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BEFORE THE MISSOURI GAMING COMMISSION

STATE OF MISSOURI

Meeting

September 28, 2016

10:00 a.m.

3417 Knipp Drive

Jefferson City, Missouri

BEFORE: Herbert M. Kohn, Chairman
Brian Jamison, Vice Chairman
Larry D. Hale, Commissioner
Thomas Neer, Commissioner
Richard F. Lombardo, Commissioner

Reported by:
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1 P R O C E E D I N G S

2 CHAIRMAN KOHN: Good morning, everybody.

3 We'll call the meeting of the September 28,
4 2016 Missouri Gaming Commission to order.

5 Angie, please call the roll.

6 MS. FRANKS: Commissioner Lombardo.

7 COMMISSIONER LOMBARDO: Present.

8 MS. FRANKS: Commissioner Neer.

9 COMMISSIONER NEER: Present.

10 MS. FRANKS: Commissioner Hale.

11 COMMISSIONER HALE: Present.

12 MS. FRANKS: Commissioner Jamison.

13 COMMISSIONER JAMISON: Present.

14 MS. FRANKS: Chairman Kohn.

15 CHAIRMAN KOHN: Present.

16 We have a quorum. We're able to proceed with
17 the business of the meeting.

18 The first item of business is the
19 Consideration of Minutes from the August 30 and
20 August 31, 2016 meeting.

21 Is there a motion for approval of the
22 minutes?

23 COMMISSIONER HALE: So move.

24 COMMISSIONER LOMBARDO: Second.

25 CHAIRMAN KOHN: Angie, please call the roll.

1 MS. FRANKS: Commissioner Lombardo.

2 COMMISSIONER LOMBARDO: Approve.

3 MS. FRANKS: Commissioner Neer.

4 COMMISSIONER NEER: Approve.

5 MS. FRANKS: Commissioner Hale.

6 COMMISSIONER HALE: Approve.

7 MS. FRANKS: Commissioner Jamison.

8 COMMISSIONER JAMISON: Approve.

9 MS. FRANKS: Chairman Kohn.

10 CHAIRMAN KOHN: Approve.

11 MS. FRANKS: By your vote you've adopted the
12 minutes of the August 30th and 31st, 2016 meeting.

13 CHAIRMAN KOHN: Welcome to everyone in the
14 audience today. We're always happy to have you here and
15 have you demonstrate an interest in these proceedings.
16 So we'll start the proceedings.

17 Mr. Seibert.

18 EXECUTIVE DIRECTOR SEIBERT: Mr. Chairman,
19 the first order of business is Consideration of Hearing
20 Officer Recommendations, and Mr. Steib will present.

21 CHAIRMAN KOHN: Mr. Steib.

22 MR. STEIB: Good morning. May it please the
23 Commission.

24 It's my understanding that the first item on
25 the agenda, III.C., Tanya Nichols, her attorney is not

1 here but on his way, so I suggest that the Commission
2 might go to D and E and take up Item C when her counsel
3 appears, if that's all right with the Commission.

4 CHAIRMAN KOHN: Yes. We've been advised
5 about that and that's fine.

6 MR. STEIB: The first item on the agenda then
7 is Item III.D., which is Stewart Bredell. Mr. Bredell
8 is a security officer at Ameristar.

9 The facts of this situation are that a
10 security officer at the casino noticed another security
11 officer discarding a ticket in/ticket out into a trash
12 can. That particular ticket amounted to some 28 cents.

13 However, the rules and regulations provide
14 that any TITO, ticket in/ticket out, regardless of the
15 amount, is to be turned in as unclaimed property.

16 Mr. Bredell was at the hearing, and based on
17 the evidence and the testimony Mr. Bredell admitted that
18 he, in fact, previously might have said go ahead and
19 throw away the ticket to this other security officer.

20 That, of course, is a violation of the
21 regulations, and based upon the preponderance of the
22 evidence and the testimony it is the hearing officer's
23 opinion and recommendation that Mr. Bredell did not bear
24 the burden of proof by a preponderance showing that he
25 should not be disciplined and hence he should be

1 Resolution No. 16-045.

2 CHAIRMAN KOHN: And ready for the Pollard
3 matter.

4 MR. STEIB: The next matter is Alexis Pollard
5 who was working as a dealer at Ameristar.

6 Pollard had been interviewed in a rehiring as
7 is customary and the procedure with the Commission. At
8 that time she neglected to report to the trooper that
9 she had been arrested in Audrain County. That came up
10 as a result of the subsequent investigation which always
11 occurred.

12 At the hearing which was requested by
13 Mrs. Pollard she did not appear, nor was she represented
14 by counsel who appeared, and though thrice called, a
15 default was then declared, and it is the recommendation
16 of the staff and of the hearing officer that a
17 revocation of her Level II occupational license is
18 appropriate in this matter.

19 CHAIRMAN KOHN: Okay. I know I read this,
20 but could you tell us again what it was that happened?

21 MR. STEIB: Mrs. Pollard was interviewed by
22 the trooper, and, of course, when that happens they are
23 obligated to reflect to the trooper any contact they've
24 had with a constabulary force.

25 Mrs. Pollard or Ms. Pollard neglected to tell

1 the trooper that she had been arrested in Audrain County
2 previously, and hence it was a false application that
3 she submitted.

4 These are frequent situations where the
5 applicant forgets or just doesn't advise the trooper of
6 a problem in the past, and so this is a relatively
7 frequent occurring situation. She simply did not advise
8 the trooper that she had had this arrest in Audrain
9 County.

10 CHAIRMAN KOHN: Well, this is the part that I
11 couldn't quite figure out.

12 Had she put false information on her
13 application and this is just an oral interview?

14 MR. STEIB: She failed to report to the
15 investigator, the trooper, that she had been arrested.

16 CHAIRMAN KOHN: But what was on her original
17 application? Did she disclose it then?

18 COMMISSIONER JAMISON: This would have
19 occurred way after the original application had
20 occurred, like a month before her --

21 CHAIRMAN KOHN: Oh. The arrest occurred --

22 COMMISSIONER LOMBARDO: The arrest was in
23 October of 2015 and the interview was in November of
24 2015, about two weeks later.

25 I do have a question as to the rehire

1 interview. Does that mean she had been out of the
2 business or was this just a periodic thing where people
3 are relicensed?

4 MR. STEIB: She had been at a different
5 casino is my understanding and then rehired for this new
6 position, and then that rehiring, the interview occurred
7 and she did not reflect this arrest.

8 CHAIRMAN KOHN: Any other questions?

9 COMMISSIONER JAMISON: Carolyn, did you
10 have --

11 MS. KERR: If you had any questions about
12 this, I was going to be able to answer those. I think
13 everything has been --

14 CHAIRMAN KOHN: I think I understand what
15 happened here, the timing issue.

16 MS. KERR: Sure.

17 CHAIRMAN KOHN: Is there a motion to approve
18 the resolution?

19 COMMISSIONER HALE: So moved.

20 COMMISSIONER LOMBARDO: Second.

21 CHAIRMAN KOHN: Any discussion on the motion?
22 Angie.

23 MS. FRANKS: Commissioner Lombardo.

24 COMMISSIONER LOMBARDO: Approve.

25 MS. FRANKS: Commissioner Neer.

1 COMMISSIONER NEER: Approve.

2 MS. FRANKS: Commissioner Hale.

3 COMMISSIONER HALE: Approve.

4 MS. FRANKS: Commissioner Jamison.

5 COMMISSIONER JAMISON: Approve.

6 MS. FRANKS: Chairman Kohn.

7 CHAIRMAN KOHN: Approve.

8 MS. FRANKS: By your vote you've adopted
9 Resolution No. 16-046.

10 CHAIRMAN KOHN: Okay. So we're still going
11 to hold off on Tanya Nichols.

12 MR. STEIB: Correct. I will remain present,
13 and when Mr. O'Brien appears, at the pleasure of the
14 Commission we'll take up that matter.

15 CHAIRMAN KOHN: Thank you.

16 EXECUTIVE DIRECTOR SEIBERT: The next order
17 of business, Mr. Chairman, is Consideration of
18 Disciplinary Actions. Ms. Kerr will present.

19 MS. KERR: Good morning.

20 CHAIRMAN/COMMISSIONERS: Good morning.

21 MS. KERR: There are four considerations for
22 disciplinary actions. I'll start with Tab F.

23 Tab F is Ameristar Casino St. Charles, Inc.
24 This is a Preliminary Order for Disciplinary Action
25 arising from a followup to a compliance audit completed

1 in May 2015 for the period of January 2013 through
2 November of 2014.

3 The auditors were checking to determine if
4 the audit findings from May 2015 had been corrected, so
5 they were following up on the original audit.

6 Five findings outlined in the May audit had
7 not been implemented when they followed up.

8 The first one, the 2015 audit, found that
9 2 of 27 investigations of kiosk variances over \$20 were
10 not documented at all. This was a 7.4 percent error
11 rate.

12 According to the casino's Internal Control
13 Standards or ICS, I-C-S, the variances are supposed to
14 be investigated and then documented on a specific form,
15 the over \$20 variance kiosk variance file.

16 The management response indicated that the
17 finding would be corrected and all variance
18 investigations would be reviewed and documented on the
19 proper form.

20 When the auditors followed up on the finding,
21 they found that 3 of the 29 investigations into kiosk
22 variances over \$20 were still not documented at all.
23 This was a 10.3 percent error rate.

24 This violated the MGC Internal Control
25 Standards, or MICS, and the casino's ICS, Chapter H,

1 Section 7.04.

2 The second finding, the 2015 audit found
3 that --

4 CHAIRMAN KOHN: Before you go to that one --

5 MS. KERR: Sure.

6 CHAIRMAN KOHN: -- this exceeded the
7 allowable error rate. What is that? What is the
8 allowable error rate?

9 MS. KERR: Five percent.

10 CHAIRMAN KOHN: Five percent.

11 Thank you.

12 MS. KERR: The second finding, the 2015
13 audit, found that the eleven employees who could issue
14 player cards could also add points in the casino's
15 player tracking system.

16 Casino management indicated that the finding
17 had been corrected. The followup, however, revealed
18 that three individuals still had access to the system,
19 allowing them to issue player cards and add points to
20 the player accounts. This violated MICS and ICS
21 Chapter I, Section 13.03.

22 The third finding was that in the 2015 audit
23 noted a 20 percent error rate in the number of times
24 poker dealers failed to clear their hands when going
25 from their body and when exiting the game.

1 The management responded that the dealers and
2 team members were reminded to make sure they cleared
3 their hands as required. I think there was a memo sent
4 out.

5 On the followup, however, the auditors found
6 that in three of eight instances on November 17th, 2015
7 poker dealers failed to clear their hands, which was a
8 37.5 percent error rate. And this violated MICS and ICS
9 Chapter 7, Section 13.01.

10 The fourth finding in the 2015 audit --

11 CHAIRMAN KOHN: I'm sorry.

12 And on this one I'm just curious, what does
13 clearing the hands mean? I don't know what that means.

14 MS. KERR: Basically when they take their
15 hands from the table to their body or when they leave,
16 they need to put their hands over --

17 CHAIRMAN KOHN: And show their hands?

18 MS. KERR: -- and show their hands to the
19 camera surveillance to make sure that there is nothing
20 there.

21 CHAIRMAN KOHN: Okay. Thank you.

22 MS. KERR: Sure.

23 The fourth finding in the 2015 audit was that
24 the Director of Player Development had access to
25 activate wagering in promotional accounts, although only

1 ticketing employees are authorized to do so.

2 Management response indicated that those
3 rights had been removed from the Director of Player
4 Development on April 23rd, 2015, but on November 16th,
5 2015 the auditors followed up and found that the same
6 Director of Player Development again had system access
7 to activate wagering in promotional accounts.

8 This violated MICS and ICS Chapter U,
9 Section 2.11, which states that only ticketing employees
10 can have that access to activate accounts.

11 The fifth finding in the 2015 audit noted
12 that one security incident report was not included in
13 the security incident summary report which is provided
14 to boat agents in one week -- one of the weeks in
15 September 2014.

16 The casino responded that security will
17 ensure that the security incident summary report is
18 provided the MGC boat agent on a daily basis and it
19 would include all of the security incident reports.

20 However, during the followup auditors found
21 that for one week in November 2015 five security
22 incident reports were not included in the security
23 incident summary report provided to the boat agents, and
24 that violated MICS and ICS Chapter N, Section 2.02.

25 The staff recommended a \$20,000 fine.

1 Ameristar submitted a response to our
2 fourteen-day letter and responded to two of the five
3 findings. They responded to the first and second one.

4 With regard to the kiosk variances being
5 documented, they said that the ones listed on the
6 followup were still being investigated and that going
7 forward a notation would be made on these variances to
8 indicate that the investigations were still, quote,
9 ongoing.

10 When the auditors followed up on
11 November 24th, 2015 they asked for the over 20
12 variance -- kiosk variance file for the month of October
13 2015 and found that the actual investigations were not
14 documented and that the casino claimed they were still
15 open and being investigated.

16 However, both the MICS and the casino's ICS,
17 Chapter H, Section 7.04, require that these variances be
18 documented and the investigations be completed by the
19 end of the next business day.

20 And then they responded to Finding No. 2 with
21 regard to the employees being able to issue player cards
22 and add points to their player accounts.

23 They said that the employee's ability to do
24 both actions in the Aristocrat system was removed in
25 April 2015, but since the ability to create accounts in

1 Aristocrat was still necessary, that function was added
2 back for the Player Development Manager in the
3 compliance position.

4 They also argued that although the ability to
5 add points to the HALO, H-A-L-O, universe was not
6 removed, those three positions that still had access on
7 the followup did not complete any point adjustments to
8 player accounts, so there shouldn't have been -- so it
9 was all corrected. However, the failure to remove
10 access to all of those positions is still a violation.

11 The company did not respond to the criticisms
12 relating to the poker dealers failing to clear their
13 hands, the Director of Player Development being able to
14 activate wagering in promotional accounts or the
15 security incident reports being properly documented.

16 The staff reviewed Ameristar's submission and
17 decided to keep the \$20,000 fine. We recommend the
18 \$20,000 against Ameristar.

19 CHAIRMAN KOHN: Any questions of Ms. Kerr?

20 COMMISSIONER JAMISON: Would the
21 recommendation of the fine be based on the fact that
22 they -- I mean, this is -- make sure I'm right.

23 This is the same Ameristar that had the issue
24 with the audit back in 2015?

25 MS. KERR: No, I don't believe so.

1 COMMISSIONER JAMISON: This one is --

2 MS. KERR: This is St. Charles.

3 COMMISSIONER JAMISON: This is St. Charles.

4 But it's the same overarching company,
5 correct, Ameristar? One is in St. Charles and one is in
6 Kansas City but it's all under the same umbrella?

7 MS. KERR: Yes. They're separate classmates.

8 COMMISSIONER JAMISON: I understand that,
9 but, I mean, it would still be under the leadership of
10 one organization?

11 MS. KERR: Yes.

12 COMMISSIONER JAMISON: Okay.

13 COMMISSIONER HALE: Along the same lines, I'm
14 assuming that this \$20,000 fine is based primarily upon
15 the number of items found in the initial audit that were
16 not corrected. Would that be a fair assumption?

17 MS. KERR: Well, that's part of it. It's
18 really based on the totality of -- it's based on various
19 factors, the number, the nature of the findings, whether
20 or not the company made any corrections, what their
21 responses were. I mean, that's part of it but that's
22 not -- there's no mathematical, you know, delineation on
23 it.

24 CHAIRMAN KOHN: I have the same type of
25 question.

1 If there had been three violations, could the
2 fine still have been 20? So it wasn't 5,000 per
3 violation? I was wondering how we came up with that.

4 MS. KERR: I mean, I can't really say it
5 might have or it might not have.

6 I looked at the prior audit findings for
7 other casinos and for those that had repeat findings,
8 three or more, some of the fines were 10,000 to 20,000.

9 You know, one or two findings might have
10 been -- obviously were a little less, but there is no,
11 you know, 5,000 per violation or there is no real
12 mathematical equation or formula to determine the fine.

13 CHAIRMAN KOHN: How do we come up with
14 amounts?

15 COMMISSIONER JAMISON: We as a Commission
16 agree what we're going to put under -- this is a
17 recommendation from the --

18 CHAIRMAN KOHN: How do we come up to the
19 recommendation as to the amount? I'll change the
20 question.

21 MS. KERR: Well, when the staff looks at
22 this, each staff member offers what they believe the
23 fine should be. After looking at everything, it was
24 determined that this fine should be 20,000.

25 Like I said, the other similar cases -- you

1 know, three significant findings in April was \$10,000.
2 There is another one in June 2014 with three significant
3 findings repeat was 20,000. 10,000, 20,000.

4 CHAIRMAN KOHN: So there is no scale? There
5 is no formula?

6 MS. KERR: No.

7 CHAIRMAN KOHN: It could be 20,000 for one
8 violation or 18 violations?

9 COMMISSIONER LOMBARDO: It's not the Federal
10 sentencing guidelines.

11 MS. KERR: Right.

12 We try to be consistent with the amounts that
13 we recommend between companies, but, you know, this one
14 did have five findings that were found to be repeated on
15 the followup.

16 COMMISSIONER LOMBARDO: As of today have all
17 of the findings been corrected?

18 Because I thought I heard you say they
19 responded to two out of the five and then you were a
20 little indefinite in my mind whether or not they'd all
21 been addressed.

22 MS. KERR: Well, in the current audit period
23 they have fixed all but one of the audit findings. The
24 kiosk variances are still -- they still have a repeat
25 finding on that, but it appears that the rest of them

1 have been corrected.

2 COMMISSIONER LOMBARDO: Okay.

3 CHAIRMAN KOHN: Any other questions?

4 COMMISSIONER LOMBARDO: No.

5 CHAIRMAN KOHN: Is there a motion with
6 respect to DC-16-173?

7 COMMISSIONER LOMBARDO: Motion to approve.

8 COMMISSIONER HALE: Second.

9 CHAIRMAN KOHN: Discussion on the motion?
10 Angie.

11 MS. FRANKS: Commissioner Lombardo.

12 COMMISSIONER LOMBARDO: Approve.

13 MS. FRANKS: Commissioner Neer.

14 COMMISSIONER NEER: Approve.

15 MS. FRANKS: Commissioner Hale.

16 COMMISSIONER HALE: Approve.

17 MS. FRANKS: Commissioner Jamison.

18 COMMISSIONER JAMISON: Approve.

19 MS. FRANKS: Chairman Kohn.

20 CHAIRMAN KOHN: Approve.

21 MS. FRANKS: By your vote you've adopted
22 DC-16-173.

23 MS. KERR: All right. I'll move on to Tab G.

24 CHAIRMAN KOHN: Yes. I'm having trouble
25 letting this go.

1 malfunction or anomaly that occurred at the Louisiana
2 casino in December 2014, which happened to be the same
3 malfunction or anomaly that occurred in River City in
4 November 2015, violates 11 CSR 45-5.210, Section 2.

5 That regulation requires Bally to notify the
6 MGC within 48 hours of it learning of any malfunction or
7 anomaly affecting the integrity or operation of devices
8 or systems it supplies regardless of the jurisdiction in
9 which the problem occurs.

10 Then on November 25th, 2015 Bally submitted a
11 replacement version of that software for the River City
12 EGDs to correct the progressive jumping malfunction or
13 anomaly it had experienced earlier that month.

14 The problem was that the submission Bally
15 provided to us on November 25th contained modifications
16 to the software that were not fully disclosed to the
17 MGC, nor to the independent testing lab, the laboratory.

18 11 CSR 45-5.225, Subsection (4)(A)(2),
19 requires a complete list of hardware and software
20 modifications to be included in the supplier's
21 submission for approval.

22 Bally's submission only gave a general reason
23 for the modification rather than a specifically detailed
24 explanation of what the modification changes were.

25 The staff recommended a \$10,000 fine.

1 Bally responded to our fourteen-day letter.
2 First they argued that what happened to the EGDs in
3 Louisiana and later at River City were not malfunctions
4 or anomalies but configuration errors. They claimed the
5 EGDs were set up incorrectly by the technician at the
6 casinos.

7 Second, they stated that the modifications
8 submitted were simply to facilitate and simplify game
9 setup to mitigate the potential for human error. They
10 claim that since the modifications did not address a
11 malfunction, the submission was not incomplete.

12 Staff reviewed Bally's arguments and decided
13 to keep the \$10,000 fine.

14 Now, the first regulation, 11 CSR 45-5.210,
15 Section 2, is a rule relating to notice. Any time a
16 supplier, Bally in this case, learns of a malfunction or
17 anomaly with a game or software it supplied that causes
18 the EGD or system to not function properly or as
19 intended, that supplier has to notify the MGC within
20 48 hours.

21 The notice is required regardless of the
22 jurisdiction in which the malfunction or anomaly
23 occurred.

24 In this case the fact that the EGDs were set
25 up with a zero in the serial number caused the EGDs to

1 malfunction.

2 So in the words of the regulation, the zero
3 serial number affected the integrity or operation of
4 devices or systems provided under the scope of Bally's
5 supplier license.

6 When Bally learned that the EGDs in Louisiana
7 were not functioning as intended in November 2014, they
8 had a duty to notify us within 48 hours of learning that
9 fact and they did not.

10 In fact, they failed to notify any of the
11 operators that we know of of the risk or problem with
12 the software.

13 And then with regard to the notice of
14 modifications, their submission included general
15 statements on the change documents so that it did not
16 specify the modifications.

17 Since the modifications were not disclosed,
18 the independent testing lab could not create a test plan
19 for the modification. In other words, that notice that
20 they gave us was insufficient.

21 Also Bally has been previously disciplined
22 for failure to notify the MGC.

23 In April 2015 we sent a letter to Bally
24 criticizing it for failing to file an EGD incident
25 report within 48 hours after being notified of issues

1 with the Mark Twain Casino slot accounting system, and
2 then in May 2016 Bally was fined \$5,000 for an incident
3 occurring in April 2015 in which they failed to notify
4 the MGC of a field advisory it had issued to Lumiere
5 Place Casino & Hotels.

6 So this was the third time that MGC found a
7 violation of the notice requirement by Bally in the last
8 two years, and for those reasons the staff recommended a
9 \$10,000 fine.

10 CHAIRMAN KOHN: Okay. Any questions?

11 COMMISSIONER LOMBARDO: Yes.

12 I'm looking at the similar case attachment,
13 and it looks like to me over the last five years they've
14 had five separate violations. Is that accurate?

15 MS. KERR: Yes. The others were in August
16 2013 and then two in 2011.

17 COMMISSIONER LOMBARDO: And without causing
18 me to get down into the details of each and every one,
19 were these all notice-type violations, in other words,
20 similar to what we're talking about today?

21 MS. KERR: Yes. The two in 2011 and one in
22 2013 were for failure to report, and then the other --
23 there were some other ones, but those were mostly for
24 shipping or installing revoked or unapproved software,
25 but they have been fined March 2011, 15,000; October

1 2011, 15,000 and August 2013, 5,000 for failure to
2 report.

3 CHAIRMAN KOHN: Does that answer your
4 question?

5 COMMISSIONER LOMBARDO: It does.

6 CHAIRMAN KOHN: Any other questions?

7 Would this have impacted any other states
8 where they failed to report, or do you know?

9 MS. KERR: Well, it started in -- it was
10 first notified in Louisiana, so it could have. It could
11 have also affected some within the state. The
12 possibility was there.

13 CHAIRMAN KOHN: So we don't know what other
14 states are doing or not doing?

15 MS. KERR: With your permission I'd ask that
16 Todd Nelson, the Gaming Enforcement Manager, he might be
17 able to answer some of those questions.

18 CHAIRMAN KOHN: Okay.

19 MR. NELSON: Good morning.

20 I'm not aware of what other states have done
21 with this particular scenario, no, sir.

22 CHAIRMAN KOHN: So there is no coordination
23 between states when something like that happens?

24 MR. NELSON: No, sir.

25 CHAIRMAN KOHN: Okay. Any other questions?

1 Is there a motion with regard to DC-16-174?

2 COMMISSIONER JAMISON: I move for approval.

3 COMMISSIONER NEER: Second.

4 CHAIRMAN KOHN: Discussion on the motion.

5 Angie.

6 MS. FRANKS: Commissioner Lombardo.

7 COMMISSIONER LOMBARDO: Approve.

8 MS. FRANKS: Commissioner Neer.

9 COMMISSIONER NEER: Approve.

10 MS. FRANKS: Commissioner Hale.

11 COMMISSIONER HALE: Approve.

12 MS. FRANKS: Commissioner Jamison.

13 COMMISSIONER JAMISON: Approve.

14 MS. FRANKS: Chairman Kohn.

15 CHAIRMAN KOHN: Approve.

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

17 DC-16-174.

18 CHAIRMAN KOHN: Okay. Carolyn, Tab H.

19 MS. KERR: Yes. Tab H is Harrah's North

20 Kansas City, LLC.

21 This is a Preliminary Order for Disciplinary

22 Action arising from a repeat audit finding. So in this

23 case there was an audit, a followup and then a second

24 audit.

25 Two findings outlined in the April 11, 2014

1 audit report were noted again as not being corrected in
2 the most recent audit issued April 1st, 2016.

3 The first finding dealt with alarms on EGD
4 progressive controller compartments. The first audit
5 found that six of ten EGD compartments were not equipped
6 with door alarms at all.

7 A followup revealed that the compartments had
8 alarms installed but one of the five alarms failed to
9 produce the audible alarm.

10 Then when we went back, the current audit
11 found that two of ten EGD controller compartments failed
12 to alarm surveillance when the door opened because they
13 did not have an alarm installed on their doors.

14 This violated MICS and ICS Chapter E,
15 Section 11.02, which requires all controller
16 compartments to be alarmed.

17 And the two EGDs noted in the current audit
18 have been fixed. As far as we know, they do have
19 alarms.

20 This finding -- the second finding dealt with
21 terminated employees' user access to the casino's slot
22 accounting system, not being removed within 72 hours of
23 their termination.

24 The first audit found that two of fifteen
25 terminated employees did not have their access to the

1 system removed within 72 hours of their employment
2 termination. A followup indicated that the error had
3 been corrected as there were no errors noted.

4 The current audit, however, found two of
5 seven employees who terminated employment between June
6 and August 2015 did not have their access to the system
7 removed within 72 hours of termination. That violated
8 MICS and ICS Chapter S, Section 5.06.

9 And currently the finding appears to be
10 corrected. They looked in July '16 and all of the
11 employees that had been terminated, their access had
12 been removed.

13 The staff recommends a \$5,000 fine.

14 There are some priors if you want me to --

15 CHAIRMAN KOHN: Yeah, please.

16 MS. KERR: In June 2014 there was -- it was
17 for the audit -- an audit covering September 12 --
18 through September 12 -- let me start over.

19 September of 2012 through December 2013 there
20 were five findings, three repeat findings and two noted
21 on a followup review. At that point they were fined
22 \$20,000.

23 CHAIRMAN KOHN: Was that on the terminated
24 employees or --

25 COMMISSIONER JAMISON: No, I don't think so.

1 MS. KERR: There was a failure to clear
2 hands, assigning unique account numbers.

3 CHAIRMAN KOHN: These are totally different?

4 MS. KERR: These are different, correct.

5 COMMISSIONER LOMBARDO: Which kind of brings
6 up a question -- I don't want to interrupt the train
7 here.

8 MS. KERR: Sure.

9 COMMISSIONER LOMBARDO: When you come up with
10 the similar incidents, let's call them, they're not
11 exactly the same. They're not security things like
12 alarms. They are things that are generally grouped
13 into, what, repeat audit violations or are they security
14 violations?

15 How have you chosen -- because you have a
16 really long appendix here of similar violations. I just
17 wonder how they're chosen.

18 MS. KERR: Right.

19 We list the other -- all of the audit --
20 repeat audit findings for all of the casinos that have
21 been disciplined. They're not necessarily by the type
22 of finding.

23 COMMISSIONER LOMBARDO: So the common thread
24 is repeat audit findings?

25 MS. KERR: Yes.

1 COMMISSIONER LOMBARDO: Okay. Thank you.

2 CHAIRMAN KOHN: Any other questions?

3 COMMISSIONER HALE: If I might, Mr. Chairman.

4 CHAIRMAN KOHN: Sure.

5 COMMISSIONER HALE: I think this is the
6 second one of these kinds of situations we've had today,
7 and I know we've had them in the past.

8 When our auditors go out and conduct the
9 audit, I'm assuming that they leave written audit
10 findings --

11 MS. KERR: Yes.

12 COMMISSIONER HALE: -- with the casino?

13 Is it generally understood that we would come
14 back as a followup visit to confirm that those audit
15 findings or violations have been corrected, so it's
16 understood that that is going to happen? It's not sort
17 of a random, you know, we'll come out and follow up on
18 some of them but not all of them?

19 It's understood, as I understand it, that
20 they're coming back for all followup visits to confirm
21 that the violations have been found to have been
22 corrected?

23 MS. KERR: Yes, generally.

24 With your permission, I ask Leisha Kempker.
25 She's the MGC Compliance Audit Manager. If you have

1 specific questions, she can answer those.

2 COMMISSIONER HALE: Go ahead.

3 MS. KEMPKER: Yes, they do know that we will
4 be coming out to do a followup on all of the findings
5 noted in the report.

6 COMMISSIONER HALE: I guess that's difficult
7 for me to understand why when you know that we're going
8 to come back out and follow up and check to see that
9 these violations have been corrected, that it seems like
10 frequently they're not corrected.

11 MS. KEMPKER: You only see the ones that are
12 not corrected. There are several that are corrected.
13 So, like I said, you only see the ones that aren't
14 corrected.

15 COMMISSIONER HALE: I see.

16 Because my concern was -- because, again,
17 we've seen them before and we've seen twice today, my
18 concern was just that maybe we're not being taken
19 seriously, but obviously if this is not the norm, it's
20 the exception rather than the rule. I guess we have
21 some fall through the cracks I guess.

22 MS. KEMPKER: For instance, in this case,
23 during the followup to the first audit they were
24 corrected, but then when we went back out to do the next
25 audit, then something had broke in between.

1 COMMISSIONER HALE: Thank you.

2 CHAIRMAN KOHN: Any other questions?

3 Is there a motion with respect to DC-16-175?

4 COMMISSIONER HALE: Move to adopt recommended
5 disciplinary action on DC-16-175.

6 COMMISSIONER LOMBARDO: Second.

7 CHAIRMAN KOHN: Discussion on the motion?
8 Angie.

9 MS. FRANKS: Commissioner Lombardo.

10 COMMISSIONER LOMBARDO: Approve.

11 MS. FRANKS: Commissioner Neer.

12 COMMISSIONER NEER: Approve.

13 MS. FRANKS: Commissioner Hale.

14 COMMISSIONER HALE: Approve.

15 MS. FRANKS: Commissioner Jamison.

16 COMMISSIONER JAMISON: Approve.

17 MS. FRANKS: Chairman Kohn.

18 CHAIRMAN KOHN: Approve.

19 MS. FRANKS: By your vote you've adopted
20 DC-16-175.

21 CHAIRMAN KOHN: Okay. Tropicana, Tab I.

22 MS. KERR: Tab I is Tropicana St. Louis, LLC.
23 This is a Preliminary Order for Disciplinary
24 Action arising from a minor on the gaming floor.

25 The minor was arrested on January 4th, 2016

1 for presenting false identification to gain entry onto
2 the gaming floor, purchasing, attempting to purchase
3 liquor by a minor and making, attempting to make a wager
4 on the gaming floor by a minor.

5 She admitted being at the casino multiple
6 times between December 30, 2015 and January 4, 2016 when
7 she was arrested.

8 Surveillance showed that in that time, over
9 the course of those four days, 17 licensees checked her
10 ID but failed to recognize that it was not hers and let
11 her onto the casino floor, let her make wagers and buy
12 or consume alcohol.

13 61 licensees failed to check her ID at all to
14 verify that she was over the age of 21 before letting
15 her make a wager or buy or consume alcohol.

16 She was on the gaming floor for a total of
17 21 hours over that four-day period. The casino was
18 cited for violating multiple statutes, regulations and
19 MICS and ICS dealing with prohibiting minors from coming
20 on to the gaming floor, placing wagers and buying or
21 consuming alcohol. All of those are listed in the
22 Preliminary Order.

23 The staff recommended a \$10,000 fine.

24 This appeared to be a systemic problem of
25 licensees' failure to check an ID or properly

1 identifying a minor on the floor by employees across
2 various departments within the casino.

3 Since 2014 there have been 21 gaming reports
4 issued against Lumiere and/or their employees for
5 failing to check an ID, accepting a false ID or failing
6 to properly verify that the person was actually over
7 21 years old before allowing them to either enter, play
8 or drink, drink alcohol.

9 The casino responded to the MGC's fourteen-
10 day letter. They noted that 17 times the minor's ID was
11 checked in that four-day period. They also argued that
12 many of their licensees relied on their, quote, faith in
13 the gate or their prior dealers to have identified the
14 individual before they came in contact with her.

15 They also argue that many of the 61 licensees
16 noted in the gaming report had tangential contact or
17 dealings with the minor and should not be held
18 accountable or be expected to check the ID.

19 The staff reviewed Tropicana's arguments and
20 reexamined the 61 employees listed as failing to check
21 the individual's ID.

22 We identified 35 employees who actually came
23 into direct contact with the minor and still failed to
24 check her ID.

25 Of those 35 individuals who had direct

1 contact with the minor, 4 served her drinks, 25 were
2 dealers at the tables that she actual played at and
3 6 were direct supervisors of those dealers of the tables
4 that she played.

5 So the point was that all those who had
6 direct contact with the minor or someone who they think
7 might be a minor must check the individual's ID to
8 verify that they are, in fact, over 21 years old and
9 legally allowed to be on the gaming floor. Those 35 did
10 not even check her ID.

11 For those reasons the staff recommends the
12 fine of \$10,000.

13 COMMISSIONER JAMISON: I have a question.

14 CHAIRMAN KOHN: Go ahead.

15 COMMISSIONER JAMISON: How did she get
16 caught?

17 Was that by Lumiere -- it is Lumiere.
18 Correct?

19 MS. KERR: Yes.

20 COMMISSIONER JAMISON: Was that by Lumiere
21 staff or was she caught in another fashion?

22 MS. KERR: I believe a security officer had
23 stopped her, wasn't sure and then called the MGC agent.

24 COMMISSIONER JAMISON: Okay.

25 COMMISSIONER NEER: She was in possession of

1 a fake ID. Correct?

2 MS. KERR: Yes.

3 CHAIRMAN KOHN: This is a point I don't
4 understand either.

5 So she had an ID, was checked by numerous
6 people and it was a false ID but obviously they didn't
7 know it at the time. What else are they supposed to do?

8 MS. KERR: Well, in this case there were the
9 17 licensees that checked, but then there were another
10 35 licensees who didn't even ask for her ID.

11 CHAIRMAN KOHN: This is all in the same
12 place?

13 MS. KERR: Correct.

14 The security officers --

15 CHAIRMAN KOHN: If she had had a legitimate
16 ID, you're telling me that a patron, a legitimate
17 patron, could be asked over 50 times to show her ID?

18 MS. KERR: Well, in this case we determined
19 there were 35 who had actual contact with her and she
20 looked young.

21 COMMISSIONER NEER: To some?

22 MS. KERR: Well, I have -- she looked like
23 she might be under 21. I have her picture here if you'd
24 like to --

25 COMMISSIONER JAMISON: Do you have a picture

1 of the ID?

2 CHAIRMAN KOHN: And I don't know whether,
3 Carolyn, you're the right person to ask this.

4 But what is a casino supposed to do other
5 than ask over 20 times to show the ID, which must have
6 looked real or, you know, 20 people or 21 people
7 wouldn't have said go ahead?

8 MS. KERR: Well, there were -- if a patron
9 looks to be under 21, licensees are supposed to ask and
10 verify --

11 COMMISSIONER JAMISON: Yeah, but his point is
12 17 people did and 17 people didn't recognize it as a
13 fake ID.

14 So I think, if I'm understanding what your
15 point is, 17 people checked it. So of the 51 people or
16 the 52 people that you're quoting should have looked at
17 it, 33 percent of them did, and out of that 33 percent
18 none of them recognized the fact that it was a fake ID.

19 CHAIRMAN KOHN: So my real question is what
20 else could they have done?

21 MS. KERR: Well, I don't think those --

22 COMMISSIONER JAMISON: It comes in
23 recognition of the false ID if --

24 MS. KERR: That's not the only problem.

25 COMMISSIONER JAMISON: Well, I know, but

1 that's one of the issues here.

2 MS. KERR: Correct.

3 COMMISSIONER JAMISON: One of the issues is
4 33 percent of the people that should have checked the ID
5 did but failed to recognize it as a false ID?

6 MS. KERR: Correct.

7 COMMISSIONER JAMISON: That would be one
8 parameter --

9 CHAIRMAN KOHN: But that also assumes that if
10 the other 30, whatever, number had also asked her, they
11 would have also not recognized it as a false ID. I just
12 don't know what they're supposed to do.

13 COMMISSIONER LOMBARDO: I think the point
14 here might be more the 30 -- the other two-thirds of
15 them that didn't even check.

16 COMMISSIONER JAMISON: Right.

17 COMMISSIONER LOMBARDO: But I'll agree, if
18 everybody who looked at it couldn't tell, I don't know
19 why we would think the rest of them could tell. I guess
20 the question is whether they should have checked it.

21 COMMISSIONER NEER: Do you have the ID?

22 MS. KERR: I think so.

23 COMMISSIONER JAMISON: I mean, the bottom
24 line is it's -- eventually someone realized it was a
25 false ID because she wouldn't have got arrested if that

1 hadn't have happened. So then unfortunately you have
2 the situation where 51 people did fail at identifying.

3 CHAIRMAN KOHN: But that gets to my other
4 question. The one person who did figure it out, what
5 did that person do differently than the 17 that didn't
6 figure it out?

7 MS. KERR: Well, I think the security
8 officers -- the security officer was unsure of --

9 CHAIRMAN KOHN: That's the ID.

10 MS. KERR: The Highway Patrolman was the one
11 that determined that it was a false ID. The security
12 officer suspected that, you know, there's a problem with
13 this identification.

14 COMMISSIONER LOMBARDO: The security officer
15 is an employee of Lumiere?

16 MS. KERR: Correct.

17 COMMISSIONER LOMBARDO: And he then talked to
18 the MGC personnel on site. Right?

19 MS. KERR: Correct.

20 CHAIRMAN KOHN: So maybe the rule should
21 be -- and I'm not trying to tell a casino how to run the
22 business, but maybe a rule should be that the first
23 person that looked at it and wondered should have called
24 that security officer over and had a determination made
25 before the other 17 people looked at it.

1 MS. KERR: Well, this was over the course of
2 four days and --

3 CHAIRMAN KOHN: Four days, right.

4 MS. KERR: -- all of the security officers
5 checked her ID, but when she went to the bar or when she
6 was ordering a drink or when she went to a table and
7 placed bets, the people that didn't check were those
8 people for the most part. You know, she sat down and
9 played blackjack and whatever. They didn't check her
10 ID. They just dealt her in.

11 When she went to order a drink, the people
12 that were noted didn't check her ID. They just served
13 her a drink. And that's the problem -- that's the main
14 problem.

15 EXECUTIVE DIRECTOR SEIBERT: Mr. Chairman, if
16 I may.

17 CHAIRMAN KOHN: Yes, sir. We're going to get
18 some clarity.

19 EXECUTIVE DIRECTOR SEIBERT: The 17 that
20 checked her ID aren't under question. We agree with
21 that. They checked her ID. That's fine. But you have
22 other positions within the casino that are required to
23 challenge people if they look underage.

24 So if she goes to the bar and gets a drink,
25 which those other 35 that are identified -- the 17

1 aren't in question. It's the other 35.

2 If you're playing a table game or if you're
3 getting a drink and they don't challenge you -- which
4 they didn't. We looked back and we narrowed that number
5 down from 61 to 35. It was the other 35 that she went
6 to that didn't challenge her in my form, or supervisors
7 who were working that didn't question why she wasn't
8 challenged when she sat down --

9 CHAIRMAN KOHN: But I'll go back to why do we
10 think that those 30 some would have come to a different
11 conclusion than the 13?

12 EXECUTIVE DIRECTOR SEIBERT: We don't. The
13 fact is they didn't even check.

14 COMMISSIONER JAMISON: I do have a question,
15 and not to go back to what their explanation was, but
16 there is a responsibility of the person at the turnstile
17 to check IDs of people who look underage. Correct?

18 EXECUTIVE DIRECTOR SEIBERT: That's correct.

19 COMMISSIONER JAMISON: So that is the initial
20 gatekeeper of the casino and that's where people are
21 filing in individually and other tasks aren't being
22 done, that's that person's -- way the way I understand
23 it, that person's job is to check for ID if a person
24 looks underage. If not, we don't check for ID at the
25 front part of the casino. Correct?

1 Is that -- since we've got rid of term
2 limits -- not term limits -- loss limits --

3 MS. KERR: I think that's a different --

4 COMMISSIONER JAMISON: Since we got rid of
5 the loss limits we no longer check the ID of every
6 individual, but the primary responsibility of that
7 person at the turnstile is to check IDs of people who
8 may appear under age. Is that correct?

9 And so I do get a little bit of -- I think
10 where the Chair is going is that someone clears the
11 initial check, which is supposed to be the primary
12 check, and then we're going to punish 51 people that are
13 sitting behind that primary check because they didn't do
14 it 16 -- or 13 times a visit over these four days.
15 13 times every day she's supposed to get checked in
16 addition to that primary check. Is that kind of --

17 CHAIRMAN KOHN: Well, yeah. And I guess I've
18 got a dilemma going here.

19 Either, you know, we don't check somebody
20 50 some times over four days. We check them once when
21 they come in, and if there is a suspicion, we call the
22 security guard or the security person who eventually
23 came in and said this is a fake ID, so we catch it
24 upfront.

25 Or if there is 17 people that looked at it

1 and 33 that didn't look at it, but I've got to assume
2 that they would have come to the same conclusion that
3 the 17 did.

4 Something is not making sense. And I agree
5 that we need to punish, if you will, casinos that allow
6 underage people to come in and either gamble or drink,
7 but I'm just not sure what else in this case they could
8 have done other than what they did, or they should have
9 done it a lot earlier, you know, when she first came in
10 the front door or the gate.

11 COMMISSIONER JAMISON: Can I ask one more
12 question?

13 COMMISSIONER LOMBARDO: And I have one also.

14 COMMISSIONER JAMISON: Resources of the
15 personnel at the turnstile, do they have access to
16 compare out-of-state licenses to -- so I see a nod. Or
17 can you help me with that, what resources they should or
18 should be able to cross-reference?

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

21 Several -- like one of -- the question
22 earlier, but yet when we no longer required player
23 cards, most of the casinos instituted, you know, if you
24 looked under 30, 35, they could set their own standards.

25 But they do have -- the security guard at the

1 turnstiles have an obligation to check that ID. They
2 are trained on how to check IDs. They have -- some of
3 the casinos have an ID check Veridocs system, where they
4 can put the ID in and it will flash red if it's a fake
5 ID.

6 So a lot of them have different resources for
7 that. They have training. We have one of our gaming
8 enforcement managers who goes there and conducts
9 training, not just to look at the ID but look at height,
10 look at weight, look at where the ears are placed on the
11 face. They receive that kind of training. So, yes,
12 they are the primary gatekeeper.

13 The Commission historically has not allowed
14 that one check to satisfy the checking of IDs. Once the
15 person get through that door, we've never taken the
16 stance that once an underage is in that the rest of the
17 people have no obligation, because it's a crime to deal
18 to an underage, to allow them to gamble at a table.

19 So when some person approaches the table and
20 they're not carded by the dealer or by the table games
21 supervisor and are allowed to gamble, that's a crime.

22 So that's just historically how the casino --
23 how the Commission has addressed the carding of
24 individuals.

25 And a lot of individuals that are underage

1 are identified at the tables by a table game supervisor
2 or a dealer carding the game.

3 So that is a good way that we have caught
4 underage people on the casino, or that they have caught
5 underage people in the casino.

6 COMMISSIONER JAMISON: And I understand that,
7 and I agree with that because you would have longer term
8 time of observation and maybe a longer time to process
9 that.

10 But I guess my question would go back to is
11 if that was done, how many of these 35 people -- did you
12 take out -- when you eliminated, did you take out people
13 that were like the second shift of someone who -- you
14 know, they check the -- the pit boss or the supervisor
15 checks the ID of the table and then the next dealer
16 comes in and the person could have said, we've checked
17 her ID? That changes the responsibilities of that
18 dealer and the next supervisor if someone has already
19 said we've checked that ID.

20 I guess that's a deeper part of this
21 investigation. But if 17 people checked, there's four
22 people -- at least on an average four people a day that
23 checked her ID.

24 MS. ALONZO: Yeah, we -- the list of 35
25 includes people -- includes a dealer at the table when

1 she first initially approached the table. Nobody that
2 was tapped in is included on that list.

3 COMMISSIONER JAMISON: Okay.

4 MS. ALONZO: It only includes table games
5 supervisors that were physically standing at the table
6 when she approached the table, not if the table games
7 supervisor was three tables away or not in the -- not
8 standing there.

9 So that's how we weeded that down, because
10 the initial report included everybody, you know, with
11 any possible responsibility. So that was how that was
12 narrowed. And the beverage servers that served her that
13 didn't card. So that's -- all of the 35 were either --
14 were in one of those groups.

15 CHAIRMAN KOHN: Anything else to present on
16 this?

17 COMMISSIONER LOMBARDO: I had an
18 additional --

19 CHAIRMAN KOHN: I'm sorry, Rick. Go ahead.

20 COMMISSIONER LOMBARDO: I understand that
21 Lumiere has had a change in management within the last
22 few years. Is that right?

23 MS. KERR: Yes.

24 COMMISSIONER LOMBARDO: Okay. Under current
25 management have there been previous similar problems?

1 MS. KERR: Well, the ones -- the priors that
2 I had mentioned, those were all from April 2014 forward,
3 so those were all under the current management.

4 COMMISSIONER LOMBARDO: Okay. And then there
5 were four times -- there were four times that the casino
6 was disciplined.

7 In 2014 they received a \$2,500 fine. On
8 January 4th, 2016 they received a \$5,000 fine. In
9 January -- a different day in January 2016 and February
10 2016 they received letters.

11 So all of the other priors that are listed in
12 that appendix, those, like I said, are dated April 2014
13 through April 2016, and those were individuals that had
14 gotten some kind of discipline, whether it was a day or
15 whatever.

16 MS. ALONZO: They did get a new GM this year.
17 I don't know if he's here. It was January. So there's
18 a new GM in January.

19 So the priors are all Tropicana Lumiere
20 priors, but they did have some change in management in
21 January.

22 COMMISSIONER LOMBARDO: I seem to remember
23 that. Okay.

24 CHAIRMAN KOHN: Any other questions?

25 COMMISSIONER LOMBARDO: No.

1 CHAIRMAN KOHN: Is there a motion to approve
2 or otherwise modify DC-16-176?

3 COMMISSIONER NEER: I make a motion to
4 approve the modification of the penalty of \$5,000.

5 COMMISSIONER LOMBARDO: Second.

6 CHAIRMAN KOHN: Discussion on the motion?

7 I'm going to discuss the motion.

8 I can't be in favor of this because it's not
9 so much -- to me it's not a matter of how much the fine
10 is as it is does the process that we went through make
11 sense, and I can't justify it in my mind.

12 So, Angie, please take the roll.

13 MS. FRANKS: Commissioner Lombardo.

14 COMMISSIONER LOMBARDO: Approve.

15 MS. FRANKS: Commissioner Neer.

16 COMMISSIONER NEER: Approve.

17 MS. FRANKS: Commissioner Hale.

18 COMMISSIONER HALE: Approve.

19 MS. FRANKS: Commissioner Jamison.

20 COMMISSIONER JAMISON: Approve.

21 MS. FRANKS: Chairman Kohn.

22 CHAIRMAN KOHN: No.

23 MS. FRANKS: By your vote you've adopted
24 DC-16-176 as amended to a \$5,000 fine.

25 CHAIRMAN KOHN: Is the attorney for

1 Ms. Nichols here yet?

2 MR. O'BRIEN: Yes.

3 CHAIRMAN KOHN: Yes.

4 MR. O'BRIEN: Yes, Your Honor.

5 CHAIRMAN KOHN: Carolyn, do you want to
6 finish or should we go back to this matter?

7 MS. KERR: I'm done with all of the
8 Consideration of Disciplinary Actions. The next thing
9 on my list are the rules and regulations. So we can go
10 back and finish that --

11 CHAIRMAN KOHN: We'll do it either way you
12 want. Do you want to finish that?

13 Let's go ahead and finish that.

14 MS. KERR: It's up to you. It makes no
15 difference to me.

16 CHAIRMAN KOHN: Let's finish up the rules and
17 regulations.

18 MS. KERR: So move to Tab J, which are the
19 proposed amendments.

20 CHAIRMAN KOHN: Is that okay, Mr. Seibert --

21 EXECUTIVE DIRECTOR SEIBERT: Yes, sir.

22 CHAIRMAN KOHN: -- to finish up and then go
23 back?

24 MS. KERR: Okay. Under Tab J there are three
25 proposed amendments. These are all proposed rules that

1 have not yet been finalized. They're the first time
2 filing.

3 The first one is 11 CSR 45-4.020, which is
4 licenses, restrictions on licenses, licensing authority
5 of the Executive Director and other definitions.

6 Basically the change that we're proposing
7 here is to move some language around in Section 6 of
8 that regulation for clarification purposes.

9 11 CSR 45-5.053 is policies, and in that rule
10 we're proposing to take out Subsection (3)(E) because
11 the current language in the regulation is inconsistent
12 with the statute. The statute is 313.812 RSMo.

13 The statutory language overrides the
14 regulation language, and so to avoid any potential
15 conflict, any inconsistency, we just decided to take out
16 that particular section within the regulation and just
17 leave it be the statutory language.

18 And then 11 CSR 45-9.120 is the Minimum
19 Internal Control Standards, Chapter T, dealing with
20 tips, and then also the MICS Chapter T is included in
21 that.

22 We're amending the regulation because the
23 MICS needs to be amended, and because the regulation
24 incorporates the MICS Chapter T, we need to file an
25 amendment to the regulation to amend the MIC.

1 And what we're changing in Chapter T mainly
2 is to change Section 1.03 to allow EVS employees to
3 accept tips in the form of cash but not tickets.

4 We received some requests from casinos and
5 kind of in response to that we decided to make that
6 amendment.

7 We've also made some finetuning changes to
8 Chapter T regarding table game tips. I could go through
9 those if you want me to.

10 CHAIRMAN KOHN: Does anybody need those?

11 COMMISSIONER LOMBARDO: No.

12 COMMISSIONER JAMISON: No.

13 CHAIRMAN KOHN: Okay.

14 MS. KERR: So once the Commission approves
15 the filing of those we will file the proposed
16 amendments. A public hearing is scheduled on those
17 rules for December 6, 2016. After that we would file --
18 bring the Final Order of Rulemaking, we'd bring that,
19 present that to the Commission for their approval, and
20 then at that point then we'd go and file the Final Order
21 of Rulemaking with the Secretary of State and Joint
22 Committee on Administrative Rules.

23 And assuming everything goes as planned
24 along the timeline, these rules would become effective
25 May 30th, 2017.

1 And before I go on to K, I think we probably
2 need a motion on those.

3 CHAIRMAN KOHN: Let's finish up on those.

4 Any questions on any of those?

5 We're going to do this in one motion. Is
6 there a motion to adopt CSR 11 CSR 45-4.020, 5.053 and
7 9.120?

8 COMMISSIONER JAMISON: So moved.

9 CHAIRMAN KOHN: Is there a second?

10 COMMISSIONER HALE: Second.

11 CHAIRMAN KOHN: Discussion on the motion?
12 Angie.

13 MS. FRANKS: Commissioner Lombardo.

14 COMMISSIONER LOMBARDO: Approve.

15 MS. FRANKS: Commissioner Neer.

16 COMMISSIONER NEER: Approve.

17 MS. FRANKS: Commissioner Hale.

18 COMMISSIONER HALE: Approve.

19 MS. FRANKS: Commissioner Jamison.

20 COMMISSIONER JAMISON: Approve.

21 MS. FRANKS: Chairman Kohn.

22 CHAIRMAN KOHN: Approve.

23 MS. FRANKS: By your vote you've adopted the
24 proposed amendments 11 CSR 45-4.020, 5.053 and 9.120.

25 CHAIRMAN KOHN: Okay. Carolyn, Tab K.

1 MS. KERR: Tab K is a Final Order of
2 Rulemaking for 11 CSR 45-9.113, which deals with the
3 Minimum Internal Control Standard Chapter M,
4 surveillance.

5 So we've made some changes to Chapter M and
6 because of those changes we need to file an amendment to
7 the regulation.

8 As I said, this is a Final Order of
9 Rulemaking. Basically what we've done in Chapter M is
10 we're amending Section 1.06 by removing a reference to
11 11 CSR 45-12.090 regarding liquor control regulations
12 dealing with employees being able to consume or receive
13 liquor while on the premises.

14 We previously amended that liquor control
15 rule, and so this Chapter M needed to be amended so that
16 there is consistency across the MICS and the
17 regulations.

18 So previously the Commission approved the
19 filing of the proposed amendment at your May 2016
20 Commission meeting. A public hearing was held on
21 August 10th of 2016.

22 And so if the Commission approves this, we'll
23 file the Final Order of Rulemaking with the Secretary of
24 State and Joint Committee on Administrative Rules, and
25 then after that it will be published in the Missouri

1 Register and the Code of State Regulations and become
2 effective January 30th, 2017.

3 CHAIRMAN KOHN: Any questions?

4 Is there a motion to adopt 11 CSR 45-9.113?

5 COMMISSIONER HALE: So moved.

6 COMMISSIONER NEER: Second.

7 CHAIRMAN KOHN: Any discussion on the motion?
8 Angie.

9 MS. FRANKS: Commissioner Lombardo.

10 COMMISSIONER LOMBARDO: Approve.

11 MS. FRANKS: Commissioner Neer.

12 COMMISSIONER NEER: Approve.

13 MS. FRANKS: Commissioner Hale.

14 COMMISSIONER HALE: Approve.

15 MS. FRANKS: Commissioner Jamison.

16 COMMISSIONER JAMISON: Approve.

17 MS. FRANKS: Chairman Kohn.

18 CHAIRMAN KOHN: Approve.

19 MS. FRANKS: By your vote you've adopted
20 11 CSR 45-9.113.

21 CHAIRMAN KOHN: Thank you, Carolyn. Good
22 job.

23 You know, let's go ahead and finish up the
24 relicensure items too.

25 COMMISSIONER LOMBARDO: Whatever you want to

1 do.

2 CHAIRMAN KOHN: I was trying to save that for
3 last.

4 Mr. Seibert, let's go ahead.

5 EXECUTIVE DIRECTOR SEIBERT: The next order
6 of business is Consideration of Relicensure of Certain
7 Suppliers. Master Sergeant Gary Davidson will present.

8 MASTER SERGEANT DAVIDSON: Good morning,
9 Chairman, Commissioners.

10 CHAIRMAN KOHN: Is that a new title?

11 MASTER SERGEANT DAVIDSON: Yes, it is.

12 CHAIRMAN KOHN: Congratulations.

13 MASTER SERGEANT DAVIDSON: There is really no
14 congratulations to it. It's just a restructuring as far
15 as the supervisors that -- or sergeants that supervise
16 people. So there is really no difference.

17 COMMISSIONER NEER: No more money. Right?

18 MASTER SERGEANT DAVIDSON: Not much.

19 Please note the two supplier companies being
20 presented for relicensing.

21 Missouri State Highway Patrol investigators,
22 in conjunction with Missouri Gaming Commission financial
23 investigators, conducted relicensing investigations of
24 two supplier companies currently licensed in the state
25 of Missouri.

1 These investigations consist of
2 jurisdictional inquiries, feedback from affected gaming
3 company clients, a review of disciplinary actions,
4 litigation and business credit profiles and a review of
5 key persons associated with each company.

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

11 The following supplier companies are being
12 presented for your consideration.

13 The first company is DEQ Systems Corp which
14 you will find under Tab L.

15 DEQ has been continuously licensed by the
16 Missouri Gaming Commission as a supplier since
17 September 30th, 2009.

18 DEQ is located in Levis, Quebec, Canada, with
19 additional offices in Las Vegas, Nevada. Founded in
20 1998, DEQ specializes in casino table game bonusing
21 technology and serves the worldwide gaming industry.

22 DEQ's patents and products include side bet
23 bonusing with progressive and random jackpot prizes and
24 slot machine style mystery bonusing, multiple credit
25 betting for the player's and dealer's hand, denomination

1 betting flexibility, electronic credit bank, electronic
2 rake, as well as baccarat and blackjack hand tracking.
3 All DEQ solutions are enhanced by multimedia animation
4 and sound effects.

5 DEQ has an extensive patent protected
6 portfolio that is recognized in more than 50 countries,
7 to include the United States, Macau, Australia and
8 Canada.

9 DEQ's bonusing solutions and products are
10 also present in more than 300 casinos in over
11 30 countries.

12 It should be noted at this time, however,
13 that DEQ is in the process of being acquired by
14 Scientific Games who is currently a licensee in the
15 state of Missouri. The transaction is expected to be
16 completed within the next several quarters but at this
17 time it's just being proposed.

18 CHAIRMAN KOHN: Any questions?

19 Is there a motion to adopt Resolution 16-047?

20 COMMISSIONER JAMISON: So moved.

21 CHAIRMAN KOHN: Thank you. I was beginning
22 to worry.

23 Is there a second?

24 COMMISSIONER LOMBARDO: Second.

25 CHAIRMAN KOHN: Discussion on the motion?

1 Angie.

2 MS. FRANKS: Commissioner Lombardo.

3 COMMISSIONER LOMBARDO: Approve.

4 MS. FRANKS: Commissioner Neer.

5 COMMISSIONER NEER: Approve.

6 MS. FRANKS: Commissioner Hale.

7 COMMISSIONER HALE: Approve.

8 MS. FRANKS: Commissioner Jamison.

9 COMMISSIONER JAMISON: Approve.

10 MS. FRANKS: Chairman Kohn.

11 CHAIRMAN KOHN: Approve.

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

13 Resolution No. 16-047.

14 CHAIRMAN KOHN: Do you want to move on to

15 048, Master Sergeant?

16 MASTER SERGEANT DAVIDSON: Yes, sir.

17 The second company is BMM North America,

18 Incorporated doing business as BMM Testlabs, which you

19 will find under Tab M.

20 BMM has been continuously licensed by the

21 Missouri Gaming Commission as a supplier since

22 September 29, 2010. BMM's international headquarters is

23 located in Las Vegas, Nevada.

24 BMM is an independent testing laboratory

25 company which tests gaming products for manufacturers,

1 distributors and gaming regulators to ensure that they
2 are performing as required and within the regulations
3 for the jurisdictions for which they are intended.

4 The company provides certification reports to
5 gaming regulatory agencies within gaming jurisdictions
6 for which the testing was performed. BMM also provides
7 specialized training for gaming regulators.

8 CHAIRMAN KOHN: Any questions?

9 COMMISSIONER JAMISON: I do.

10 Under the assessment that we did of them
11 earlier and we had some questions --

12 MASTER SERGEANT DAVIDSON: Yes, sir.

13 COMMISSIONER JAMISON: -- and I see that they
14 said that they are committed to correcting those
15 questions.

16 MASTER SERGEANT DAVIDSON: Yes, sir.

17 COMMISSIONER JAMISON: But if we license them
18 and they don't correct those questions -- because I'm
19 assuming by the way this is written they have not
20 corrected them as of the time of the writing of this
21 report?

22 MASTER SERGEANT DAVIDSON: That is my
23 understanding.

24 COMMISSIONER JAMISON: Okay. So if we
25 approve them as a licensee but they don't do those

1 corrections, do we have recourse?

2 MASTER SERGEANT DAVIDSON: I would ask Todd
3 to speak on that, please.

4 MR. NELSON: Good morning again.

5 CHAIRMAN KOHN: Would you identify yourself
6 for the record?

7 MR. NELSON: Todd Nelson, Gaming Enforcement
8 Manager, Missouri Gaming Commission.

9 So we do have a meeting scheduled with them
10 on December 16th to review these. If they do not make
11 those modifications that we requested and they've agreed
12 to, then we will write a gaming incident report, and we
13 will submit that to our discipline review board and
14 we'll take action and we'll come up through that
15 particular chain.

16 COMMISSIONER JAMISON: We're going to issue
17 them a license based on the fact that we know that
18 they're delinquent or deficient in that area and then
19 we're going to turn around and write a disciplinary
20 report. Why wouldn't we delay the issuance of the
21 license?

22 MR. NELSON: That's completely up to you
23 guys.

24 COMMISSIONER LOMBARDO: Why is the meeting
25 set on December 16th and not earlier?

1 concerns issuing the license before the 16th or you
2 don't have any concerns if we didn't issue the license
3 before the 16th?

4 MR. NELSON: I have no concerns with you
5 issuing the license.

6 COMMISSIONER JAMISON: Okay.

7 CHAIRMAN KOHN: Today or after the 16th?

8 MR. NELSON: Today.

9 CHAIRMAN KOHN: Today.

10 Mr. Seibert, do you have a recommendation on
11 this?

12 EXECUTIVE DIRECTOR SEIBERT: Staff recommends
13 approval.

14 CHAIRMAN KOHN: To issue it today?

15 EXECUTIVE DIRECTOR SEIBERT: Yes, sir.

16 CHAIRMAN KOHN: Okay. Any further
17 discussions or questions?

18 I can't remember if we had this motion before
19 us.

20 MS. FRANKS: We did not.

21 CHAIRMAN KOHN: Is there a motion to approve
22 16-048?

23 COMMISSIONER LOMBARDO: I'll move to approve
24 16-048.

25 CHAIRMAN KOHN: Is there a second?

1 COMMISSIONER HALE: I'll second.

2 CHAIRMAN KOHN: Discussion on the motion?

3 Angie.

4 MS. FRANKS: Commissioner Lombardo.

5 COMMISSIONER LOMBARDO: Approve.

6 MS. FRANKS: Commissioner Neer.

7 COMMISSIONER NEER: Approve.

8 MS. FRANKS: Commissioner Hale.

9 COMMISSIONER HALE: Approve.

10 MS. FRANKS: Commissioner Jamison.

11 COMMISSIONER JAMISON: Approve.

12 MS. FRANKS: Chairman Kohn.

13 CHAIRMAN KOHN: Approve.

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

15 Resolution No. 16-048.

16 CHAIRMAN KOHN: Okay. Mr. Seibert, who is

17 doing 049?

18 EXECUTIVE DIRECTOR SEIBERT: Level I and

19 key applicants will be presented by Sergeant Brian

20 Holcomb.

21 CHAIRMAN KOHN: Okay. Sergeant.

22 After this we'll go back and pick up the

23 Tanya Nichols' matter.

24 SERGEANT HOLCOMB: Good morning,

25 Mr. Chairman, Commissioners.

1 CHAIRMAN/COMMISSIONERS: Good morning.

2 SERGEANT HOLCOMB: Missouri State Highway
3 Patrol investigators and Missouri Gaming Commission
4 financial investigators conduct comprehensive background
5 investigations on key and Level I applicants.

6 These investigations include civil, criminal,
7 financial and general character inquiries which are made
8 in the jurisdictions where the applicants live, work and
9 frequent.

10 Investigations were completed for the
11 following individuals: John J. Connelly, Chief
12 Executive Officer, Interblock USA, L.C.; Michael Allan
13 Hart, Senior Vice-President of Accounting, Treasurer and
14 Assistant Secretary for Isle of Capri Casinos,
15 Incorporated; Jeffrey Robert Solomon, Chief Operating
16 Officer for Affinity Gaming.

17 Investigative results were provided to the
18 Gaming Commission staff for their review, and these
19 individuals are being presented for your consideration.

20 CHAIRMAN KOHN: Any questions?

21 COMMISSIONER JAMISON: No, sir.

22 COMMISSIONER NEER: No.

23 COMMISSIONER LOMBARDO: No.

24 CHAIRMAN KOHN: Can we vote on these together
25 or individually?

1 EXECUTIVE DIRECTOR SEIBERT: Yes.

2 CHAIRMAN KOHN: I'm going to recuse myself on
3 the Isle of Capri person. So, Angie, if you would show
4 that, then with that we'll go ahead and vote on all
5 three.

6 COMMISSIONER JAMISON: I move for the
7 adoption of Resolution 16-049.

8 COMMISSIONER NEER: Second.

9 CHAIRMAN KOHN: Discussion on the motion?
10 Angie.

11 MS. FRANKS: Commissioner Lombardo.

12 COMMISSIONER LOMBARDO: Approve.

13 MS. FRANKS: Commissioner Neer.

14 COMMISSIONER NEER: Approve.

15 MS. FRANKS: Commissioner Hale.

16 COMMISSIONER HALE: Approve.

17 MS. FRANKS: Commissioner Jamison.

18 COMMISSIONER JAMISON: Approve.

19 MS. FRANKS: Chairman Kohn.

20 CHAIRMAN KOHN: Approve with that one
21 exception.

22 MS. FRANKS: By your vote you've adopted
23 Resolution No. 16-049.

24 CHAIRMAN KOHN: Okay. Mr. Steib, I think
25 we're ready to go back to Tab C.

1 COMMISSIONER LOMBARDO: Chairman, I'm going
2 to recuse myself on this one.

3 MR. STEIB: May it please the Commission.
4 This is the matter of Tanya Nichols.

5 Ms. Nichols occupied the position of accounts
6 receivable or accounts payable coordinator at Argosy
7 Casino. Ms. Nichols had or has a gambling problem. The
8 answer to that remains in the future.

9 This situation occurred because a jackpot had
10 been won in September of 2015 and it was unclaimed.
11 Going back to 2006 and through 2015 Ms. Nichols had
12 voluntarily placed herself on a disassociated person's
13 list.

14 So we have an employee of the casino who was
15 gambling.

16 There was a voluntary Stipulation of Facts
17 agreed to by counsel for the Gaming Commission and by
18 Ms. Nichols' counsel that was admitted into the record,
19 and it establishes, along with other testimony, by a
20 preponderance of the evidence that Ms. Nichols did not
21 bear the burden of proof showing that she should not be
22 disciplined and, hence, she should be disciplined in
23 this matter.

24 This situation affords me the opportunity to
25 point out a couple of things to the Commission. No. 1,

1 you will see that there is a difference between what the
2 staff recommended and what the hearing officer
3 recommended.

4 That occurs for two reasons on occasion.
5 No. 1, the hearing officer has an opportunity to listen
6 to witnesses. The staff does not have that opportunity.
7 So sometimes the hearing officer has more information
8 than does the staff, including the ability to make a
9 judgment regarding the credibility of those witnesses.

10 The other important factor that the
11 Commission should observe is that once the staff makes a
12 recommendation there is to be an independent
13 recommendation by the hearing officer.

14 That is a good, healthy, necessary check and
15 balance in the system. And beyond that there is a check
16 and balance twixt to what the hearing officer recommends
17 and what the Commission may adopt. So that's a good
18 thing in the procedure. I point that out because that
19 happens sometimes.

20 The other thing that I'd like to point out is
21 that the roll of the hearing officer is to attempt to
22 establish some balance twixt the protection of the
23 citizens of the state of Missouri by adherence to the
24 statutes and to the regulations but on the other hand
25 balancing the interest of employees.

1 These are grave situations in that they
2 frequently involve whether the employee has an
3 opportunity to incur a livelihood or make a livelihood.

4 So I point out why those differences occur
5 and what I believe the Commission should see when there
6 is a balancing act here.

7 In this situation Ms. Nichols was represented
8 by counsel. There was a Stipulation of Fact entered
9 into the record.

10 It is the opinion of the hearing officer that
11 Ms. Nichols should be disciplined. The issue becomes
12 what is the appropriate sanctions, and that harkens back
13 to what is this balancing act that should occur between
14 the protection of the citizens of the state of Missouri
15 and their interest and the grave situation of the part
16 of a livelihood.

17 Sometimes there is a modicum of compassion
18 that is to be clothed in these situations, not always
19 but sometimes, and when appropriate I try to point that
20 out to the Commission.

21 So what is the appropriate sanction in this
22 matter?

23 I point out to the Commission that there has
24 been good cooperation twixt the Respondent in this
25 matter; the Stipulation of Fact voluntarily entered.

1 Ms. Nichols voluntarily placed herself on the
2 disassociated person's list. She also admitted for the
3 record that she attempted to deal with this gambling
4 situation on her own, was unable to do so, and hence
5 entered voluntarily into -- voluntarily into counseling,
6 weekly counseling, which she is undergoing.

7 So I've attempted to examine the letter and
8 spirit of the law, the statutes and the regulations and
9 hence balance this interest of Ms. Nichols also in this
10 grave situation.

11 In short and to quote a colloquialism
12 Ms. Nichols has met the enemy and they are her. She
13 recognizes this problem. She has attempted to deal with
14 the problem.

15 That resulted in a recommendation that I am
16 making to the Commission that Ms. Nichols' license be
17 suspended for one year to afford her the opportunity to
18 remedy her personal situation through counseling, and if
19 so, after that year she may come back as an employee.

20 If, in fact, she does not do that
21 successfully, I believe that the interests of the
22 citizens of the state of Missouri would be observed
23 also.

24 So that's the recommendation of the hearing
25 officer, that Ms. Nichols' license be suspended for one

1 year.

2 CHAIRMAN KOHN: Okay. And I understand that
3 Ms. Nichols and/or her counsel is here and we'll hear
4 from them, but let me ask you first: What is the -- and
5 I've read all of this but I'd like to hear it from you.

6 What is the specific thing that she did that
7 she's being suspended for?

8 MR. STEIB: Well, the specific thing which
9 the hearing officer paid attention to, or I paid
10 attention to, was after she made this admission of
11 interest, admitted that she had done something wrong,
12 she then admitted that she was unable to take care of
13 this problem on her own, retained counsel to help her
14 get through this and then more importantly voluntarily
15 entered herself in weekly counseling to address this
16 problem.

17 CHAIRMAN KOHN: Okay. I'm not sure you
18 answered my question.

19 MR. STEIB: Okay.

20 CHAIRMAN KOHN: Specifically what was the act
21 that she committed that is causing her to be suspended?

22 MR. STEIN: The act that she committed, she
23 was on a disassociated person's list and she then went
24 in and gambled on the floor.

25 The way that was ascertained was she won a

1 jackpot but didn't claim it. When someone is on a
2 disassociated person's list, they're found on the
3 gambling floor, they're arrested for trespass,
4 disassociated person's list.

5 So she was arrested for trespass because she
6 was gambling, having been placed on the disassociated
7 person's list.

8 CHAIRMAN KOHN: So the specific act was
9 gambling after she's on the list?

10 COMMISSIONER JAMISON: But the violation is
11 trespass.

12 MR. STEIB: Yes.

13 COMMISSIONER JAMISON: And this would go
14 to -- nonlicensees would be the exact same thing that
15 would happen to a nonlicensee who was on the DAP list
16 and was found on the floor.

17 CHAIRMAN KOHN: Okay.

18 MR. STEIB: Correct.

19 CHAIRMAN KOHN: Any questions of Mr. Steib
20 before we hear from --

21 COMMISSIONER JAMISON: I do.

22 I read your Final Order and it reads a little
23 different than what I'm hearing you say, and I just want
24 to make sure I understand what you're saying when you
25 said that your recommendation is she be suspended for a

1 year to afford her the opportunity to complete
2 counseling?

3 MR. STEIB: Correct.

4 COMMISSIONER JAMISON: And I thought I heard
5 you state that at which time her license would be
6 reinstated if she successfully completed that.

7 In your Order you say if she -- it gives her
8 an opportunity to successfully complete, after which she
9 may apply for rescission of her suspension, which to me
10 those are two different things.

11 One would be a we're suspending you if you
12 complete treatment; you're going to be reinstated.
13 Another is you've been suspended, you complete
14 treatment, you come back and present the facts to the
15 Commission and they'll consider a rescission of your
16 suspension.

17 So I'm kind of trying to get what you're
18 saying.

19 MR. STEIB: I understand.

20 What I'm saying is that I believe she should
21 be afforded the opportunity to correct the situation but
22 she will not be granted an automatic relicensure. She
23 will have to come back and demonstrate that she has
24 successfully completed a counseling program or present
25 evidence which would lead the staff or the hearing

1 officer to believe that she has taken care of this
2 problem which she has.

3 COMMISSIONER JAMISON: Okay. There was just
4 a little bit of -- you know, I just wanted to clarify.

5 MR. STEIB: I understand the confusion.

6 CHAIRMAN KOHN: Other questions of Mr. Steib?

7 COMMISSIONER HALE: Very briefly,
8 Mr. Chairman.

9 Sir, she placed herself on that DAP list,
10 right, originally I believe in 2006?

11 MR. STEIB: In 2006 and through 2015 she was
12 still on the list.

13 This situation occurred on September 15,
14 2015.

15 COMMISSIONER HALE: Okay. But she placed
16 herself on the DAP list?

17 MR. STEIB: Yes.

18 COMMISSIONER HALE: Was it your view after
19 the submission of stipulation but also interaction with
20 her and her counsel that this was simply an instance
21 where someone who is on the DAP list, voluntarily placed
22 herself there, couldn't control herself?

23 MR. STEIB: Based on her testimony I believe
24 that's the case, and based on her testimony I believe
25 that counseling may or may not correct that.

1 That's why I opened my statement by saying
2 she has or had -- has or had a gambling problem. It
3 will be up to her to demonstrate that she had a gambling
4 problem. If she cannot do that and she still has a
5 gambling problem, in fact, she should be disciplined.

6 COMMISSIONER HALE: I got you. Thank you
7 very much, sir.

8 CHAIRMAN KOHN: You may or may not know this,
9 but is the type of treatment that is being recommended
10 for her, is that generally a one-year-long-type
11 treatment or is that unusually long or should it be
12 longer?

13 MR. STEIB: That's a professional counseling
14 question that I'm not in a position to answer. I don't
15 know.

16 I did reach the conclusion that if this
17 problem had not been corrected in one year, it probably
18 was not going to be corrected, but that's a lay
19 psychologist answer to your question.

20 CHAIRMAN KOHN: Any other questions of
21 Mr. Steib?

22 And we may have questions for you afterwards
23 after we hear from Ms. Nichols or her counsel.

24 Okay. Is Ms. Nichols here?

25 MR. O'BRIEN: No, she's not, Your Honor. I'm

1 here for her.

2 CHAIRMAN KOHN: Okay.

3 MR. O'BRIEN: My name is Kevin O'Brien.

4 CHAIRMAN KOHN: All right. Do you want to
5 step forward.

6 Do you want to go ahead and introduce
7 yourself for the record.

8 MR. O'BRIEN: My name is Kevin O'Brien. I'm
9 an attorney in Columbia. I represented Ms. Nichols in
10 this action at the hearing.

11 She actually has changed jobs, is no longer
12 in the gaming industry. She asked me to appear for her
13 at this hearing so she could request a different
14 specific remedy from the Commission.

15 CHAIRMAN KOHN: Okay. We're ready to hear
16 from you.

17 MR. O'BRIEN: Ms. Nichols -- I agree with
18 Mr. Steib's recitation of the facts in this case.

19 Ms. Nichols worked in the gaming industry for
20 a number of years and had a gambling problem that had
21 developed in her life while she was working in the
22 gaming industry, and I think the record reflects this.

23 She continued on with her education and got
24 an accounting degree, and in the midst of trying to pass
25 her CPA exam and having some family strife, the stresses

1 of those activities kind of caused her to relapse into
2 some problem gambling behavior.

3 It's true she had placed herself on the DAP
4 list voluntarily and she violated that. We admitted
5 that in the hearing and certainly agree to that.

6 We would note, and I think it's clear in the
7 record, she has no other violations of her license and
8 she did voluntarily on her own seek out counseling in
9 this matter.

10 Now, as I said, she has changed careers.
11 She's no longer in the gaming industry, so, I mean,
12 effectively this is somewhat of a moot question.

13 However, Ms. Nichols has asked me to ask the
14 Commission to consider allowing her license to simply
15 lapse in December -- it's my understanding speaking to
16 her that her license would no longer be active as of
17 December 27th -- rather than disciplining her in this
18 case, and that's our request.

19 CHAIRMAN KOHN: Do you know if she's -- is
20 she going to undergo treatment even though she's changed
21 jobs?

22 MR. O'BRIEN: I believe she still continues
23 in counseling, you know. Now that she's changed jobs
24 and she's no longer in the industry, I believe she
25 thinks that's more important than actually it was

1 before, because there is nothing really professionally
2 that would limit her from going into a casino and
3 gambling, and I don't think that's something that she
4 wants to do.

5 CHAIRMAN KOHN: Carolyn, do you have
6 something to add?

7 MS. KERR: I do, if I might.

8 CHAIRMAN KOHN: Thank you.

9 MR. O'BRIEN: Thank you, sir.

10 CHAIRMAN KOHN: I'm not sure that -- we may
11 or may not have questions of you.

12 MR. O'BRIEN: Certainly.

13 CHAIRMAN KOHN: Don't go away.

14 MS. KERR: Thank you.

15 The staff stands by the recommendation that
16 Ms. Nichols' Level II occupational license be revoked.

17 First, revocation is consistent with what
18 we've done in the past in similar cases when we've had a
19 licensee that is on the DAP list that wins a jackpot or
20 is found on the gaming floor gambling.

21 Another reason, and probably more important,
22 is that as a licensee, she's had a license since 2005,
23 she's been on the DAP list since 2006.

24 Ms. Nichols knew and should have known that
25 it was not only against gaming regulations but also

1 against the law to be a DAP and be on the gaming floor,
2 let alone win and attempt to cash a jackpot.

3 Being on the casino floor while on the DAP
4 list is a crime. She admitted as much at the hearing.
5 She knew it was wrong and admitted leaving the casino
6 without claiming the jackpot because she, quote, knew
7 she wasn't supposed to be in there in the first place.

8 She knew that not only was it against gaming
9 regulations but it was also unlawful. It's a crime for
10 her to be on the boat, to gamble and to attempt to claim
11 the jackpot while she was on the disassociated person's
12 list.

13 For those reasons we recommend that her
14 license be revoked.

15 I also wanted to touch on her attorney's
16 recommendation that her license just lapse, be allowed
17 to lapse. I believe her license expires at the end of
18 December 2016.

19 But we would ask that her license still be
20 revoked, because in the event that she comes -- decides
21 to be licensed sometime in the future, if we allow her
22 license just to lapse, just to expire, this discipline
23 would not be on the record that she had her license
24 disciplined for not only violating gaming rules but also
25 violate-- committing a crime.

1 And so we would ask that the license be
2 revoked.

3 COMMISSIONER NEER: If she would reapply, the
4 arrest would be on the record?

5 MS. KERR: The arrest would be on the record
6 if she --

7 COMMISSIONER NEER: Would probably prevent
8 her from being licensed.

9 MS. KERR: Well, it might. I do not find
10 anything on CaseNet that she's been charged or anything
11 happened to that arrest. Just being arrested may or may
12 not prevent her from --

13 COMMISSIONER HALE: But if we adopted the
14 hearing officer's recommendation that she be suspended
15 for a year, and as I understand it, then be permitted to
16 seek reinstatement or renewal, whatever the case may be,
17 of her license, then there is a record of some
18 disciplinary action having been taken against her which
19 may well result in conceivably no license issued.

20 But the other thing is, as her attorney
21 points out, she's in another industry now. I assume
22 from that the likelihood that she probably will not seek
23 relicensure because of the change in career.

24 COMMISSIONER NEER: Could I ask a question?
25 What field is Ms. Nichols in at this point?

1 MR. O'BRIEN: Accounting. She's an
2 accountant.

3 COMMISSIONER NEER: So obviously would not
4 want a revocation on her work history if she wanted to
5 go into bigger and better things later on?

6 MR. O'BRIEN: Yes.

7 COMMISSIONER JAMISON: But back to Larry's
8 question. The difference between if we did suspend it
9 and then the license expires, what's -- that gives her
10 the ability to come back and apply for a license but a
11 revocation does not. Is that --

12 MS. KERR: Well, I guess she could reapply
13 either way.

14 COMMISSIONER JAMISON: Even if your license
15 is revoked, you can reapply?

16 MS. KERR: You could reapply. Now, I would
17 assume that if you revoked her license in the past,
18 we're probably not going to give her a new license.

19 COMMISSIONER JAMISON: So the difference
20 would be a suspension would give her the ability
21 somewhere to come back and apply at a future date with
22 the determination if you want to reissue?

23 CHAIRMAN KOHN: If I understand it, she can
24 apply either way.

25 COMMISSIONER JAMISON: Right, yeah, but with

1 a revocation sitting on there it's a much different deal
2 than if there's a suspension on there.

3 MS. KERR: We would still look at this and
4 still consider the fact --

5 COMMISSIONER JAMISON: The circumstances of
6 the event.

7 MS. KERR: -- that she committed a crime.

8 And the other cases that we've had where a
9 licensee was a DAP and found on the floor either
10 gambling or attempting to cash in a jackpot, we have
11 consistently revoked those individual's license. There
12 hasn't been a case where we did something different for
13 one person as opposed to another.

14 Any other questions?

15 COMMISSIONER JAMISON: No, sir.

16 CHAIRMAN KOHN: I assume there is no halfway
17 measure between revoking and letting it run out?

18 COMMISSIONER JAMISON: Suspension.

19 MS. KERR: Our recommendation is to revoke
20 the license.

21 COMMISSIONER JAMISON: But I think suspension
22 would be a halfway between revocation --

23 MS. KERR: But what the Commission decides to
24 do --

25 CHAIRMAN KOHN: How would that impact her

1 reapplication? Would suspension serve her any better
2 than a revocation?

3 COMMISSIONER JAMISON: Well, I would say that
4 it would because you would view it that you didn't
5 permanently revoke someone's license. You took a lesser
6 punishment and suspended them for a year.

7 That's much different than if you -- to me.
8 And my view would be if I revoke someone's license, that
9 would be a revocation based on I didn't want that person
10 to have a license, and a suspension would be I didn't
11 want that person to have a license for a period of time.

12 MS. KERR: Right. I mean, her application
13 would be reviewed again at that point and whether the
14 staff might --

15 CHAIRMAN KOHN: So is there a motion?

16 COMMISSIONER NEER: This is all assuming she
17 would even reapply.

18 MS. KERR: Correct.

19 COMMISSIONER HALE: Correct.

20 CHAIRMAN KOHN: Which we don't know.

21 So is there a motion to either approve
22 staff's recommendation of revocation or a motion to
23 approve a suspension of the license?

24 COMMISSIONER HALE: Mr. Chairman, I move that
25 we approve a suspension of her license consistent with

1 the recommendation of the hearing officer.

2 CHAIRMAN KOHN: Is there a second?

3 Is there another motion?

4 COMMISSIONER NEER: I would make a motion
5 that we allow the license to lapse.

6 CHAIRMAN KOHN: Is there a second to that
7 motion?

8 COMMISSIONER JAMISON: Let's try No. 3. I
9 move we revoke the license.

10 CHAIRMAN KOHN: Is there a second to that
11 motion?

12 COMMISSIONER JAMISON: If we don't vote on
13 one of these, then we're going to let it lapse.

14 CHAIRMAN KOHN: Okay. I've got another idea,
15 because I think we're all dealing with the same sort of
16 angst about the right thing to do, and we want to do the
17 right thing.

18 Mr. Seibert, is there anything wrong in our
19 putting this off and voting again at the next meeting?
20 We'd have some time to think about it.

21 MR. STEIB: That's certainly possible.

22 COMMISSIONER JAMISON: I'll defer my motion
23 and let Larry make his again.

24 MR. STEIB: That's certainly possible,
25 Mr. Chairman. However, I do point out and I hearken

1 back to what I deem my role, and that is a balancing act
2 twixt protection of the citizens of the state of
3 Missouri and Ms. Nichols.

4 And I deemed the suspension as a middle
5 ground, protecting both the citizens and giving some
6 protection, some compassion to Ms. Nichols.

7 And so when you ask is there a middle ground,
8 my recommendation I believe is a middle ground.

9 I believe there is a significant difference
10 between having the license pulled and a suspension. And
11 if she successfully completes the counseling, et cetera,
12 that's not nearly as bad as having a license taken away
13 from her.

14 So I deem the suspension recommendation as a
15 middle ground and a protection of both interests in this
16 situation.

17 CHAIRMAN KOHN: Are the people of Missouri
18 injured in any way by our delaying this for a month?

19 MR. STEIB: I do not believe that they are,
20 and if that's the option of the Commission, certainly we
21 can do that. I don't know what additional information
22 we will have. I can certainly conduct another hearing
23 if you'd like, but I don't know what --

24 CHAIRMAN KOHN: No, I don't think that's
25 necessary. We're going to go for strike four here.

1 COMMISSIONER JAMISON: I move that we suspend
2 her license for a period of two years.

3 COMMISSIONER HALE: Let me ask --

4 CHAIRMAN KOHN: The Chair is going to make a
5 ruling. We're going to put this off for a month. Thank
6 you very much.

7 COMMISSIONER NEER: And I second that.

8 Is that a motion?

9 CHAIRMAN KOHN: No. That's just a ruling.

10 Mr. Seibert, any further business to come
11 before the open session?

12 MR. STEIB: I believe not, sir.

13 CHAIRMAN KOHN: Thank you very much.

14 MR. O'BRIEN: Thank you.

15 EXECUTIVE DIRECTOR SEIBERT: That concludes
16 our business.

17 CHAIRMAN KOHN: Is there a motion to adjourn?

18 COMMISSIONER HALE: Move to adjourn to closed
19 session.

20 COMMISSIONER JAMISON: Motion for a closed
21 meeting under Sections 313.847, Revised Missouri
22 Statutes, investigatory, proprietary and application
23 records, and 610.021, Subparagraph 1, Revised Missouri
24 Statutes, legal actions, Subparagraph 3 and
25 Subparagraph 13, personnel, and Subparagraph 14 records

1 protected from disclosure by law.

2 CHAIRMAN KOHN: Is there a second?

3 COMMISSIONER LOMBARDO: Second.

4 CHAIRMAN KOHN: Angie.

5 MS. FRANKS: Commissioner Lombardo.

6 COMMISSIONER LOMBARDO: Approve.

7 MS. FRANKS: Commissioner Neer.

8 COMMISSIONER NEER: Approve.

9 MS. FRANKS: Commissioner Hale.

10 COMMISSIONER HALE: Approve.

11 MS. FRANKS: Commissioner Jamison.

12 COMMISSIONER JAMISON: Approve.

13 MS. FRANKS: Chairman Kohn.

14 CHAIRMAN KOHN: Approve.

15 WHEREIN, the meeting concluded at

16 11:39 a.m.

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CERTIFICATE OF REPORTER

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

Patricia A. Stewart

CCR 401

MISSOURI GAMING COMMISSION
Second Open Session Minutes
September 28, 2016

The Missouri Gaming Commission (the “Commission”) went back into open session at approximately 12:25 p.m. on September 28, 2016, at the Missouri Gaming Commission’s Jefferson City office.

Commissioner Jamison moved to adjourn the open session. Commissioner Hale seconded the motion. After a roll call vote was taken, Lombardo – yes, Neer – yes, Hale – yes, Jamison – yes, and Kohn – yes, the motion was unanimously approved.

The meeting ended at 12:26 p.m.