even go back to the DRB. Sometimes it goes back
16 to DRB for further review. As Ed has said, sometimes it
17 causes us to completely change our mind on what direction
18 we are going.

19 However, after receiving this and after
20 looking at all the investigation that we did have, it was
21 the feeling of the DRB that we had the proper discipline in
22 place.

23 MR. GREWACH: And I have to apologize to the
24 Commission because this came right at the transition. This
25 came right when I was --

1 CHAIRMAN MATTHEWSON: I understand, Ed. I
2 understand. We've had a difficult time trying to keep one
3 of you lawyers on board for any long period of time around
4 here. I don't know what the deal is. Maybe we ought raise
5 your salary or something, or maybe not.

6 MR. GREWACH: That's a motion that wouldn't
7 require a second.

8 CHAIRMAN MATTHEWSON: Mr. Executive
9 Director, are you suggesting, sir, with your previous
10 comment that you believe that this letter did not have a
11 bearing on the case?

12 MR. STOTTLEMYRE: I think it was discussed,
13 it was looked at; however, the Disciplinary Review Board
14 and the Staff believed that we have the proper penalty
15 attached here.

16 CHAIRMAN MATTHEWSON: I've not knowingly
17 voted against my Executive Director. Chair would accept a
18 motion. Is there a motion?

19 COMMISSIONER JONES: Move for the acceptance
20 of DC-11-202.

21 COMMISSIONER BRADLEY: Second.

22 CHAIRMAN MATTHEWSON: Any further
23 discussion?

24 (No response.)

25 CHAIRMAN MATTHEWSON: Call the role, Angie,

1 please.

2 MS. FRANKS: Commissioner Merritt?

3 COMMISSIONER MERRITT: Approve.

4 MS. FRANKS: Commissioner Hatches?

5 COMMISSIONER HATCHES: Approve.

6 MS. FRANKS: Commissioner Jones?

7 COMMISSIONER JONES: Approve.

8 MS. FRANKS: Commissioner Bradley?

9 COMMISSIONER BRADLEY: Approve.

10 MS. FRANKS: Chairman Matthewson?

11 CHAIRMAN MATTHEWSON: Approve.

12 MS. FRANKS: By your vote you've adopted

13 DC-11-202.

14 MR. GREWACH: Under tab G is proposed
15 preliminary order of discipline against Bally Technologies,
16 which involves software, which I don't really know a lot
17 about. Except that we do have a CSR that requires anyone
18 with a supplier's license, which Bally fits that
19 description, to notify us of any malfunction or anomaly in
20 the software within 48 hours.

21 The investigation revealed that Bally failed
22 to report that within that time frame. And Todd Nelson is
23 here, who can really give you any specific answers to
24 technical questions concerning what that malfunction was
25 and how it might have affected the game play. But it is

1 the Staff's recommendation that a fine of \$15,000 be
2 imposed.

3 CHAIRMAN MATTHEWSON: Okay. You want to
4 tell us something?

5 MR. NELSON: On this --

6 CHAIRMAN MATTHEWSON: Identify --

7 MR. NELSON: Todd Nelson, Gaming Enforcement
8 Manager. On this particular situation, there's an upgrade
9 that occurred in one of the properties, and Bally knowingly
10 installed software which had a deficiency. The end result
11 was, is that games on the casino floor were not
12 communicating door alarms. The problem with that --

13 CHAIRMAN MATTHEWSON: Were not communicating
14 what?

15 MR. NELSON: Were not communicating door
16 alarms.

17 CHAIRMAN MATTHEWSON: Oh, okay.

18 MR. NELSON: So what that means is, is if
19 anybody went up to the game and opened the door, or even
20 got into the cash can, surveillance would not be notified
21 of this problem. That's where the problem resides on this
22 situation.

23 CHAIRMAN MATTHEWSON: Okay. Any questions
24 on that?

25 (No response.)

1 CHAIRMAN MATTHEWSON: Okay. Chair would
2 accept a motion.

3 COMMISSIONER HATCHES: Move for approval of
4 DC-11-203.

5 COMMISSIONER BRADLEY: Second.

6 CHAIRMAN MATTHEWSON: Any discussion?

7 (No response.)

8 CHAIRMAN MATTHEWSON: Call the role, Angie,
9 please.

10 MS. FRANKS: Commissioner Merritt?

11 COMMISSIONER MERRITT: Approve.

12 MS. FRANKS: Commissioner Hatches?

13 COMMISSIONER HATCHES: Approve.

14 MS. FRANKS: Commissioner Jones?

15 COMMISSIONER JONES: Approve.

16 MS. FRANKS: Commissioner Bradley?

17 COMMISSIONER BRADLEY: Approve.

18 MS. FRANKS: Chairman Matthewson?

19 CHAIRMAN MATTHEWSON: Approve.

20 MS. FRANKS: By your vote you've adopted
21 DC-11-203.

22 MR. GREWACH: Under tab H we have a proposed
23 order of disciplinary action against Lumiere Casino. This
24 involved an underage patron who was 19 years old entering
25 the casino with a fake ID. This particular patron entered

1 the ID on -- entered the casino, rather, on four different
2 occasions using the ID.

3 Now, the ID did -- was similar to his
4 physical appearance and there were four individuals with
5 Lumiere who did check the ID. They were all security
6 officers. And I'd have to double check the records, but
7 from memory I think they were all at the turnstiles.

8 What focused this attention on the casino
9 itself and recommending a fine was that there were 23
10 separate employees who had some transaction with this 19
11 year old, who never asked to check the ID. And that
12 involved people serving him beer, allowing him to play in
13 the poker room, and -- you know, and various persons that
14 dealt -- basically, he did consume alcohol and play poker.
15 Those were his two main activities while he was in there.

16 And we just felt, you know, with -- that
17 it's the obligation of every employee, you know, to check
18 someone who looks that young, 19, fake ID or no fake ID,
19 and they just simply weren't checked. And given the vast
20 number of times that occurred, we, again, felt that
21 indicated a systemic problem here.

22 And also, you'll see in the packet, you
23 know, prior cases of minors on a casino floor, and those
24 two facts together had led the Staff to recommend to the
25 Commission a fine of \$25,000.

1 CHAIRMAN MATTHEWSON: Any questions?

2 COMMISSIONER BRADLEY: May I ask a question?

3 CHAIRMAN MATTHEWSON: Sure.

4 COMMISSIONER BRADLEY: How did they find
5 out, after he went through 23 people not asking him?

6 MR. GREWACH: I believe that there was a
7 security shift supervisor who received a text message that
8 there was a minor named Nathan Smith on the casino floor
9 using a fake ID. And so then, they went backwards to get a
10 facebook photograph of that person, and then conducted
11 surveillance to find him on the floor.

12 And then through the VeriDoc system, were
13 able to establish the four other -- three other entries,
14 you know, that -- when he came there and tracked him
15 through, surveillanced all his activities. So it was a
16 very thorough investigation, but it all stemmed from an
17 anonymous tip that was received on a text message by one of
18 the security officers, who then reported it to us, that
19 then started the investigation.

20 When our investigator met with the minor,
21 there was subtle differences in the appearance, but really
22 we can't say, you know, just a striking difference. You
23 know, the ID showed a person with a slightly curved nose to
24 his left, where ours was curved to his right. The eyes
25 were hazel in one and blue in the other.

1 I mean, it was really -- it wasn't so much
2 the differences in the ID, it was, I guess, in our view the
3 fact that you have a 19 year old walking around a casino
4 dealing with 23 different people who don't ever ask for an
5 ID.

6 Now, if all 23 had asked for an ID, we might
7 be able to say, well, yeah, they all checked and, you
8 know -- I mean, you can kind of excuse them because there
9 was pretty similar -- you know, a pretty good ID -- pretty
10 good fake ID. But it's the lack of checking, I think, that
11 really struck us as the problem here.

12 As a matter of fact, the -- we took no
13 action against the four security officers who checked the
14 ID because we have something specifically in our CSRs to
15 say that they can rely on an ID, you know, if they check
16 it, if it's sufficiently similar to the appearance of the
17 person presenting it.

18 CHAIRMAN MATTHEWSON: Any other questions?

19 (No response.)

20 CHAIRMAN MATTHEWSON: Chair would accept a
21 motion, please.

22 COMMISSIONER MERRITT: I make a motion that
23 we approve DC-11-204.

24 COMMISSIONER BRADLEY: Second.

25 CHAIRMAN MATTHEWSON: Any discussion?

1 (No response.)

2 CHAIRMAN MATTHEWSON: Call the role, Miss
3 Angie, please.

4 MS. FRANKS: Commissioner Merritt?

5 COMMISSIONER MERRITT: Approve.

6 MS. FRANKS: Commissioner Hatches?

7 COMMISSIONER HATCHES: Approve.

8 MS. FRANKS: Commissioner Jones?

9 COMMISSIONER JONES: Approve.

10 MS. FRANKS: Commissioner Bradley?

11 COMMISSIONER BRADLEY: Approve.

12 MS. FRANKS: Chairman Matthewson?

13 CHAIRMAN MATTHEWSON: Approve.

14 MS. FRANKS: By your vote you've adopted
15 DC-11-204.

16 MR. GREWACH: Next we have, under tab I, a
17 preliminary order of discipline against Lumiere. We also
18 have under tab J a similar preliminary order against River
19 City. And I'd like for the sake of economy of time to talk
20 about them both at once because it was really one promotion
21 that was going on simultaneously at both facilities. So
22 instead of repeating them -- repeating J under what said in
23 I, with the Chairman's permission, I'd just like to talk about
24 both at once.

25 CHAIRMAN MATTHEWSON: That's fine. Do that.

1 MR. GREWACH: The promotion was to give
2 away -- and both, obviously, properties are owned by
3 Pinnacle. They're both sister properties. The promotion
4 was to give away 60 3D TVs. And this promotion was going
5 on, again, at both casinos. You had to have a My Choice
6 card and you had to be playing at that casino at the time
7 the promotion was going on.

8 While you're playing they would call your
9 name and you had five minutes to report to a specific
10 location in the casino, report in, and then you got your
11 TV. If the five minutes came and went, they would then
12 scratch you off the list and call another name.

13 As they started calling names, it became
14 clear to some of the people that were there, because they
15 knew of people who were at the other facility who they
16 heard their names called. So, for example, you know, you
17 have a player playing at Lumiere and his name was called at
18 River City. So a friend of his at River City said, Well, I
19 know that guy; he's over at Lumiere.

20 And a couple of those instances happened
21 and, of course, got reported to us. It was vice versa.
22 Somebody might be playing at River City and their name gets
23 called at Lumiere. And, obviously, they have no way to
24 report to the kiosk in five minutes because they're however
25 far away that they are. There were 17 people that this

1 applied to.

2 Now, you'll see in our recommendation, we're
3 recommending a \$5,000 fine to each casino. And, you know,
4 given past events, you know, I'd have to say really, I
5 think, that recommendation would've been higher, except
6 when you look at the action of Michael Parker, who was the
7 promotions manager.

8 When he was made aware of this problem, he
9 then instructed his employees to manually check everytime a
10 name was played where that player was playing. So it was a
11 software problem. It was a problem where the software
12 wasn't recognizing where the players were playing. So
13 then, he went back and manually -- had his people manually
14 check that and then would call to the appropriate casino
15 then.

16 If the computer kicked out that this person
17 was playing at Lumiere, a manual check showed them at River
18 City, he'd call River City and say, Call John Doe, you
19 know, tell him he's been picked, and went from there. And
20 that seemed to, prospectively, once he took that corrective
21 measure, fix it. He also went back and gave 17 televisions
22 to persons, you know, who were the 17 whose names weren't
23 called.

24 Staff still felt that discipline was
25 necessary because, you know, in spite of the fact that you

1 could say those 17 persons were made whole, they really
2 went to a promotion and then, you know, had to go to the
3 difficulty of going back at another time to claim their
4 prize. And, you know, it was just -- the promotion was not
5 run as represented.

6 And so therefore it is, again, -- I know the
7 Commission has to take them up separately, but in both I
8 and J the recommendation of the Staff that the fine be
9 imposed in the sum of \$5,000 each.

10 CHAIRMAN MATTHEWSON: It would make you
11 wonder whether or not that was a good idea to do them both
12 at the same time, I would guess. You know, because I --
13 you know, that makes all the sense how that got -- you
14 know, that something went wrong there, you know, where they
15 were doing that, and the whole purpose was to draw people
16 there. If you only had, what, five minutes to get there or
17 something?

18 MR. GREWACH: Correct. That's the entire
19 idea is they wanted them on our gaming floor and --

20 CHAIRMAN MATTHEWSON: Sure. You want them
21 onboard.

22 MR. GREWACH: -- hoping that your name gets
23 called.

24 COMMISSIONER HATCHES: Mr. Chairman?

25 CHAIRMAN MATTHEWSON: Yes, sir.

1 COMMISSIONER HATCHES: I was not comfortable
2 with the amount in the recommended fine, so I appreciate
3 the information you shared about the fact that they did go
4 back and give those 17 people televisions, because I didn't
5 see that. With that understanding, I'm comfortable with
6 your recommendation.

7 COMMISSIONER JONES: Ed, I have a question.

8 MR. GREWACH: Sure.

9 COMMISSIONER JONES: Was it installed
10 software or was it a glitch on the operator's end, that the
11 two systems weren't communicating?

12 MR. GREWACH: Todd has the answer.

13 MR. NELSON: On this particular situation,
14 it had to do with their slide counting system. A certain
15 module inside that slide counting system was
16 malfunctioning. So they instituted these manual procedures
17 until they can get an update done.

18 CHAIRMAN MATTHEWSON: Any other questions?

19 (No response.)

20 CHAIRMAN MATTHEWSON: I think we've got to
21 vote those separate though, don't you?

22 MR. STOTTLEMYRE: Yes.

23 CHAIRMAN MATTHEWSON: Okay. Chair would
24 accept a motion on 11-205, first, please.

25 COMMISSIONER HATCHES: Move for approval of

1 CD-11-205.

2 COMMISSIONER JONES: Second.

3 CHAIRMAN MATTHEWSON: Any discussion?

4 (No response.)

5 CHAIRMAN MATTHEWSON: Call the role, Angie,
6 please.

7 MS. FRANKS: Commissioner Merritt?

8 COMMISSIONER MERRITT: Approve.

9 MS. FRANKS: Commissioner Hatches?

10 COMMISSIONER HATCHES: Approve.

11 MS. FRANKS: Commissioner Jones?

12 COMMISSIONER JONES: Approve.

13 MS. FRANKS: Commissioner Bradley?

14 COMMISSIONER BRADLEY: Approve.

15 MS. FRANKS: Chairman Matthewson?

16 CHAIRMAN MATTHEWSON: Approve.

17 MS. FRANKS: By your vote you've adopted

18 DC-11-205.

19 CHAIRMAN MATTHEWSON: Now Chair would accept
20 a motion on 206, please.

21 COMMISSIONER HATCHES: Move for the
22 acceptance of DC-11-206.

23 COMMISSIONER BRADLEY: Second.

24 CHAIRMAN MATTHEWSON: Any discussion?

25 (No response.)

1 CHAIRMAN MATTHEWSON: Call the role, please.

2 MS. FRANKS: Commissioner Merritt?

3 COMMISSIONER MERRITT: Approve.

4 MS. FRANKS: Commissioner Hatches?

5 COMMISSIONER HATCHES: Approve.

6 MS. FRANKS: Commissioner Jones?

7 COMMISSIONER JONES: Approve.

8 MS. FRANKS: Commissioner Bradley?

9 COMMISSIONER BRADLEY: Approve.

10 MS. FRANKS: Chairman Matthewson?

11 CHAIRMAN MATTHEWSON: Approve.

12 MS. FRANKS: By your vote you've adopted

13 DC-11-206.

14 MR. GREWACH: Under tab K we have a

15 preliminary order of disciplinary action against the

16 Missouri Gaming Company, which operates the Argosy

17 Riverside Casino. We have a CSR that states that a

18 licensee shall not reduce the amount displayed on a

19 progressive jackpot, unless it distributes the amount to

20 another progressive jackpot within 30 days.

21 And here, those guidelines were not followed

22 and the transfer of the progressive jackpot did not occur

23 within the 30 days as required. They missed the deadline.

24 And it's the Staff's recommendation that a fine of \$5,000

25 be imposed.

1 CHAIRMAN MATTHEWSON: Any questions of Ed on
2 this?

3 COMMISSIONER MERRITT: I assume this has
4 been corrected and all is well?

5 MR. GREWACH: Yes.

6 CHAIRMAN MATTHEWSON: Any other questions?

7 (No response.)

8 CHAIRMAN MATTHEWSON: Chair would accept a
9 motion, please.

10 COMMISSIONER BRADLEY: Motion to approve
11 DC-11-207.

12 COMMISSIONER MERRITT: Second.

13 CHAIRMAN MATTHEWSON: Any discussion?

14 (No response.)

15 CHAIRMAN MATTHEWSON: Call the role, please.

16 MS. FRANKS: Commissioner Merritt?

17 COMMISSIONER MERRITT: Approve.

18 MS. FRANKS: Commissioner Hatches?

19 COMMISSIONER HATCHES: Approve.

20 MS. FRANKS: Commissioner Jones?

21 COMMISSIONER JONES: Approve.

22 MS. FRANKS: Commissioner Bradley?

23 COMMISSIONER BRADLEY: Approve.

24 MS. FRANKS: Chairman Matthewson?

25 CHAIRMAN MATTHEWSON: Approve.

1 MS. FRANKS: By your vote you've adopted
2 DC-11-207.

3 CHAIRMAN MATTHEWSON: Roger?

4 MR. STOTTLEMYRE: Mr. Chairman, the Item V
5 on the agenda, Consideration of Extension of Licensure of
6 Certain Suppliers, and under tab L is Bally Technologies,
7 which would cause their extension to expire October 31,
8 2011. There is continuing investigation going on, on
9 these -- on both of these licensures that we're asking for
10 an extension.

11 CHAIRMAN MATTHEWSON: Okay. So Bally's,
12 which is the one that's before us, it expires when?

13 MR. STOTTLEMYRE: It will expire on October
14 31 of 2011 with our extension.

15 CHAIRMAN MATTHEWSON: Yes. That's what
16 we're voting on, is an extension.

17 MR. STOTTLEMYRE: Yes, sir.

18 CHAIRMAN MATTHEWSON: And it expires when?
19 Like, it already has or --

20 MR. STOTTLEMYRE: I believe it's the 31st of
21 this month.

22 CHAIRMAN MATTHEWSON: Of July?

23 MR. STOTTLEMYRE: Yes, sir.

24 CHAIRMAN MATTHEWSON: Okay.

25 MR. STOTTLEMYRE: I don't have that -- yes,

1 it is.

2 CHAIRMAN MATTHEWSON: Okay. So we're giving
3 them a four-month, I guess --

4 COMMISSIONER JONES: No, three months.

5 CHAIRMAN MATTHEWSON: Three months.

6 September, October --

7 COMMISSIONER MERRITT: August.

8 CHAIRMAN MATTHEWSON: Three months, yeah.

9 Three-month extension.

10 MR. STOTTLEMYRE: Yes, sir.

11 CHAIRMAN MATTHEWSON: Okay.

12 COMMISSIONER MERRITT: Should we have some
13 clarification that it will not extend past that without
14 our -- I mean, there won't be another extension. Does that
15 need to be --

16 CHAIRMAN MATTHEWSON: I don't know how you
17 would --

18 MR. STOTTLEMYRE: I don't know that there
19 would need to be. I mean, that would be a decision you
20 could make whenever the licensure comes up in October, if
21 that answers your question.

22 COMMISSIONER MERRITT: I just want them to
23 be aware that this is a --

24 MR. STOTTLEMYRE: We're not doing further
25 extensions.

1 COMMISSIONER MERRITT: Yeah. This is --
2 just keep rolling that can down the road.

3 CHAIRMAN MATTHEWSON: Go ahead. You get the
4 big bucks.

5 MR. STOTTLEMYRE: They will be made aware of
6 that and we will have -- we do have a discipline case
7 coming up on these licensees. There might be further
8 discussion at that time.

9 CHAIRMAN MATTHEWSON: You two former Highway
10 Patrolman -- did that answer your question, Jack?

11 COMMISSIONER MERRITT: Yeah. I just want
12 them to know that this is the end of the road. Yeah.

13 CHAIRMAN MATTHEWSON: Yeah. He was on the
14 Patrol, wasn't he. Okay. Jump in, Bill, if you've got --
15 Okay. We have a resolution there. Anybody make a motion
16 on the extension of this license until October 31, further
17 investigation.

18 COMMISSIONER HATCHES: I move approval of
19 Resolution No. 11-047.

20 COMMISSIONER BRADLEY: Second.

21 CHAIRMAN MATTHEWSON: Any discussion?

22 (No response.)

23 CHAIRMAN MATTHEWSON: Call the role, Angie,
24 please.

25 MS. FRANKS: Commissioner Merritt?

1 COMMISSIONER MERRITT: Approve.

2 MS. FRANKS: Commissioner Hatches?

3 COMMISSIONER HATCHES: Approve.

4 MS. FRANKS: Commissioner Jones?

5 COMMISSIONER JONES: Approve.

6 MS. FRANKS: Commissioner Bradley?

7 COMMISSIONER BRADLEY: Approve.

8 MS. FRANKS: Chairman Matthewson?

9 CHAIRMAN MATTHEWSON: Approve.

10 MS. FRANKS: By your vote you've adopted
11 Resolution No. 11-047.

12 MR. STOTTLEMYRE: Mr. Chairman, under tab M
13 is the other resolution, 11-048. This would also extend
14 their license until October 31, 2011.

15 CHAIRMAN MATTHEWSON: Any discussion?

16 (No response.)

17 CHAIRMAN MATTHEWSON: Chair would accept a
18 motion.

19 COMMISSIONER BRADLEY: Motion to approve
20 Commission Resolution No. 11-048.

21 COMMISSIONER JONES: Second.

22 CHAIRMAN MATTHEWSON: Any discussion?

23 (No response.)

24 CHAIRMAN MATTHEWSON: Call the role, Ang,
25 please.

1 MS. FRANKS: Commissioner Merritt?

2 COMMISSIONER MERRITT: Approve.

3 MS. FRANKS: Commissioner Hatches?

4 COMMISSIONER HATCHES: Approve.

5 MS. FRANKS: Commissioner Jones?

6 COMMISSIONER JONES: Approve.

7 MS. FRANKS: Commissioner Bradley?

8 COMMISSIONER BRADLEY: Approve.

9 MS. FRANKS: Chairman Matthewson?

10 CHAIRMAN MATTHEWSON: Approve.

11 MS. FRANKS: By your vote you've adopted

12 Resolution No. 11-048.

13 MR. STOTTLEMYRE: Mr. Chairman, Item VI is

14 Consideration of Rulemaking. Ms. Terri Hutchison will

15 present.

16 MS. HUTCHISON: Good morning. Behind tab N

17 you will find one proposed rule, 11 CSR 45-5.200,

18 Progressive Slot Machines. This amendment makes a

19 clarification to the reconciliation process to the

20 progressives. A comment period for these rules will run

21 from September 1 through September 31 [sic], with a public

22 hearing date set for October 19, 2011.

23 CHAIRMAN MATTHEWSON: Terri?

24 MS. HUTCHISON: Yes.

25 CHAIRMAN MATTHEWSON: Is that -- the

1 resolution that we just passed previously, about the fact
2 that they moved a progressive machine without moving the
3 money to another progressive machine, does that have
4 anything to do with what we're doing here?

5 MS. HUTCHISON: From my -- I don't think
6 so.

7 MR. PRESTON: Blaine Preston, Missouri
8 Gaming Commission. No, it does not. They're separate --

9 CHAIRMAN MATTHEWSON: Totally separate
10 issues.

11 MR. PRESTON: Correct.

12 CHAIRMAN MATTHEWSON: Okay. So all we're
13 doing here is, as a proposed amendment, is allowing you
14 further -- giving you time to develop a rule on changing
15 what? The way the progressive slots work or --

16 MS. HUTCHISON: Cheryl Alonzo.

17 CHAIRMAN MATTHEWSON: How are we doing it,
18 Cheryl? I'm sorry. I don't mean to get confusing here,
19 but --

20 MS. ALONZO: Cheryl Alonzo, Missouri Gaming
21 Commission.

22 CHAIRMAN MATTHEWSON: Yeah. A shorter
23 version. Yeah.

24 MS. ALONZO: We have just revised this rule
25 because it had not been revised to compensate for the fact

1 that jackpots now are -- machines were locking up at 1,200,
2 so we had revised the rule, and using it daily realized
3 that there was some clarification. We were still getting
4 questions. The casinos weren't really sure, you know -- it
5 wasn't all clear.

6 So this is kind of cleaning this rule up,
7 covering those questions to clarify for them what's
8 expected, and to make sure -- there was also an exception
9 that was put in there, the game stop communicating, that
10 those don't have to be reconciled. But depending on how
11 you look at it, that would mean every progressive in
12 Missouri would be pretty much undermining the rule
13 altogether, so we need to get that fixed. So that's
14 basically all it is.

15 CHAIRMAN MATTHEWSON: Okay. So what we're
16 doing with this amendment is, okay, reevaluating that
17 situation so we make sure we understand, really, what the
18 rule is. Okay. Now, you said -- you used the term Locked
19 down, 1,200." What are you saying? That the IRS code
20 because \$1,200 has to be reported?

21 MS. HUTCHISON: Yeah. Once you have
22 ticketing -- once we had ticketing, they could pay.
23 Something that used to lock up the machine, an \$800 jackpot
24 would lock up the machine years ago. But now, that you're
25 ticketing, you really -- you can pay by the machine for an

1 \$800 jackpot or a \$700 jackpot.

2 CHAIRMAN MATTHEWSON: Okay. Right.

3 MS. HUTCHISON: It's only once it gets to
4 1,200 that it locks up, but if you don't know what jackpots
5 have occurred because the machine did not lock up, you
6 can't reconcile that progressive.

7 CHAIRMAN MATTHEWSON: Okay. Okay. I think
8 I understand that. Okay. Thank you. Okay. Any other
9 questions on that proposed amendment?

10 (No response.)

11 CHAIRMAN MATTHEWSON: Chair would accept a
12 consideration of that, 45-5.200.

13 COMMISSIONER MERRITT: I'd move for approval
14 11 CSR 45-5.200.

15 COMMISSIONER JONES: Second.

16 CHAIRMAN MATTHEWSON: Any discussion?

17 (No response.)

18 CHAIRMAN MATTHEWSON: Call the role, Angie,
19 please.

20 MS. FRANKS: Commissioner Merritt?

21 COMMISSIONER MERRITT: Approve.

22 MS. FRANKS: Commissioner Hatches?

23 COMMISSIONER HATCHES: Approve.

24 MS. FRANKS: Commissioner Jones?

25 COMMISSIONER JONES: Approve.

1 MS. FRANKS: Commissioner Bradley?

2 COMMISSIONER BRADLEY: Approve.

3 MS. FRANKS: Chairman Matthewson?

4 CHAIRMAN MATTHEWSON: Approve.

5 MS. FRANKS: By your vote you've adopted

6 Proposed Amendment 11 CSR 45-5.200.

7 MS. HUTCHISON: Okay. Behind tab O are
8 eight Final Orders of rulemaking to Title 11, Division 45,
9 Chapters 4 and 5 of the Code of State Regulations. A
10 public hearing was held on June 15, 2011, at which
11 individuals and groups were provided the opportunity to
12 express their agreement with or concerns about the proposed
13 rules as written. No one commented at the public hearing
14 and no formal written comments were received. These rules
15 were presented at the March Commission meeting, and these
16 rules will become effective November 30, 2011.

17 CHAIRMAN MATTHEWSON: Okay. I assume we
18 probably have to vote these separately, don't we, or do you
19 think we could package them?

20 MR. STOTTLEMYRE: You can package this
21 together.

22 CHAIRMAN MATTHEWSON: Okay. Okay, Terri,
23 you want to go on to the next one then, please, number two?

24 MR. STOTTLEMYRE: That is all of them.

25 MS. HUTCHISON: That's all of them. They're

1 all --

2 CHAIRMAN MATTHEWSON: Oh. Oh, I'm sorry.
3 I'm sorry. I was thinking ahead of myself there, or behind
4 myself, whichever the case may be. Well, that's just -- I
5 mean, you did good there. Yeah. We got junkets and
6 enterprises and all kinds of things in there.

7 All right. Chair would accept one motion
8 man to do the Final Rulemaking on all eight of those, one
9 motion.

10 COMMISSIONER HATCHES: Okay.

11 COMMISSIONER JONES: And kind of list them
12 separately.

13 COMMISSIONER HATCHES: Yeah. I think I'm
14 going to take a stab at this. Move for approval for a
15 Final Order of Rulemaking 11 CSR 45-4.02, 45-4.50 --

16 CHAIRMAN MATTHEWSON: You did a nice shot at
17 it.

18 COMMISSIONER MERRITT: It was a good start
19 anyway --

20 CHAIRMAN MATTHEWSON: The first one was
21 good.

22 COMMISSIONER MERRITT: -- but you went down
23 pretty quick.

24 COMMISSIONER HATCHES: Strike that from the
25 record.

1 CHAIRMAN MATTHEWSON: I only say strike
2 that.

3 COMMISSIONER HATCHES: And Ed would tell you
4 it doesn't matter --

5 CHAIRMAN MATTHEWSON: Okay. Jump right on
6 that next number.

7 COMMISSIONER HATCHES: 4.020, 4.200, 4.510,
8 4.520, 5.192, 5.400, 5.410, and 5.420.

9 COMMISSIONER MERRITT: All right. I'll
10 second that.

11 CHAIRMAN MATTHEWSON: Well, I'd think so.
12 Okay. Any discussion on those Final Orders of Rulemaking?

13 (No response.)

14 CHAIRMAN MATTHEWSON: Call the role, Angie,
15 please.

16 MS. FRANKS: Commissioner Merritt?

17 COMMISSIONER MERRITT: Approve.

18 MS. FRANKS: Commissioner Hatches?

19 COMMISSIONER HATCHES: Approve.

20 MS. FRANKS: Commissioner Jones?

21 COMMISSIONER JONES: Approve.

22 MS. FRANKS: Commissioner Bradley?

23 COMMISSIONER BRADLEY: Approve.

24 MS. FRANKS: Chairman Matthewson?

25 CHAIRMAN MATTHEWSON: Approve.

1 MS. FRANKS: By your vote you've adopted the
2 Final Orders of Rulemaking 11 CSR 45-4.020, 4.200, 4.510,
3 4.520, 5.192, 5.400, 5.410, and 5.420.

4 MR. STOTTLEMYRE: Mr. Chairman, Item VII on
5 the agenda is Consideration of Level I/Key Applicants and
6 Lieutenant Rex Scism will present.

7 CHAIRMAN MATTHEWSON: Rex, where you been?

8 LIEUTENANT SCISM: I've been hiding in back.

9 CHAIRMAN MATTHEWSON: Okay. Quieter back
10 there, is it? Go ahead, please, sir.

11 LIEUTENANT SCISM: Mr. Chairman and
12 Commissioners, Missouri State Highway Patrol investigators,
13 along with Gaming Commission financial investigators,
14 conducted comprehensive background investigations of two
15 Key and Level I applicants. The investigations included,
16 but were not limited to, criminal, financial, and general
17 character inquiries, which were made in the jurisdictions
18 where the applicants lived, worked, and frequented.

19 The following individuals are being
20 presented for your consideration: The first is Donna L.
21 Lehmann, Senior Vice President of Finance for Affinity,
22 formerly Herbst Gaming, LLC; and secondly Rosa Laricchia,
23 Senior Vice President of Sales for NRT Technology
24 Corporation. The result of these investigations were
25 provided to the Gaming Commission Staff for their review,

1 and you have all related summary reports before you.

2 CHAIRMAN MATTHEWSON: Who is Affinity
3 Gaming? What do they run?

4 COMMISSIONER MERRITT: Herbst.

5 MR. STOTTLEMYRE: That was Herbst.

6 CHAIRMAN MATTHEWSON: Oh, that was Herbst.
7 Okay. Okay. Yeah. Okay. Thank you. Okay. You got
8 another one there? That's it?

9 LIEUTENANT SCISM: That was both of them,
10 Mr. Chairman.

11 CHAIRMAN MATTHEWSON: Oh, that was both of
12 them.

13 LIEUTENANT SCISM: Just had two this
14 morning.

15 CHAIRMAN MATTHEWSON: Okay. Any questions
16 on that information?

17 (No response.)

18 CHAIRMAN MATTHEWSON: Okay. Thank you, sir.
19 Good to see you. Glad you hung around for that important
20 event.

21 MR. STOTTLEMYRE: Mr. Chairman, Staff
22 recommends approval of Resolution No. 11-049.

23 CHAIRMAN MATTHEWSON: Chair would accept a
24 motion.

25 COMMISSIONER BRADLEY: Motion to approve

1 Commission Resolution No. 11-049.

2 COMMISSIONER MERRITT: Second.

3 CHAIRMAN MATTHEWSON: Okay. Any discussion?

4 (No response.)

5 CHAIRMAN MATTHEWSON: Call the role, Angie,
6 please.

7 MS. FRANKS: Commissioner Merritt?

8 COMMISSIONER MERRITT: Approve.

9 MS. FRANKS: Commissioner Hatches?

10 COMMISSIONER HATCHES: Approve.

11 MS. FRANKS: Commissioner Jones?

12 COMMISSIONER JONES: Approve.

13 MS. FRANKS: Commissioner Bradley?

14 COMMISSIONER BRADLEY: Approve.

15 MS. FRANKS: Chairman Matthewson?

16 CHAIRMAN MATTHEWSON: Approve.

17 MS. FRANKS: By your vote you've adopted

18 Resolution No. 11-049.

19 CHAIRMAN MATTHEWSON: What you got on New
20 Business there?

21 MR. STOTTLEMYRE: Mr. Chairman, under New
22 Business, I wanted to let you know that the Commission has
23 sent a \$4,000 check to the Clark County fair in Kahoka,
24 Missouri for the Missouri-bred horse racing winning purse
25 at that race, as set out by statute.

1 CHAIRMAN MATTHEWSON: How much money's still
2 left in that fund, Roger? Anybody know?

3 MR. STOTTLEMYRE: Well, it's over \$90,000.

4 CHAIRMAN MATTHEWSON: Okay. Did the state
5 fair get any of it this year?

6 MR. STOTTLEMYRE: They were not having any
7 race this year they said.

8 CHAIRMAN MATTHEWSON: Oh, you know what?
9 That's right. Someone told me that, that they just decided
10 to not do that. I think it was mainly because there wasn't
11 any prize money, you know, to be honest with you.

12 Have we had any further discussion -- I
13 apologize to the other members, but we are, as a
14 Commission, over that fund, back when we did do parimutuel,
15 just for your information. That was a fund that was
16 created off of those revenues that's been setting out there
17 and it's been kind of passed around and passed around, with
18 nobody really knowing what the heck to do with it.

19 Now, I know why some of the associations,
20 different breed associations, they want us to just give
21 them the money, you know. But I haven't felt encouraged
22 about doing that, have you?

23 MR. STOTTLEMYRE: No. And we're locked in
24 with the what the statute will allow us to do on it.

25 CHAIRMAN MATTHEWSON: I mean, they -- I

1 told -- that guy called me and I think he called you, or
2 something, that either one of us just write a check and
3 give it to them. Their argument being, they had created
4 that fund, the money came from that breed, you know. So
5 why wasn't it theirs? Yeah, well, because the law doesn't
6 say that.

7 COMMISSIONER MERRITT: Maybe we ought to
8 send it to the federal government to balance the budget.

9 CHAIRMAN MATTHEWSON: You think that would
10 change anybody's mind back there, Jack?

11 MR. STOTTLEMYRE: The other I have is that
12 after having conversations with Mr. Craig Travers up at the
13 St. Joe, it's now looking like it could possibly be October
14 before we are able to get that boat open again up there.
15 They are currently working on the land base of the casino.
16 The -- removing the water-damaged flooring and the walls,
17 those type of things, insulation and everything.

18 Access to the casino right now is still by
19 boat only. They are putting in a temporary road that goes
20 through the parking lot, bringing rock in. But this is
21 just going to be to allow construction vehicles to get in
22 and out of the facility to remove the debris and everything
23 that they have to remove.

24 Right now -- and it's still -- it has to
25 reach 26 feet before they can actually start pumping water

1 out of this basin that it sits in, and that -- it stays
2 right around 28 feet, and it has for some time now. So
3 there's going to have to be some lowering of the river
4 before we can make a lot of progress.

5 CHAIRMAN MATTHEWSON: In your discussions
6 with the budget folks over at the Capitol, have you all
7 given them a final number yet on your estimate for next
8 year?

9 MR. STOTTLEMYRE: We have discussed numbers
10 with them and they are looking those over and we have. So
11 a final number is not ready yet.

12 CHAIRMAN MATTHEWSON: Okay.

13 MR. STOTTLEMYRE: But when --

14 CHAIRMAN MATTHEWSON: That's fine.

15 MR. STOTTLEMYRE: -- it gets back to us,
16 we'll --

17 CHAIRMAN MATTHEWSON: Okay. I just
18 wondered --

19 MR. STOTTLEMYRE: -- have that discussion.

20 CHAIRMAN MATTHEWSON: -- was that being
21 taken into consideration.

22 MR. STOTTLEMYRE: It was.

23 CHAIRMAN MATTHEWSON: We had Cape down for
24 how long -- not Cape, but Caruthersville down for some
25 period of time, didn't we?

1 MR. STOTTLEMYRE: Yes, we did.

2 CHAIRMAN MATTHEWSON: I mean, you had to go
3 down there a lot.

4 MR. STOTTLEMYRE: And those numbers, of
5 course, were in this past year, so -- but we did -- I know
6 Martha helped us a great deal with our numbers and we did
7 include the fact that this casino could be closed for a
8 period of time here without --

9 CHAIRMAN MATTHEWSON: Okay. Well, right
10 now, based on your letters that you sent us -- which I
11 appreciate your weekly update -- St. Joe's the only one
12 that's down.

13 MR. STOTTLEMYRE: That's correct.

14 CHAIRMAN MATTHEWSON: And it would appear --
15 is it a fair statement it would appear that that's the only
16 one that's going to be down immediately? I mean, we don't
17 know how much more rain we're going to get at a certain
18 place to cause that to happen, but, like, here in Jeff
19 City, it's actually going down, isn't it, some?

20 MR. STOTTLEMYRE: I think it has some. We
21 have no other casinos that are in danger of closing at this
22 point in time. And without some more heavy rains, I would
23 say that we shouldn't have any problems. I think most of
24 them are pretty safe, as it stands right now.

25 CHAIRMAN MATTHEWSON: Can -- okay. I

1 probably shouldn't ask this. Okay. You have any other new
2 business?

3 MR. STOTTLEMYRE: No other new business. We
4 have no old business.

5 CHAIRMAN MATTHEWSON: Okay. I just as a
6 point, Darryl called -- Commissioner Jones called me last
7 week, because he wasn't here at our last meeting, inquiring
8 of what we could do to help Joplin, because he sits on the
9 hospital board in St. Louis, which owned the hospital or
10 was a partner with --

11 COMMISSIONER JONES: Joplin.

12 CHAIRMAN MATTHEWSON: -- or whatever in
13 Joplin. And he and I had a nice visit about that. And I
14 told him how we had brought all of our -- or as many as we
15 could. We had, what, eight or nine of them here, didn't
16 we? And recognized them --

17 MR. STOTTLEMYRE: Came to the meeting, yes,
18 sir.

19 CHAIRMAN MATTHEWSON: Yeah. Recognized them
20 for their service to that --

21 MR. STOTTLEMYRE: We had a total of 15 that
22 actually went down there to work over a period of time.

23 CHAIRMAN MATTHEWSON: So, you know, I felt
24 proud of them.

25 COMMISSIONER JONES: Well, Mr. Chairman, let

1 me go on record for thanking the Staff for doing that, and
2 assisting, you know, my fellow statesmen in Joplin, because
3 it is a devastating thing, what happened to the town -- the
4 city of Joplin, Missouri.

5 MR. STOTTLEMYRE: Yes, sir.

6 CHAIRMAN MATTHEWSON: Yeah. I happen to sit
7 on the -- sidebar. I happen to sit on the board of
8 directors for American Water Company in St. Louis, and we
9 had a meeting Monday. Excuse me. Yeah, Monday. And they
10 lost -- you wouldn't even think about this, or I didn't
11 because I'm goofy.

12 But they lost 4,400 water customers.
13 Darryl, do you think about everything being above ground
14 and everything -- and it was. However, when all that
15 disappeared that was on ground, then they lost customers.
16 They lost 4,400 customers down there. And what fascinated
17 me was they actually had business interruption insurance.
18 Pretty smart company, I guess. You know, most people
19 wouldn't have thought of that. I wouldn't, you know.

20 But, I mean, devastating. I mean, they had
21 people down there for weeks and weeks, just doing nothing
22 but trying to restore those lines and get them closed off
23 and capped and so forth, you know. So goes on and on and
24 on. Any other old business that anyone wants to bring
25 before us? Do we actually have anything for closed?

1 MR. STOTTLEMYRE: Sir, we didn't do the
2 closed business.

3 CHAIRMAN MATTHEWSON: Oh, okay. Okay.
4 Chair would accept a motion under 313.847 to close the
5 meeting.

6 COMMISSIONER HATCHES: Move for a motion for
7 closed meeting under Section 313.847, Investigatory,
8 Proprietary, and Application Records and 610.021, Section
9 14.

10 COMMISSIONER JONES: Second.

11 CHAIRMAN MATTHEWSON: Okay. Call the role,
12 please.

13 MS. FRANKS: Commissioner Merritt?

14 COMMISSIONER MERRITT: Approve.

15 MS. FRANKS: Commissioner Hatches?

16 COMMISSIONER HATCHES: Approve.

17 MS. FRANKS: Commissioner Jones?

18 COMMISSIONER JONES: Approve.

19 MS. FRANKS: Commissioner Bradley?

20 COMMISSIONER BRADLEY: Approve.

21 MS. FRANKS: Chairman Matthewson?

22 CHAIRMAN MATTHEWSON: Thank you very much
23 everyone. Good meeting.

24 COMMISSIONER BRADLEY: Is that a yes?

25 Approve?

1 CHAIRMAN MATTHEWSON: Yes.

2 (Off the record.)

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1 CERTIFICATE OF REPORTER

2
3 I, Kristy B. Bradshaw, CCR within the State
4 of Missouri, do hereby certify that the foregoing meeting
5 was taken by me; that the testimony of said meeting was
6 taken by me to the best of my ability and thereafter
7 reduced to typewriting under my direction; that I am
8 neither counsel for, related to, nor employed by any of
9 the parties to the action in which this meeting was taken,
10 and further, that I am not a relative or employee of any
11 attorney or counsel employed by the parties thereto, nor
12 financially or otherwise interested in the outcome of the
13 action.

14
15
16 _____
17 Kristy B. Bradshaw, CCR
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