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BEFORE THE MISSOURI GAMING COMMISSION

Meeting
February 26, 2020
9:30 a.m.
3417 Knipp Drive
Jefferson City, Missouri 65109

BEFORE: Mike Leara, Chairman
Daniel P. Finney, III, Commissioner
Brandon Boulware, Commissioner
Pat Conway, Commissioner
David W. Hane, Commissioner

Reported by:
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1 (Start time: 9:30 a.m.)

2 P R O C E E D I N G S

3 CHAIRMAN LEARA: Okay. We will call the
4 regular February meeting of the Missouri Gaming
5 Commission to order.

6 Angie, please call the roll.

7 MS. FRANKS: Commissioner Hane.

8 COMMISSIONER HANE: Present.

9 MS. FRANKS: Commissioner Conway.

10 COMMISSIONER CONWAY: Present.

11 MS. FRANKS: Commissioner Boulware.

12 COMMISSIONER BOULWARE: Present.

13 MS. FRANKS: Commissioner Finney.

14 COMMISSIONER FINNEY: Present.

15 MS. FRANKS: Chairman Leara.

16 CHAIRMAN LEARA: Present.

17 Okay. Quorum we have established.

18 And the next item on the agenda is the
19 adoption of the agenda, and I will move to amend the
20 agenda to move closed session to the first item of
21 business.

22 Do we have a second?

23 COMMISSIONER FINNEY: Second.

24 CHAIRMAN LEARA: We have a second.

25 Angie, please call the roll.

1 MS. FRANKS: Commissioner Hane.

2 COMMISSIONER HANE: Approved.

3 MS. FRANKS: Commissioner Conway.

4 COMMISSIONER CONWAY: Approved.

5 MS. FRANKS: Commissioner Boulware.

6 COMMISSIONER BOULWARE: Approved.

7 MS. FRANKS: Commissioner Finney.

8 COMMISSIONER FINNEY: Approved.

9 MS. FRANKS: Chairman Leara.

10 CHAIRMAN LEARA: Approved.

11 Motion passes.

12 So at this time I make a motion for closed
13 meeting under Sections 313.847 and 313.945 of the
14 Revised Missouri Statutes for investigatory, proprietary
15 and application records and under Section 610.021,
16 Subsection 1, Revised Missouri Statutes, legal actions
17 and matters subject to attorney-client privilege,
18 Subsections 3 and 13 for personnel, 12, contracts, 14,
19 records protected from disclosure by law.

20 COMMISSIONER FINNEY: Second.

21 CHAIRMAN LEARA: We have a second.

22 Angie, please call the roll.

23 MS. FRANKS: Commissioner Hane.

24 COMMISSIONER HANE: Approved.

25 MS. FRANKS: Commissioner Conway.

1 COMMISSIONER CONWAY: Approved.

2 MS. FRANKS: Commissioner Boulware.

3 COMMISSIONER BOULWARE: Approved.

4 MS. FRANKS: Commissioner Finney.

5 COMMISSIONER FINNEY: Approved.

6 MS. FRANKS: Chairman Leara.

7 CHAIRMAN LEARA: Approved.

8 We will now go into closed session. We will

9 return to open in an appropriate time.

10 (Closed session.)

11 (Start time: 11:36 a.m.)

12 CHAIRMAN LEARA: All right. We're now back

13 in open session. I think we'll need to take a roll.

14 Angie, would you call the roll?

15 MS. FRANKS: Commissioner Hane.

16 COMMISSIONER HANE: Present.

17 MS. FRANKS: Commissioner Conway.

18 COMMISSIONER CONWAY: Present.

19 MS. FRANKS: Commissioner Boulware.

20 COMMISSIONER BOULWARE: Present.

21 MS. FRANKS: Commissioner Finney.

22 COMMISSIONER FINNEY: Present.

23 MS. FRANKS: Chairman Leara.

24 CHAIRMAN LEARA: Present.

25 We have a quorum.

1 The next item on the agenda is employee
2 recognition, and you have the floor.

3 DEPUTY DIRECTOR MCGRAIL: Thank you, sir,
4 Mr. Chairman, Commissioners. We have two presentations
5 that we're making today for 15 years of service.

6 If I could have Amy Trachsel come forward
7 first.

8 Amy is one of our tax auditors, and she's
9 been here for a total of 15 years. She's one of the
10 ones that is the very quiet one but the hard worker,
11 never hear anything out of her, and she does, like, a
12 great job. She's been recognized as the employee of the
13 quarter in the past.

14 So again, congratulations to Amy and her
15 years of service.

16 (Applause.)

17 DEPUTY DIRECTOR MCGRAIL: The next one is for
18 LeAnn McCarthy. She came here at a very young age.
19 15 years for LeAnn. She's our public information
20 officer. She's kind of our resident historian at times,
21 as well as she handles a lot of phone complaints from
22 individuals.

23 So we'd like to recognize LeAnn McCarthy for
24 her 15 years of service as well.

25 (Applause.)

1 MS. MCCARTHY: Thank you.

2 You didn't mention anything about my quiet
3 work.

4 DEPUTY DIRECTOR MCGRAIL: Yeah. We all know
5 better.

6 So then I'd ask if Captain Plunkett could
7 come forward, and he has some presentations to make.

8 CAPTAIN PLUNKETT: I don't know how I'm going
9 to beat that.

10 Chairman, Commissioners.

11 I've got four gentlemen I'd like to come up
12 here to receive their 25-year pins. Most of you know
13 we're very fortunate on the Highway Patrol, especially
14 in this division, that we have so many mature and
15 talented people come in our division and work at these
16 facilities and do different jobs for us.

17 These gentlemen are all four classmates.
18 Right? Got 25 years in January 1st I believe was the
19 point, and these are four fine representatives of the
20 Highway Patrol in this division.

21 We're very fortunate to get to work with
22 these guys, and we're very proud of the work they do and
23 the leadership that they demonstrate. Some of them have
24 supervisory roles and some don't, but I can tell you
25 each one of these gentlemen are looked to as folks that

1 do things the right way and set a great example.

2 So very proud and appreciate what you guys
3 do, and I want you to enjoy this very expensive pin,
4 once again point that out.

5 Bruce is our sergeant at Lumiere Casino, just
6 took over there. He's also a full bird colonel, Army
7 Reserves. So he serves in many ways.

8 So we appreciate what you do. Here is your
9 pin. Thank you very much for what you do.

10 (Applause.)

11 CAPTAIN PLUNKETT: Tyler has probably had the
12 most storied career on the Highway Patrol because he's
13 the only guy left that has both worked for me and my
14 dad. So, yeah. Did my dad break you in?

15 CORPORAL MORELAND: Yes.

16 CAPTAIN PLUNKETT: So Tyler just joined our
17 division. I've known him for a long time, known his
18 family, and he just made the transition coming from the
19 road after 25 years and decided this is where he wanted
20 to be. And he's got a great reputation, and that's kind
21 of the people that we're attracting and bringing in.

22 So we're glad to have you, Tyler --

23 CORPORAL MORELAND: Thank you.

24 CAPTAIN PLUNKETT: -- and welcome and
25 congratulations on the 25 years.

1 (Applause.)

2 CAPTAIN PLUNKETT: Brian has been one of our
3 investigators for many years now. How long now?

4 MSGT HOLCOMB: Ten years.

5 CAPTAIN PLUNKETT: Ten years. Completely
6 dedicated to what he does, very thorough and very
7 capable, good at developing relationships and a great
8 report writer. He's also a supervisor for us over there
9 at the Kansas City side. Just a great example of what
10 we do here and appreciate your service and time. Thank
11 you.

12 (Applause.)

13 CAPTAIN PLUNKETT: And then there is the
14 legend. It's Woody Hicks. Woody is here under orders.
15 It's just kind of the way Woody is. He's not a guy who
16 looks for any kind of praise or anything. But he's in
17 charge of our evidence here, does an outstanding job.
18 We collect a lot of evidence. We make a lot of cases
19 here at the Highway Patrol, a lot of work good done out
20 there. It's a very tedious task. He has a little bit
21 of help, has some good help, but he has turned us into
22 one of the finest operations in the state when it comes
23 to evidence. When they walk in and they look at it and
24 they just come to me and give me a thumbs up.

25 So, Woody, that's a great mark on you and the

1 work that you do, because I know it's not an easy job
2 and it's not an exciting job but it's one that has to be
3 done well.

4 So we appreciate what you do. Thank you so
5 much.

6 (Applause.)

7 CAPTAIN PLUNKETT: Did you want to give a
8 speech?

9 SERGEANT HICKS: No.

10 CHAIRMAN LEARA: All right. Very good.

11 Thank you gentlemen.

12 The next item is Consideration of Minutes.

13 Do we have any discussion?

14 I'm sorry. I will further clarify that it is
15 Consideration of Minutes from December 4, 2019.

16 Seeing none, Angie, please call the roll.

17 First of all, I make a motion that we adopt
18 the minutes.

19 Do we have a second?

20 COMMISSIONER FINNEY: Second.

21 CHAIRMAN LEARA: Seconded.

22 Angie, please call the roll.

23 MS. FRANKS: Commissioner Hane.

24 COMMISSIONER HANE: Abstain.

25 MS. FRANKS: Commissioner Conway.

1 COMMISSIONER CONWAY: Approved.

2 MS. FRANKS: Commissioner Boulware.

3 COMMISSIONER BOULWARE: Approved.

4 MS. FRANKS: Commissioner Finney.

5 COMMISSIONER FINNEY: Approved.

6 MS. FRANKS: Chairman Leara.

7 CHAIRMAN LEARA: Approved.

8 MS. FRANKS: By your vote you've adopted the
9 minutes of the December 4th, 2019 meeting.

10 CHAIRMAN LEARA: The next item, Section V,
11 Consideration of Hearing Officer Recommendation.

12 Hearing officer, you have the floor when
13 you're ready.

14 MR. WOLFORD: Thank you, Mr. Chairman,
15 Commissioners, Mr. Director.

16 For your consideration Resolution 20-001.

17 CHAIRMAN LEARA: Please state your name.

18 MR. WOLFORD: Bryan Wolford. I'm the
19 appointed hearing officer for the Missouri Gaming
20 Commission.

21 Proceed?

22 CHAIRMAN LEARA: Yes. Thank you. I'm sorry.

23 MR. WOLFORD: All right. Thanks.

24 20-001, the matter of Chien-Chun Kuo.

25 Mr. Kuo was a food server and a Level II

1 occupational license holder at the Ameristar Casino in
2 St. Charles.

3 A Commission agent at that boat was notified
4 by Mr. Kuo's manager that he was suspended from his job
5 for improperly taking tips from patrons. In particular,
6 he was taking tips out of the customers' discretionary
7 comps that were issued by the casino itself.

8 What those are, the casino will give
9 customers these discretionary comps for dining at the
10 property. They're in certain dollar amounts, and the
11 comp allows the patron then to order food, and instead
12 of paying for their own money they'll present the comp
13 to that.

14 The remaining balance, if any, after the meal
15 is then forfeited when the customer uses or turns in the
16 comp.

17 Mr. Kuo was crediting the unused balance on a
18 comp as a tip. For example, if there was a \$50 comp and
19 the meal cost \$30, Mr. Kuo would -- again, this is just
20 for an example -- but take that \$20 remaining balance
21 and credit it to him personally as a tip or gratuity.

22 The comps themselves, when they're issued by
23 the casino, they state in conspicuous bold type on them
24 that gratuities are not included as part of this comp.
25 And, in fact, the training manual that Mr. Kuo provided

1 to the hearing officer at the hearing has a section in
2 there that states that gratuities are not included for
3 comps.

4 Throughout the course of 1,108 transactions
5 Mr. Kuo received \$26,580 in tips from the patrons'
6 discretionary comps.

7 There is a State regulation, 11 CSR 45-8.130,
8 Subsection 3, that states that occupational license
9 holders are eligible to accept tips only in the form of
10 currency, chips or tickets. Those are the only three
11 forms they're allowed to receive tips. Not through
12 comps. Not through any other sort of service.

13 And then the Commission's Minimum Internal
14 Control Standards, the MICS, Chapter 1, Section 605,
15 also states that employees shall not accept comps as
16 tips or gifts from patrons. And in this case, I mean,
17 that's exactly what happened.

18 As a Level II license holder, Mr. Kuo knew or
19 should have known that the use of comps in this way to
20 credit basically cash to him was not allowed. His
21 taking of tips from the discretionary comps violates the
22 gaming regulations of Missouri and the MICS, and it's
23 essentially stealing from the casino, is what he was
24 doing, to the tune of over \$26,000, over a thousand plus
25 transactions.

1 The hearing officer recommends that
2 revocation of Mr. Kuo's license be affirmed as proper
3 and appropriate discipline.

4 I'd be happy to answer any questions.

5 CHAIRMAN LEARA: Any questions of Bryan?

6 COMMISSIONER FINNEY: Yes.

7 CHAIRMAN LEARA: Go ahead.

8 COMMISSIONER FINNEY: Okay. A couple things.

9 First of all, your investigation found out
10 that Mr. Kuo was taking tips in addition to those -- for
11 the same table, in addition to those he was taking
12 against the discretionary comps?

13 MR. WOLFORD: I don't have any evidence that
14 was presented at the hearing. The investigation was
15 actually done by the gaming officer on the boat. I
16 simply analyzed the evidence that was presented at the
17 hearing. And I don't recall any evidence of him
18 receiving additional tips, for example, in the form of
19 currency for folks who paid for their meals with the
20 comps.

21 COMMISSIONER FINNEY: Okay. No. 2, were the
22 tips consistently to use up the entire balance as
23 available in the discretionary comp? Would they zero
24 out the balance every time?

25 MR. WOLFORD: Not always. Not in every

1 instance. In many of them, yes, they did.

2 For example, I recall on a \$100 comp, there
3 was a remaining balance of \$32 and Mr. Kuo credited all
4 that as a tip on there. But not in every instance did
5 that occur.

6 COMMISSIONER FINNEY: Would the recipient of
7 the discretionary funds have to sign off on anything?
8 If I understand correctly, you said whatever the meal
9 is, whether it uses the entire amount or not, once they
10 turn it in it's finished.

11 MR. WOLFORD: Right. Correct.

12 There was no evidence presented on that other
13 than a sample of the paper comp that the casino would
14 issue. It would be signed by a casino official. The
15 dollar amount would be listed on there. And then
16 wherever the patron went in for their meal, they would
17 then present it to the server there.

18 There was no evidence presented to me that
19 the patron or the customer then had to endorse or sign
20 the comp in any way or form.

21 COMMISSIONER FINNEY: Okay. Last question.
22 Thank you.

23 So you said your investigation determined
24 there was \$26,000 that was taken against the
25 discretionary comps as tips, which you equated

1 potentially to stealing against the casino. Is that --

2 MR. WOLFORD: Based on the evidence that was
3 presented to me, the comps were issued by the casino.
4 It's essentially house money that is used to reward the
5 patrons. The way the comps are supposed to function,
6 any unused portions are forfeited and therefore retained
7 by the casino. By taking those as tips, it is the
8 equivalent of stealing from the casino.

9 COMMISSIONER FINNEY: Do you have any idea
10 why the casino would be disinclined to prosecute
11 somebody who is stealing \$26,000?

12 MR. WOLFORD: I don't and I can't speculate
13 on that. I'm sorry.

14 COMMISSIONER FINNEY: Okay. Thank you.

15 CHAIRMAN LEARA: Commissioner Boulware.

16 COMMISSIONER BOULWARE: I'm not understanding
17 the process.

18 So someone comes in for a meal and they have
19 \$500 worth of discretionary comps for example. The meal
20 costs \$400. Just making up numbers.

21 How would Mr. Kuo get the \$100 balance after
22 the meal is paid?

23 MR. WOLFORD: Because the comp itself would
24 have that \$500 listed on there, and it's normally -- you
25 or I would go. We'd pay with a \$10 bill for example,

1 and we'd get our \$9 for the meal and our dollar change
2 back.

3 Well, since the comps don't go back to the
4 patron, instead of that dollar change back he would list
5 400 for the meal and in your example 100 to him as a tip
6 on there.

7 COMMISSIONER BOULWARE: So on the receipt
8 there would be listed a tip line?

9 MR. WOLFORD: There were no receipts
10 submitted in evidence, so I can't comment on that. I'm
11 sure Ms. Kerr will have more on this.

12 COMMISSIONER BOULWARE: I'm just trying to
13 understand. How does he get the \$100 to himself? I
14 don't understand.

15 MR. WOLFORD: It's an active step that he has
16 to undertake to ensure that that --

17 COMMISSIONER BOULWARE: What is that step?

18 MR. WOLFORD: He just assigns that balance to
19 him. Instead of writing it off all for the meal and
20 then the remainder of the comp going away, you know,
21 becoming forfeited, he would list that that's his tip on
22 there, on his accounting sheet at the food service
23 place.

24 EXECUTIVE DIRECTOR GROTHAUS: Mr. Chairman, I
25 think we have -- one of our staff is a little more

1 expert at the process and could probably answer your
2 question.

3 COMMISSIONER BOULWARE: That would be great.

4 MS. ALONZO: Hi. Cheryl Alonzo, Missouri
5 Gaming Commission.

6 The process, once that comp is issued to the
7 person, they have a \$50 comp. They will go. They know
8 they have the \$50.

9 They can look at -- the server looks it up,
10 sees they have the \$50 comp, and as they order they ring
11 up the food, and then in this case a tip was also added.
12 Unbeknownst to the patron that tip is added. And then
13 at the end of the shift they will run a tip report for
14 that server, and it will total up all their tips, things
15 that might have been put on a credit card.

16 And then that tip report is then taken by the
17 server to the main bank, and the main bank will cash
18 them out that tip amount, just like they would for all
19 of the credit card tips that were accumulated over the
20 night, or cash tips. They get to keep those.

21 But anything that is put in that system that
22 they have to get the cash for, they just take it to the
23 main bank. And the server does that themselves. The
24 manager doesn't do it.

25 COMMISSIONER BOULWARE: So a couple

1 questions.

2 In Mr. Kuo's case were the patrons aware that
3 the balance was going to him as a tip?

4 MS. ALONZO: I don't believe so. I don't
5 believe there is any evidence of that. Because they
6 wouldn't have that paperwork. They wouldn't see that
7 paperwork.

8 COMMISSIONER BOULWARE: And then secondly,
9 the discretionary comp tips were treated exactly the
10 same as a cash tip. Is that right?

11 MS. ALONZO: Yes.

12 COMMISSIONER BOULWARE: So when we say 27,000
13 is what he received, we're talking about 27,000 in cash?

14 MS. ALONZO: Right. I would say the same as
15 a credit card. You know, whenever you buy a meal you
16 put it on the credit card. That server doesn't get that
17 money until -- at the end of the night they'll get cash
18 paid out to them. That's how it works. They go to the
19 bank to get the cash because the servers leave with
20 those tips at the end of the night.

21 COMMISSIONER BOULWARE: I guess the thing I
22 struggle with here is if servers are not allowed to
23 receive discretionary comp tips, how was he able to do
24 so? How did the program allow him to do that?

25 MS. ALONZO: My impression is that the system

1 MS. ALONZO: I mean, that's --

2 MR. WOLFORD: It's stated on the comp itself,
3 and, you know, many of them do give cash tips whenever
4 they're going with comps for example.

5 COMMISSIONER HANE: So it's just a coupon.
6 Basically it's just a coupon for the meal?

7 MR. WOLFORD: Right.

8 COMMISSIONER HANE: So you get a coupon for
9 the meal and you want to tip the waiter, then you leave
10 whatever you want to leave --

11 MR. WOLFORD: Absolutely.

12 COMMISSIONER HANE: -- in cash or chips or
13 tickets?

14 MR. WOLFORD: Yes.

15 COMMISSIONER FINNEY: Sorry. This is
16 obviously an important issue.

17 I mean, so nobody tipped him out? He never
18 got a tip? I mean --

19 MS. ALONZO: He might have gotten tipped by a
20 patron in addition to that.

21 COMMISSIONER FINNEY: We don't know that.

22 MR. WOLFORD: It's possible.

23 There was no evidence at the hearing
24 presented from him or anyone else that he received tips
25 from other patrons in other methods.

1 COMMISSIONER FINNEY: If the same patron, you
2 know -- I mean, you're telling me that what happens is
3 it says on a comp ticket you can't use this for a tip.
4 Right?

5 MS. ALONZO: Yes. That's right.

6 COMMISSIONER FINNEY: So do any of those
7 patrons leave an actual tip?

8 MR. WOLFORD: There was no evidence presented
9 one way or the other on that.

10 COMMISSIONER FINNEY: Okay. The second
11 question I have is -- and I still don't understand this.
12 They give a comp for \$100 that's used for 50 bucks.
13 There is a \$50 balance. How does that money get into
14 the pocket of the server? You're telling me --

15 MS. ALONZO: They ring it up as a tip on the
16 ticket. On the ticket, like on this example here, the
17 people ordered their two items. Those are listed and
18 then there's a tip added in. So the food sales is
19 46.50, and in this case the direct tip that was entered
20 was 103.50 in this example.

21 COMMISSIONER FINNEY: How can you enter a
22 direct tip against a discretionary account? How is it
23 possible if it's not allowed?

24 MS. ALONZO: This is just a restaurant
25 cashiering system, and the comp is -- it wasn't built to

1 handle comps. So he's able to put all that in here.

2 And then this ticket -- so at the end of the
3 night it just runs a report and pulls everything listed
4 as a direct tip, and then you get the total for the tips
5 for the night. That's what is handed out -- or the
6 server is handed out at the end of the day.

7 COMMISSIONER HANE: So the casino does an
8 audit on the comps occasionally?

9 MS. ALONZO: They sample.

10 COMMISSIONER HANE: They don't run one every
11 night?

12 MS. ALONZO: Right.

13 COMMISSIONER HANE: So basically this process
14 went on and it wasn't subject to an audit, so basically
15 he just wasn't caught?

16 MS. ALONZO: Correct.

17 COMMISSIONER HANE: Okay.

18 CHAIRMAN LEARA: Have they changed the
19 system?

20 MS. ALONZO: I don't know that they've
21 changed the system. They have added a step where they
22 can just pull out comp tips and look at that and see if
23 anybody has added in a comp tip.

24 CHAIRMAN LEARA: That's a change.

25 MS. ALONZO: So they did address it that way.

1 COMMISSIONER FINNEY: How would they
2 ordinarily account -- let's say that this didn't happen
3 and there is a discretionary ticket that is given, a
4 discretionary comp.

5 I'm guessing ordinarily, or at least a
6 significant amount of time, the amount of money that's
7 spent is not what was comped, so there's a discrepancy
8 between those two numbers. Right?

9 MS. ALONZO: Yes.

10 COMMISSIONER FINNEY: How would the casino
11 account for that discrepancy? Where would that money
12 go? I mean, how would they put it on the books?

13 MS. ALONZO: Well, it's more like a coupon
14 than an actual -- it has no cash value. That actual
15 comp has no cash value. It can be used to order food.
16 But anything on that -- once you open the ticket and you
17 ring up food for that customer, at the end of that
18 ticket it closes out. Anything they left behind is just
19 forfeited at that point.

20 And so they'll just look at how much was
21 comped, you know, when they're running their revenue
22 reports. They'll see what was spent on comps, but they
23 don't really -- I don't know how about they reconcile
24 back. It doesn't really have cash value.

25 It's like a coupon is for \$150 and you only

1 spend 100. The rest of it just is forfeited.

2 COMMISSIONER FINNEY: Forfeited.

3 Here is my question. The casino sets aside
4 \$100, a \$100 comp, they set aside 100 bucks. Only \$50
5 of that is spent, which means the casino has written off
6 I assume \$100 but there is \$50 of that which has not
7 actually been spent. In this case it went to the
8 waiter. But in an ordinary situation that \$50 is just
9 not accounted for?

10 MS. ALONZO: It's expired at the end of this
11 transaction. It's only one -- it's one transaction at
12 that restaurant that that comp is good for.

13 So they might say they -- they offer you that
14 150 but they only incurred the revenue expense -- or the
15 expense of the \$100.

16 COMMISSIONER FINNEY: Got it.

17 MS. ALONZO: So they would just expense off
18 the 100 and the other 50 becomes moot because you left
19 it on the table. You didn't order another meal or
20 dessert or whatever to use it all up.

21 COMMISSIONER FINNEY: But they're expensing
22 more than they're actually spending on the expense. Is
23 that --

24 MS. ALONZO: No, I don't think so. I think
25 they just expense whatever meal was provided.

1 COMMISSIONER FINNEY: Okay. All right.

2 Thank you.

3 MS. ALONZO: Okay.

4 COMMISSIONER BOULWARE: You know, it just
5 seems obvious. Every time this particular server worked
6 they're going to come up short, I mean, because he's
7 getting paid out in cash amounts that were never paid to
8 the restaurant.

9 Do you follow? Because there wasn't a credit
10 card that is tied to this, and so he's receiving tips
11 based on this discretionary comp which is not real
12 revenue.

13 I don't know. I would think they would clue
14 into this a little bit earlier than they did.

15 MS. ALONZO: Yeah, I think -- I mean, the one
16 thing that stood out would be the higher amount of tips
17 that this server would have over other servers.

18 But what was explained to me was that because
19 each server went individually to get cashed out, because
20 everybody ends their shift at different times, the
21 management didn't notice this particular person had much
22 higher tips than other employees.

23 COMMISSIONER BOULWARE: Okay.

24 CHAIRMAN LEARA: Any other questions?

25 Thank you, Cheryl.

1 Do we need a motion on each one of these
2 individually?

3 MR. WOLFORD: Mr. Chairman, Mr. Kuo is
4 present --

5 CHAIRMAN LEARA: Oh, sure.

6 MR. WOLFORD: -- and then Ms. Kerr also gets
7 an opportunity to speak on behalf of the Commission.

8 CHAIRMAN LEARA: Ms. Kerr, would you like to
9 go?

10 MS. KERR: I would just concur with the
11 hearing officer's recommendation. If you have any other
12 questions, I can try to answer them.

13 CHAIRMAN LEARA: I don't.

14 MS. KERR: But I concur.

15 CHAIRMAN LEARA: Okay. Thank you.

16 All right. Mr. Kuo.

17 MR. KUO: My name is Chien-Chun Kuo. I was a
18 server at Ameristar Casino St. Charles, and I gave the
19 evidence of our training program manual.

20 So as I recall, I don't recall that my
21 training manager to show us especially like what we
22 should do on a different coupons. The comp, how to deal
23 with it, they didn't really mention it.

24 I'm sorry. Let me grab the manual book.

25 So I sent mine, like, five months ago and

1 never get it back. This is another co-worker that used
2 to work with me.

3 So you can see our program here. I don't
4 really see a coupon like customer -- like the rules you
5 say earlier, like we cannot use a tip. Nothing at all
6 for all of the gaming rules. We don't really learn on
7 that.

8 And then the gentleman earlier says how come
9 I can get a tip? How come the customer doesn't know?
10 Because they don't know. They don't know the rules.
11 There is no menu book for customers to know their rules,
12 their rights.

13 They said customers supposed to know the comp
14 cannot give to any people working in the casino as a
15 tip, but the thing is, the reason why the question from
16 the gentleman, why I can get a tip from them, because
17 they don't know they cannot give the comp to us as a
18 tip. They don't know that.

19 All they get is a piece of customer card.
20 All they get is a piece of customer card. They don't
21 get the how to use your comp menu book, how the gaming
22 rules works. No. They don't get it. They don't have
23 it.

24 They do whatever and they listen to the
25 casino for example. You can see a lot of Asians that

1 gamble there. They don't speak much English. How they
2 know the rules? They don't. They only know the host --
3 some casino has Asian host. They speak their own
4 language to the customer. Hey, you can use this comp.
5 Go eat. You can use this for something. So they only
6 know certain things but they don't know the whole rules.

7 So, for example, I'm a gambler in a casino.
8 I gamble all of the money. I lose all the money and I
9 don't have money to eat. I ask my host, hey, can I get
10 some comps so I can eat? Sure. And then the host view
11 how much they lost today, give them \$120 comp in the
12 card.

13 So the person use their card to eat the food.
14 Well, sometimes they might not like the restaurant but
15 the host give them the comp. It doesn't matter, 100 or
16 20 bucks. For example they give 200 bucks for the Asian
17 customer to eat at the sports bar.

18 And I'm sorry. Even one person, you cannot
19 eat 200 chicken wings, \$20 chicken wings. So they
20 probably order two, three orders, and then they cannot
21 eat anymore or they don't like it.

22 And then when it comes to a tip, they go, oh,
23 you know, I lost all of the money on the tables, and
24 then, well, whatever is left, it's yours.

25 So two things happens here. One thing, the

1 customer doesn't know the rules. The second thing is, I
2 work in Ameristar.

3 So I was wondering -- after things happened,
4 I was wondering if other casino has the same situation
5 like this. If not, that means Ameristar Casino that
6 have assistant issues.

7 So I was thinking if other casinos has
8 similar issues like this, I would say, well, everybody
9 doesn't know much. But if other casinos, they know how
10 to prevent this kind of situations but Ameristar failed,
11 then I think there is something wrong with their system.

12 COMMISSIONER FINNEY: I've got a question for
13 you.

14 MR. KUO: Okay.

15 COMMISSIONER FINNEY: So as far as the
16 customers go, they can use that -- your understanding of
17 what the customers know, they can use that coupon, that
18 comp, at the restaurant?

19 MR. KUO: Yes.

20 COMMISSIONER FINNEY: And there is no
21 understanding on their part that they would ever get a
22 cash refund on that account?

23 MR. KUO: No.

24 COMMISSIONER FINNEY: Okay. So how would
25 they determine in your experience what percentage to

1 give you as a tip?

2 MR. KUO: Oh. I forgot to tell you one
3 thing.

4 So casino did mention one thing. All of the
5 other rules, they tell me one thing. Well, first,
6 customer needs to be 21 and up. Second, all those
7 coupons, our side of casino floor, you can get anything
8 you want, beer, drinks, cocktail. You can use coupon
9 for everything. On the casino floor only for food.

10 So sometimes a customer confused. Why I go
11 to another restaurant which is other side of casino
12 floor, I can order whatever I want, but why in your
13 restaurant, which is inside casino floor, I cannot order
14 this and that. I cannot order a drink. I said, well,
15 sir, this is the gaming rules. I'm sorry you didn't
16 know that, but on the casino floor you cannot order
17 drinks. Outside of floor you order whatever you want.
18 The casino tell us.

19 I don't know if this is true gaming rules or
20 just casino rules, this part, I don't know.

21 COMMISSIONER BOULWARE: The discretionary
22 comp tips that you received, did you give those to
23 yourself or did the patron say they wanted to tip you
24 that amount?

25 MR. KUO: Okay. So a few things. Like I

1 said earlier, for example, customer tells me, hey, this
2 money I have -- which they know at first -- like I said,
3 they didn't tell us, like, how to use the comp, like
4 what we can do, what we cannot do. Right? So the
5 assistant allows us to use that as a tip.

6 So customer know that -- honestly, customer
7 know that better than us, which means they know from
8 some other server before me. I just work -- I was new.
9 It was the first job at casino ever.

10 They know from some other outlet that the
11 other people knows this can use a tip. So he goes,
12 Scotty, take it. I don't have any money. Just take
13 this. It's all I got. Or you can order some food for
14 yourself. I can't -- I don't have anything, which
15 I understand.

16 CHAIRMAN LEARA: Let's go back to the
17 question I think you partially answered.

18 COMMISSIONER BOULWARE: Yeah.

19 So my question is simply, did the patron --
20 the customer give you this discretionary comp tip --

21 MR. KUO: Yes.

22 COMMISSIONER BOULWARE: -- or did you just
23 take it yourself?

24 MR. KUO: Well, two things. Like I said,
25 they said, hey, whatever you want to do. They didn't

1 say this is your tip. You know, Scotty, I'm not going
2 to eat that much. Like I said earlier, the host give
3 them that \$200 to eat chicken wings. They don't eat
4 that much. Scotty, use it for -- you want to buy some
5 food or you want to use a tip, whatever. I don't care.

6 COMMISSIONER BOULWARE: Yeah. Okay.

7 MR. KUO: Because, like I said, they don't
8 really know the rules. They only --

9 COMMISSIONER BOULWARE: Mr. Kuo, I understand
10 that. What I'm simply trying to understand is did the
11 customer in each case say to you, you can take the
12 balance --

13 MR. KUO: Yes.

14 COMMISSIONER BOULWARE: -- as your tip --

15 MR. KUO: Yes.

16 COMMISSIONER BOULWARE: -- or did you on your
17 own decide that you could take the balance as your tip?

18 MR. KUO: Most of time, because if -- I work
19 in Asia. There are only two Asian servers. Because
20 back in the day I work in the food supplier. So all of
21 the big gamblers over there, they know me from my old
22 job. So, for example, they know this. They said, hey,
23 take this. The next time they won't say again. They
24 won't say it again. They just leave.

25 COMMISSIONER BOULWARE: Okay.

1 MR. KUO: They just leave, and like you said,
2 they don't give -- they put nothing on the table.

3 COMMISSIONER BOULWARE: Okay.

4 COMMISSIONER FINNEY: But they also
5 understand they can't take anything, the balance with
6 them. Right?

7 MR. KUO: Well, they understand they cannot
8 take anything else. But like I said, if you put \$200
9 for chicken wings and they cannot eat that much, they're
10 not going to eat it. They're busy gambling. Yes, they
11 need some food. That is why ask host to get some money
12 to eat, but they don't want to eat that much sometimes
13 or you put a wrong restaurant and they don't like it.

14 CHAIRMAN LEARA: Okay.

15 Thank you.

16 MR. KUO: Oh, I'm sorry. One thing more.

17 CHAIRMAN LEARA: You have another point.

18 Okay.

19 Go right ahead.

20 MR. KUO: So another thing is I remember at a
21 meeting, at a hearing, they asked me, like, how come --
22 because I forgot. It was one more paperwork.

23 This other outlet server do the same. But I
24 was, like, so why I got in trouble in this but other
25 server do the same and they don't get in trouble?

1 At a meeting there was a gaming officer. He
2 goes, oh. The other server that got in the same
3 situation as you because their ticket was group. So the
4 tips -- what he mean is the tip is added on. It's,
5 like, automatically added on. So they didn't know what
6 happened, but they got tipped from the voucher or comp.

7 CHAIRMAN LEARA: I understand.

8 MR. KUO: But I say, I'm sorry, Officer. You
9 might not operate the system often, but all the tips,
10 it's manually added on, which means you know what you're
11 doing, which means other server who has same situation
12 as me, there's no excuse. Those tips is because system
13 automatically added on, so you got it from the coupon or
14 voucher or comp. No. You know what you're doing.

15 And all those situations means that this
16 system needs to be fixed, and then we need to -- I
17 assume in the future if gaming can create one system,
18 same system play form to let every casino to use it.

19 So when you guys are dealing, when they try
20 to do the paperwork, it's easier for you to view to know
21 where you're supposed to go to see. You don't need
22 casino to tell you what to look at.

23 I think it's better. So this case, you won't
24 happen this again. I'm not saying I didn't do anything
25 wrong. I just didn't know better. I didn't get trained

1 better.

2 This is from another person, same manual
3 book, but really didn't say much here. And, like, when
4 we're in school, even teacher give you one textbook, ask
5 yourself, can you read the whole thing, first chapter to
6 last.

7 We only know -- or only read what professor
8 teacher tells you to read, you know. Other than that
9 when we're kids we're just, like, whatever. Teacher
10 didn't tell us. We don't know.

11 CHAIRMAN LEARA: Okay. Are those all your
12 points?

13 MR. KUO: Yes.

14 CHAIRMAN LEARA: Okay. Mr. Kuo, thank you.
15 Did you want to respond, Ms. Kerr?

16 MS. KERR: If you have any questions, I can
17 answer them.

18 CHAIRMAN LEARA: No.

19 COMMISSIONER HANE: As I understand it, this
20 took place in a six-month time period?

21 MS. KERR: That's what the testimony was,
22 yes.

23 COMMISSIONER HANE: \$26,580 in six months in
24 tips?

25 MS. KERR: Yes.

1 findings of fact.

2 COMMISSIONER BOULWARE: What I'm looking at
3 is dated February 13, 2020.

4 MS. KERR: I think this was dated after that.

5 MR. WOLFORD: And, Commissioner Boulware, the
6 Commission enjoys the authority to amend any part of the
7 submitted hearing officer's findings of facts,
8 conclusions of law and final order, as well as accept,
9 reject or amend.

10 COMMISSIONER BOULWARE: I'm wondering whether
11 there's a procedural problem though. I don't know with
12 amending a final order, you know, kind of on the fly
13 like this. I don't know if that creates an issue or
14 not.

15 MR. WOLFORD: Well, again, the State
16 regulations gives this body that authority, and this
17 body has exercised that in the past. It's nothing
18 outside of the realm of possibility.

19 COMMISSIONER FINNEY: Well, my thought is we
20 could follow whatever the recommendation is. We could
21 move to amend. There would have to be a second if we
22 move to amend. I guess we have a second anyway.

23 So I know we've done that in the past. I
24 think that the proper procedure would be if we don't --
25 if we think that there's an error or we just flat out

1 disagree with it, we just make a motion to amend,
2 whatever we think is appropriate.

3 I think that's -- Ed, am I right on that?

4 MR. GREWACH: That's correct. I mean, you
5 can modify that.

6 I do think that Hearing Officer Wolford did
7 note that typographical error and did send in. I don't
8 know if he has a current copy of that, but it may not
9 have just made its way to your packet is my suspicion.

10 COMMISSIONER FINNEY: So whatever the
11 recommendation is, we can do whatever we want.

12 So, Ed, correct me if I misstate here, but I
13 think the hearing officer's recommendation is
14 revocation. Then we can follow that, we can make our
15 own or we can vote it down.

16 So obviously we want to avoid this issue in
17 the future. Right? So maybe double-check. But I don't
18 think it causes an issue for us moving forward on the
19 item.

20 CHAIRMAN LEARA: Well, I find it challenging
21 that there's two typos in the final order. I mean, is
22 that the case? Are you saying that the not should be
23 removed in one sentence, the first sentence, that the
24 Petitioner has violated or has not violated Missouri
25 law?

1 MS. KERR: I would say that the nots should
2 not be in there. I did not -- we don't submit the --
3 the hearing officer submits those to us. I mean, we
4 should have caught this, but the nots shouldn't be in
5 that last paragraph. It should be --

6 CHAIRMAN LEARA: In both places that should
7 be deleted? There's two nots, has not violated law and
8 has not -- and is not subject to discipline.

9 MS. KERR: Yes. Those two nots should be
10 deleted.

11 CHAIRMAN LEARA: Should be removed?

12 MS. KERR: Removed.

13 COMMISSIONER FINNEY: So your conclusion is
14 he did violate Missouri law and we do have the authority
15 to discipline him. Is that correct?

16 MR. WOLFORD: Correct.

17 My conclusion is that the initial order of
18 revocation that the Commission issued should be
19 affirmed.

20 COMMISSIONER FINNEY: Okay.

21 CHAIRMAN LEARA: What are our options? Are
22 you-all having difficulty affirming that?

23 COMMISSIONER FINNEY: So it's a severe
24 recommendation or a severe preliminary order, so
25 naturally I take pause.

1 But the issue I'm coming to is that I just
2 can't think that something should have gone off in your
3 head, sir, that told you this is not really a tip. This
4 is discretionary funds that I'm not really entitled to.

5 Because a tip ordinarily is given from the
6 pocket of the patron. In this situation it was coming
7 out of the pocket of the casino, and I just don't -- I
8 just find it hard to believe, and I think you have
9 admitted you now know something is wrong. I think you
10 should have known before. And that's all I've got to
11 say on it, but that is my reasoning on the motion.

12 COMMISSIONER BOULWARE: It's within our
13 discretion as opposed to an outright revocation to
14 suspend the individual for a period of time?

15 MR. GREWACH: Absolutely. The rule at this
16 point is a recommendation to you from the hearing
17 officer. You can accept, reject or modify that
18 recommendation at your discretion.

19 COMMISSIONER BOULWARE: Fellow Commissioners,
20 my inclination is to modify the proposed discipline here
21 to be a suspension for a period of three months.

22 CHAIRMAN LEARA: Okay. One question.

23 Mr. Hane, where are you on this?

24 COMMISSIONER HANE: Well, \$26,580 in six
25 months in tips, if the word got out, I mean, nobody

1 could get that job.

2 I can't in good conscience sit here and think
3 that this is a good deal that nobody has ever thought
4 of. This is on the up and up. All my fellow waiters
5 are doing it. So how did I get this job? I mean, it's
6 awesome. I think that our standards have to be held to
7 protect the patrons and protect the state.

8 CHAIRMAN LEARA: Okay. Mr. Conway.

9 COMMISSIONER CONWAY: I think I would be in
10 favor of three months or six months. I'm leaning that
11 way.

12 CHAIRMAN LEARA: Mr. Wolford, has this
13 gentleman been in a suspended status since these
14 proceedings began?

15 MR. WOLFORD: There was no evidence presented
16 that he had any prior disciplinary issues with the
17 Commission.

18 CHAIRMAN LEARA: Was he able to work under
19 his license until this order that we do or do not do
20 today?

21 MR. WOLFORD: He was able to. I do
22 understand from some of the evidence presented that his
23 employer had suspended him. There was nothing further
24 on how long that suspension was.

25 CHAIRMAN LEARA: You don't know how long that

1 was?

2 MR. WOLFORD: I don't. I'm afraid not.

3 CHAIRMAN LEARA: Yes.

4 MS. KERR: He was suspended immediately by
5 the casino and then he was terminated on October 10th of
6 '18. His license is currently in a casino restricted
7 status, so he's not working at any casino, and his
8 license expires at the end of August of this year. But
9 as far as we know, he is not employed by any casino.

10 CHAIRMAN LEARA: It's my guess that he would
11 like his license back and to be able to seek employment
12 in that industry. What is your thought on that?

13 Because if we do a suspension, I mean, he's
14 already experienced that --

15 COMMISSIONER BOULWARE: Right.

16 CHAIRMAN LEARA: -- and beyond.

17 COMMISSIONER BOULWARE: Yeah.

18 COMMISSIONER FINNEY: You know, one problem
19 is I would love to have heard from the casino today. If
20 the allegation is such that this is outright stealing,
21 \$29,000, and the casino can't be here to explain to us
22 as to why that is and there's been no criminal charges
23 and they're not interested in pursuing criminal charges,
24 then I call into the question the conclusion that it is,
25 in fact, outright stealing and that there isn't some

1 reason to think that this was probably -- that there is
2 some confusion that could have come into play.

3 I don't -- I'm not going to even come close
4 to excusing it, but I think that's one problem with
5 issuing revocation on this issue, accusing somebody of
6 stealing \$29,000 from a casino and the casino didn't
7 even show up to speak on it.

8 CHAIRMAN LEARA: And they did not seek
9 charges criminally either.

10 While I think there was some deceit in there,
11 I'm not comfortable with this permanent revocation. So
12 if someone wants to make a motion, I would entertain
13 that, amend or reject the entire --

14 COMMISSIONER FINNEY: I'm sorry. One quick
15 question for the counsel.

16 You said his license expires in August of
17 this year?

18 MS. KERR: The end of August, yes, sir.

19 COMMISSIONER FINNEY: So if we would suspend
20 just say hypothetically through the end of his -- would
21 he then be allowed to reapply? And that's -- then he
22 would just reapply and we'd go through the normal
23 process?

24 MS. KERR: Correct. This would be taken into
25 account on the application.

1 COMMISSIONER HANE: I'd be comfortable with
2 the suspension to expire at the end of August or
3 September 1.

4 COMMISSIONER FINNEY: I'll make a motion to
5 suspend -- to amend and suspend his license for a period
6 of three months.

7 CHAIRMAN LEARA: Do we have a second?

8 COMMISSIONER BOULWARE: Second.

9 CHAIRMAN LEARA: Any further discussion?

10 No further discussion.

11 Angie, call on that amended motion.

12 MS. FRANKS: Commissioner Hane.

13 COMMISSIONER HANE: Approved.

14 MS. FRANKS: Commissioner Conway.

15 COMMISSIONER CONWAY: Approved.

16 MS. FRANKS: Commissioner Boulware.

17 COMMISSIONER BOULWARE: Approved.

18 MS. FRANKS: Commissioner Finney.

19 COMMISSIONER FINNEY: Approved.

20 MS. FRANKS: Chairman Leara.

21 CHAIRMAN LEARA: Approved.

22 Item V. B. has been amended, and now we'll
23 entertain a motion to approve the amended order.

24 So do we have a motion?

25 I'll make the motion.

1 Do we have a second?

2 COMMISSIONER BOULWARE: Second.

3 CHAIRMAN LEARA: We have a second.

4 All right. So when you're ready, we'll be
5 voting on the amended discipline.

6 MS. FRANKS: Commissioner Hane.

7 COMMISSIONER HANE: Approved.

8 MS. FRANKS: Commissioner Conway.

9 COMMISSIONER CONWAY: Approved.

10 MS. FRANKS: Commissioner Boulware.

11 COMMISSIONER BOULWARE: Approved.

12 MS. FRANKS: Commissioner Finney.

13 COMMISSIONER FINNEY: Approved.

14 MS. FRANKS: Chairman Leara.

15 CHAIRMAN LEARA: Approved.

16 MS. FRANKS: By your vote you've adopted
17 Resolution No. 20-001 as amended.

18 CHAIRMAN LEARA: The next item on the agenda
19 is Resolution No. 20-002.

20 Mr. Wolford, proceed.

21 MR. WOLFORD: Thank you, Mr. Chairman.

22 For your consideration the matter of Shallon
23 Johnson.

24 Ms. Johnson applied for a Level II
25 occupational gaming license with the Commission. As

1 part of the application process, there's a question on
2 there, 10, Subpart B, that states, have you ever been
3 arrested, detained, charged, indicted, convicted, pled
4 guilty or no contest to any sort of crime in any
5 Federal, State, local jurisdiction?

6 If yes, it asks you to go on further and
7 explain what happened.

8 On her application Ms. Johnson checked the
9 box that said no next to that question, indicating that
10 she did not have an affirmative response to that
11 question.

12 Further, there's a request for her signature
13 after that question near a sentence that says I have
14 nothing else to declare on this question. Ms. Johnson
15 did sign that.

16 Further in the application packet there is a
17 duty to disclose that states in bold, conspicuous type
18 that is in all capitals, failure by the applicant to
19 disclose any arrest or conviction will result in an
20 automatic denial of the application.

21 Ms. Johnson again signed the notice
22 acknowledging that she understood her duty to disclose
23 arrests.

24 As part of every application procedure,
25 Commission investigators then investigate the applicant

1 to determine their suitability to receive a license.

2 As part of the investigation process, it was
3 determined that Ms. Johnson failed to disclose three
4 prior arrests. One was an arrest for property damage in
5 2004, the second was an arrest for domestic battery and
6 property damage in 2009, and the third was an arrest for
7 reckless conduct in 2009.

8 Based on -- the Code of State Regulations at
9 11 CSR 45-4.260, Subparts 4, D states that the Commission
10 may refuse an occupational license to any person who
11 fails to disclose or states falsely information on the
12 application process.

13 And in this case they did deny Ms. Johnson's
14 license based on those nondisclosures, and it is the
15 hearing officer's recommendation that that be affirmed,
16 the denial of her application be affirmed.

17 I'll be happy to answer any questions.

18 CHAIRMAN LEARA: Who made the denial, the
19 initial denial?

20 MR. WOLFORD: It would have been the
21 investigator, and they would do it on a Disposition of
22 Occupational Gaming License form, the DOLA as we call
23 it, and the investigating officer would have signed it
24 as the denial by checking a box.

25 CHAIRMAN LEARA: Do you know who that was in

1 this case?

2 MR. WOLFORD: I do. It was -- get my
3 paperwork here.

4 Carolyn, do you have it?

5 MS. KERR: Laura Nehring was the
6 investigator.

7 CHAIRMAN LEARA: Okay. Any discussion,
8 questions?

9 Mr. Conway.

10 COMMISSIONER CONWAY: I'm going to bring up,
11 were all three of these SISs?

12 MS. KERR: They were arrests.

13 COMMISSIONER CONWAY: But the conviction?

14 MS. KERR: It didn't go --

15 COMMISSIONER CONWAY: The Judge, did he give
16 her an SIS in all three of these?

17 MS. KERR: I don't believe they went to
18 conviction. I think they were just arrests that were on
19 the record that she did not disclose.

20 The application specifically asks about
21 arrests separate, in addition to any convictions, pleas,
22 anything like that.

23 CHAIRMAN LEARA: You don't know how it was
24 adjudicated in those three cases?

25 MS. KERR: I don't have that information.

1 CHAIRMAN LEARA: All right.

2 MS. KERR: I can look. I think they probably
3 got dismissed but that isn't in --

4 COMMISSIONER FINNEY: The issue is the
5 failure to report the arrest, not necessarily --

6 MS. KERR: Correct.

7 COMMISSIONER FINNEY: -- the conduct for the
8 arrest.

9 MS. KERR: Correct.

10 COMMISSIONER FINNEY: Okay.

11 CHAIRMAN LEARA: Any questions of
12 Mr. Wolford?

13 Seeing none, do we have motion on this
14 resolution?

15 Let's ask that question. Thank you.

16 Is Ms. Johnson in the building?

17 Okay. Is there a response from Ms. Johnson?

18 MS. KERR: No. She submitted a request for a
19 hearing but then she did not show up to the hearing.

20 CHAIRMAN LEARA: No further response.

21 COMMISSIONER FINNEY: Okay. I'll move to
22 adopt Resolution No. 20-002.

23 CHAIRMAN LEARA: I'll second.

24 Any further discussion?

25 Seeing none, please call the roll.

1 MS. FRANKS: Commissioner Hane.

2 COMMISSIONER HANE: Approved.

3 MS. FRANKS: Commissioner Conway.

4 COMMISSIONER CONWAY: Approved.

5 MS. FRANKS: Commissioner Boulware.

6 COMMISSIONER BOULWARE: Approved.

7 MS. FRANKS: Commissioner Finney.

8 COMMISSIONER FINNEY: Approved.

9 MS. FRANKS: Chairman Leara.

10 CHAIRMAN LEARA: Approved.

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

12 Resolution No. 20-002.

13 CHAIRMAN LEARA: Now the next item,

14 No. VI. D, Resolution No. 20-003, is Consideration of

15 Placement on List of Excluded Persons list.

16 Mr. Grewach.

17 MR. GREWACH: Thank you, Mr. Chairman,

18 Commissioners, Director Grothaus.

19 Item D is a resolution to place Freya Pearson

20 on the involuntary exclusion list. By rule one of the

21 grounds that can place you on that list is conviction of

22 a felony involving moral turpitude.

23 The facts of this case are that in 2008 an

24 individual named Margo Wilson won 2 million in the

25 Missouri Lottery. In 2010 she met Freya Pearson.

1 Pearson opened a bank account in the name of Recidivism
2 at Work, in which Pearson was the sole signatory on that
3 bank account.

4 Ms. Pearson convinced Ms. Wilson to transfer
5 \$480,000 into this bank account by falsely representing
6 to Ms. Wilson that it was a business investment.
7 However, none of the funds in that account were used for
8 business purposes, and instead Ms. Pearson used those
9 funds for gambling and for other personal expenses.

10 As a result Pearson was convicted in Federal
11 Court on October 27th, 2016 for nine felony counts,
12 including fraud and tax evasion. She was sentenced to
13 five years in prison, followed by a three-year term of
14 supervised probation.

15 Some of the specific conditions included
16 paying restitution of \$518,000 and further a specific
17 condition that she not engage in any form of gambling.

18 If the Commission approves this resolution,
19 it will be served on Ms. Pearson. She then has a right
20 to ask for a hearing. If she asks for a hearing, it
21 would be assigned to one of our two hearing officers,
22 and it will come back to you like the prior two agenda
23 items were. If not, it becomes permanent at the lapse
24 of those 30 days.

25 CHAIRMAN LEARA: Any questions for

1 Mr. Grewach?

2 Okay. Seeing none, I will move for the
3 adoption of Resolution No. 20-003.

4 COMMISSIONER FINNEY: Second.

5 CHAIRMAN LEARA: We have a second.

6 If there is no other discussion, Angie.

7 MS. FRANKS: Commissioner Hane.

8 COMMISSIONER HANE: Approved.

9 MS. FRANKS: Commissioner Conway.

10 COMMISSIONER CONWAY: Approved.

11 MS. FRANKS: Commissioner Boulware.

12 COMMISSIONER BOULWARE: Approved.

13 MS. FRANKS: Commissioner Finney.

14 COMMISSIONER FINNEY: Approved.

15 MS. FRANKS: Chairman Leara.

16 CHAIRMAN LEARA: Approved.

17 MS. FRANKS: By your vote you've adopted
18 Resolution No. 20-003.

19 CHAIRMAN LEARA: All right. The next item,
20 No. VII, St. Louis Gaming Ventures disciplinary action.

21 Mr. Grewach.

22 MR. GREWACH: Yes.

23 That LLC operates the Hollywood Casino. This
24 is a preliminary order of discipline directed to the
25 Hollywood Casino alleging violations of our Rule 5.181

1 arising out of the issues with promotional activity by
2 the casino.

3 Every promotion run by a casino -- in this
4 particular case it was a drawing -- the casino is
5 required by rule to have dated written rules. It's a
6 violation of 5.181 for the casino to fail to award
7 prizes according to those promotional rules.

8 It's also a violation of 5.181 for a casino
9 to conduct any promotional activity in a manner that
10 reflects negatively upon the licensee.

11 The casino has a player reward program, and
12 that program awards tier points based on the amount of
13 patron play.

14 Now, this particular promotion was set up to
15 where drawings were earned -- entries into drawings were
16 earned, rather, based on the amount of tier points that
17 a patron would earn during a specific time period.

18 On July 29th, 2019 a patron complained to the
19 casino that he had not received the amount of drawings
20 that he was entitled to based on the amount of play in
21 tier points that he earned.

22 The casino investigated that complaint and
23 found that it was due to an error in programming, and
24 further reported to us that there were 148 patrons
25 during this two-day time period that did not receive the

1 appropriate amount of drawings -- entries into drawings.

2 So in an effort to make it up to those
3 148 patrons, the casino decided to send those
4 148 patrons a \$50 free slot play coupon, but instead in
5 error they sent the e-mail offering the \$50 free play
6 coupon to 50,000 patrons.

7 A little less than an hour after they sent
8 the initial e-mail they sent a retraction, a second
9 e-mail, indicating to them that they were not eligible
10 for that offer.

11 There were some patrons who read the first
12 e-mail and not the second. There was one in particular
13 who made a direct complaint to the Missouri Gaming
14 Commission, that she showed up on the property, believed
15 she was entitled to the \$50 free play, was told that she
16 did not, and, therefore, that error resulted in the
17 promotional activity being conducted that reflected
18 negatively on the licensee.

19 In the 18 months preceding this incident
20 Hollywood had three promotional violations. Two of
21 those resulted in a nonpunitive letter, or you'll see in
22 your packet an NPL, which is basically a warning letter.
23 The third of those three resulted in a \$2,500 fine.

24 The staff's Disciplinary Review Board
25 recommended a \$2,500 fine on this case.

1 All right. I will make that motion. Do we
2 have a second?

3 COMMISSIONER BOULWARE: Second.

4 CHAIRMAN LEARA: We have a second by
5 Mr. Boulware.

6 Angie, when you're ready, please call the
7 roll.

8 MS. FRANKS: Commissioner Hane.

9 COMMISSIONER HANE: Approved.

10 MS. FRANKS: Commissioner Conway.

11 COMMISSIONER CONWAY: Approved.

12 MS. FRANKS: Commissioner Boulware.

13 COMMISSIONER BOULWARE: Approved.

14 MS. FRANKS: Commissioner Finney.

15 COMMISSIONER FINNEY: Approved.

16 MS. FRANKS: Chairman Leara.

17 CHAIRMAN LEARA: Approved.

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

19 DC-20-014.

20 CHAIRMAN LEARA: Thank you.

21 The next item, Consideration of Adoption of
22 Rules and Regulations.

23 Mr. Grewach, do you want to speak to that?

24 MR. GREWACH: Yes, please.

25 Under Tab F there are seven final orders of

1 rulemaking. The background of these amendments is that
2 during the 2019 legislative session Senate Bill 87 was
3 passed which made a number of changes to the fantasy
4 sports law.

5 The most significant of those were that it
6 changed the way that the annual operating fee was
7 calculated in the prior -- in the prior logs calculated
8 based on residence.

9 So the companies would pay the fee based on
10 the percentage of entry fees that came from Missouri
11 residents compared to the entry fees that came from
12 residents of other states.

13 The new law changes it to a location
14 percentage. So the annual operating fee is paid based
15 on the percentage of persons who are physically located
16 in Missouri at the time they pay the entry fee compared
17 to the persons that were located outside of the state at
18 the time they made the entry fee.

19 The second change was on the due date of the
20 annual operating fee. Prior legislation it was due on
21 April 15th. The new legislation changed that to
22 November the 1st.

23 The third change was that it lowered the
24 annual operating fee from 11 1/2 percent to 6 percent.
25 The fourth change is that it changed the renewal

1 application due date from the anniversary of the license
2 to November the 1st. Those legislative changes then
3 necessitated these changes.

4 The Commission had approved the proposed
5 orders of rulemaking at our October 30th, 2019 meeting.
6 Following that there was a public comment period and a
7 public hearing held on January the 2nd, 2020.

8 We did receive some public comments, and in
9 your packet you will see that on the rules we did
10 receive public comments. You will see in the final
11 order both those comments and our response and changes,
12 if any, that were recommended to the rule.

13 You'll also see when you look at your packet
14 that the first set of rules, one through seven, are
15 sequentially listed as the final order, and then after
16 that we've gone ahead for your convenience and put the
17 proposed order.

18 And the reason for that is if there are no
19 comments to a proposed rule, the proposed rule is not
20 restated in the final order. So you can go back to the
21 proposed order to see what the actual change that's
22 being approved is.

23 The first one, 40.010, we're changing some
24 definitions. There's a change to paragraph 4. And
25 there was a provision in Senate Bill 87 that allowed a

1 division of a company to be licensed in lieu of
2 licensing the entire company.

3 This is a benefit to larger companies such as
4 ESPN or Yahoo who don't want to go through the licensing
5 process of the whole company, they can designate a
6 division, and then that division is who we investigate
7 and license for that activity.

8 Paragraph 6 is a change to the definition of
9 a key person, and it expanded that to add a provision
10 that would include not only the officers and directors
11 but also any person that we specifically identified as
12 being someone we needed to have investigated, not
13 licensed. We don't license key persons. In fantasy
14 sports we just investigate them.

15 The significance of us identifying somebody
16 as a key person is it gives us the ability then to run a
17 criminal history on them, and it further gives us the
18 ability to follow up. And, you know, if there are
19 any -- it creates an obligation on the company. If
20 there is any further problems or violations by that
21 individual, then the company has the duty to report that
22 to us.

23 Now, DraftKing did, in fact, file a comment
24 to that one particular change, and in their comment they
25 stated that they did not believe the adopted legislation

1 contemplated amending this term and suggested that it be
2 limited to persons critical to the licensed operator's
3 operation.

4 In our response we pointed out that
5 Statute 313.935.2, in fact, specifically gave us the
6 broad authority to investigate any of the employees.
7 So, in fact, the rule is more narrow than the statutory
8 authorization that we had.

9 Our other reason in expanding this, No. 1, it
10 keeps it fairly consistent. I think when you see our
11 other definitions of key persons, you'll see that phrase
12 any other person that we identify.

13 If you specifically apply that to fantasy
14 sports companies, as opposed to the traditional
15 officers, you would see Board members, CEO, CFO. You
16 know, we found persons such as a project manager or a
17 software engineer and other titles where that particular
18 person would have the potential ability to do something
19 to affect the integrity of the contest. So we wanted to
20 make sure that we ran a background on those particular
21 individuals.

22 Paragraph 8. Then we added the definition of
23 location percentage to again be consistent with the
24 statute.

25 In 40.020 the statutory changes caused us to

1 change our application. And in a rule when you adopt a
2 form such as an application for renewal form by rule and
3 you make significant changes to that application, you
4 also have to amend the rule in order for that to be a
5 legal change in the form.

6 Those changes in those forms included
7 allowing a division of a corporate entity to be the
8 applicant. The original legislation also required the
9 companies to apply annually.

10 Senate Bill 87 changed that, so that once
11 they were licensed, all they had to give us was a notice
12 of renewal and pay the renewal fee. So it cut out any
13 reinvestigation for the subsequent terms of the license.
14 So we had to change our forms to accommodate that
15 statutory change as well.

16 Item 40.050. The statute change as we talked
17 about before, the calculation of the annual operating
18 fee from a resident to a location percentage.

19 The rule there is amended to require them to
20 submit to us a detailed description of their geolocation
21 process. So we can look at what process they're using
22 to determine that the person paying the entry fee is
23 physically located in Missouri, to ensure that the
24 method they're using does comply with statutory
25 requirements.

1 40.060. There's an amendment necessitated by
2 Senate Bill 87. It mandated in that bill that a special
3 purpose entity that met the statutory qualification
4 shall be approved by the Commission as a sufficient
5 method of segregation of funds.

6 Prior to that our rule had some specific
7 provisions in it such as setting up an account with
8 Missouri player funds only, titling that account to be
9 for the benefit of the Missouri Gaming Commission.

10 So what we did is we removed those specific
11 provisions we before had done under the just general
12 authority we'd been given to come up with the method of
13 segregating player funds to just incorporate the
14 statute.

15 The other thing the statute did was it gave
16 the ability for fantasy sports companies to use an
17 alternative method to secure player funds.

18 And we had gotten requests before because
19 other states allowed this. Probably the most common one
20 you'll see is a letter of credit. And we've been
21 approached -- Tennessee does that for example. We've
22 been approached, can we just do a letter of credit,
23 convenient for the company, lower cost, don't have to
24 worry about two separate accounts.

25 Now under this then our rule now is changed

1 to make sure we can accommodate that type of request if
2 we receive one.

3 Rule 4.070. Again, the statute changed the
4 due date of the annual operating fee to November the
5 1st. Our prior rule required them to file the return by
6 January 15th giving us time to review it. We've now
7 rolled back the due date of the annual operating fee to
8 September the 1st.

9 And the final rule is 40.100, which again
10 changes the records and audits that reflect changes in
11 the resident -- from resident to location percentages
12 consistent with the statute.

13 CHAIRMAN LEARA: Questions for Mr. Grewach?

14 I have one.

15 Item No. 1 in the orders of rulemaking,
16 Item No. 6 within there talks about were any -- you're
17 adding language, or any person so designated by the
18 Commission -- that means to be licensed -- and you have
19 by the Commission or Director.

20 MR. GREWACH: Yes.

21 CHAIRMAN LEARA: So we're giving the Director
22 the ability to decide if somebody needs to be licensed?

23 MR. GREWACH: Actually they're not licensed.
24 But if we designate them as key persons and send that
25 notice, then the company has to give us this disclosure

1 statement filed by the key person and a set of
2 fingerprints that we can run. So, yes, not licensed but
3 it does give them --

4 CHAIRMAN LEARA: That would not require that
5 person to be licensed through the process but the
6 Director could still make that call. Is that done
7 anywhere else in the licensing process?

8 MR. GREWACH: Yes. Yes, there are.

9 In a casino licensee, a supplier licensee, we
10 will look at their org chart and we have a set -- we
11 have a set list of people, and then we can also
12 designate someone else and say this is a key person now.

13 Now the difference in the casino and supplier
14 is then that person actually has to be licensed. Here
15 it just tells us they have to send us a set of
16 fingerprints and a disclosure statement on that
17 particular individual.

18 CHAIRMAN LEARA: But that's done elsewhere
19 within the Commission that the Director can decide who
20 needs to be licensed?

21 MR. GREWACH: That's correct.

22 CHAIRMAN LEARA: Okay.

23 All right. Any other questions?

24 Seeing none I will move for -- do we do these
25 individually?

1 MS. FRANKS: As a group.

2 CHAIRMAN LEARA: I'll move for the adoption
3 of rules and regulations, Nos. 1 through 7.

4 Do we have a second?

5 COMMISSIONER BOULWARE: Second.

6 CHAIRMAN LEARA: No other discussion.

7 All right. Angie, please call the roll.

8 MS. FRANKS: Chairman Hane.

9 COMMISSIONER HANE: Approved.

10 MS. FRANKS: Commissioner Conway.

11 COMMISSIONER CONWAY: Approved.

12 MS. FRANKS: Commissioner Boulware.

13 COMMISSIONER BOULWARE: Approved.

14 MS. FRANKS: Commissioner Finney.

15 COMMISSIONER FINNEY: Approved.

16 MS. FRANKS: Chairman Leara.

17 CHAIRMAN LEARA: Approved.

18 MS. FRANKS: By your vote you've adopted the
19 final orders of rulemaking 11 CSR 45-40.010, 40.020,
20 40.050, 40.060, 40.070, 40.090 and 40.100.

21 CHAIRMAN LEARA: Thank you.

22 MR. GREWACH: Thank you.

23 CHAIRMAN LEARA: The next item, Item No. IV,
24 Consideration of Licensure of Key Business entity,
25 Konami Holdings.

1 EXECUTIVE DIRECTOR GROTHAUS: Mr. Leitman
2 will present.

3 CHAIRMAN LEARA: Mr. Leitman, when you're
4 ready.

5 MR. LEITMAN: Good afternoon, Mr. Chairman,
6 Commissioners.

7 The Missouri Gaming Commission background
8 staff conducted a licensing investigation of a supplier
9 key business entity, Konami Holdings Corporation.

10 Konami Holdings Corporation is the owner of
11 Konami Corporation of America, a holding company, and
12 the owner of Konami Gaming, Inc., which is a supplier in
13 the state of Missouri.

14 The investigation consisted of jurisdictional
15 inquiries, feedback from affected gaming company
16 clients, a review of disciplinary actions, litigation,
17 financial statements, an evaluation of financial metrics
18 and business credit profiles, as well as a review of key
19 persons associated with the company.

20 The results of this investigation were
21 provided to the MGC staff for their review, and you
22 possess a summary report which outlines our
23 investigative findings.

24 The staff recommends approval.

25 Thank you.

1 CHAIRMAN LEARA: The investigation was done
2 by Pat O'Dell and Corporal Keith Howry?

3 MR. LEITMAN: Yes, sir.

4 CHAIRMAN LEARA: Are they both here?

5 MR. LEITMAN: They are.

6 CHAIRMAN LEARA: Mr. Howry, do you have
7 anything to add to the report as submitted?

8 CORPORAL HOWRY: No, sir.

9 CHAIRMAN LEARA: Okay. Thank you.
10 Mr. O'Dell.

11 MR. O'DELL: No. I have nothing to add.

12 CHAIRMAN LEARA: Okay. Thank you.

13 Do we have a motion to approve?

14 COMMISSIONER FINNEY: I'll move to approve
15 Resolution 20-004, Tab G.

16 CHAIRMAN LEARA: A second?

17 COMMISSIONER CONWAY: A second.

18 CHAIRMAN LEARA: A second.

19 Mr. Conway, any other discussion?

20 Seeing none, Angie, please call the roll.

21 MS. FRANKS: Commissioner Hane.

22 COMMISSIONER HANE: Approved.

23 MS. FRANKS: Commissioner Conway.

24 COMMISSIONER CONWAY: Approved.

25 MS. FRANKS: Commissioner Boulware.

1 COMMISSIONER BOULWARE: Approved.

2 MS. FRANKS: Commissioner Finney.

3 COMMISSIONER FINNEY: Approved.

4 MS. FRANKS: Chairman Leara.

5 CHAIRMAN LEARA: Approved.

6 MS. FRANKS: By your vote you've adopted
7 Resolution No. 20-004.

8 CHAIRMAN LEARA: The next item, X,
9 Consideration of Licensure for Level I/Key Applicants.

10 Mr. Leitman.

11 MR. LEITMAN: Yes, sir.

12 Again, Chairman and Commissioners, the
13 Missouri Gaming Commission background staff conducted
14 comprehensive background investigations on multiple key
15 and Level I applicants for licensure.

16 The investigation consists of financial
17 review and analysis, including examination of bank and
18 security accounts, net worth and tax returns, general
19 character inquiries made in the jurisdictions where the
20 applicants lived and worked, and criminal history checks
21 to determine the suitability of the licensee.

22 The following individuals are being presented
23 for your consideration: Catie Marie Knable, Caesars
24 Entertainment Corporation, Internal Audit Manager;
25 Johannes Thomas Anton Gratzl, Novomatic, Chief Financial

1 Officer; and Stephen E. Richardson, Scientific Games
2 Corporation, Senior Vice President, Chief Compliance
3 Officer and Director of Corporate Security.

4 Again, the staff recommends approval. Thank
5 you.

6 CHAIRMAN LEARA: Thank you.

7 Any questions for Mr. Leitman?

8 MR. LEITMAN: Those investigators are
9 likewise in the building.

10 CHAIRMAN LEARA: And they are here?

11 MR. LEITMAN: Yes, sir.

12 CHAIRMAN LEARA: And they're Sergeant
13 McTheeney and Larry Stitz, Mr. Stitz. Thank you.

14 You don't have anything to add?

15 MR. STITZ: No.

16 SERGEANT MCTHEENEY: No.

17 CHAIRMAN LEARA: On Mr. Gratzl, Sammy Seaton.

18 SERGEANT SEATON: Yes, sir. Nothing.

19 Mr. Harlow, nothing to add.

20 MR. HARLOW: Nothing.

21 CHAIRMAN LEARA: Who was the last one?

22 Stephen Richardson. Who were the
23 investigators in that?

24 CHAIRMAN LEARA: It should be Sergeant Seaton
25 as well on that one, and I think Larry Stitz.

1 Nothing to add. All right.

2 Any questions?

3 Seeing none I will move for the adoption of
4 Resolution No. 20-005.

5 Do we have a second?

6 COMMISSIONER FINNEY: Second.

7 CHAIRMAN LEARA: I have a second.

8 No other discussion.

9 Angie, please call the roll.

10 MS. FRANKS: Commissioner Hane.

11 COMMISSIONER HANE: Approved.

12 MS. FRANKS: Commissioner Conway.

13 COMMISSIONER CONWAY: Approved.

14 MS. FRANKS: Commissioner Boulware.

15 COMMISSIONER BOULWARE: Approved.

16 MS. FRANKS: Commissioner Finney.

17 COMMISSIONER FINNEY: Approved.

18 MS. FRANKS: Chairman Leara.

19 CHAIRMAN LEARA: Approved.

20 MS. FRANKS: By your vote you've adopted
21 Resolution No. 20-005.

22 CHAIRMAN LEARA: The next item, I'll make a
23 motion for a closed meeting under Sections 313.847 and
24 313.945, of the Revised Statutes of Missouri,
25 investigatory, proprietary and application records, and

1 610.021, Section 1, Revised Statutes of Missouri, legal
2 actions and matters subject to attorney-client
3 privilege, Sections 3 and 13 personnel, 12, contracts,
4 and 14, records protected from disclosure by law.

5 COMMISSIONER FINNEY: Second.

6 CHAIRMAN LEARA: We have a second.

7 Angie, please call the roll.

8 MS. FRANKS: Commissioner Hane.

9 COMMISSIONER HANE: Approved.

10 MS. FRANKS: Commissioner Conway.

11 COMMISSIONER CONWAY: Approved.

12 MS. FRANKS: Commissioner Boulware.

13 COMMISSIONER BOULWARE: Approved.

14 MS. FRANKS: Commissioner Finney.

15 COMMISSIONER FINNEY: Approved.

16 MS. FRANKS: Chairman Leara.

17 CHAIRMAN LEARA: Approved.

18 WHEREIN, the hearing concluded at

19 12:55 p.m.

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1 CERTIFICATE OF REPORTER

2

3 I, Patricia A. Stewart, CCR, a Certified
4 Court Reporter in the State of Missouri, do hereby
5 certify that the testimony taken in the foregoing
6 transcript was taken by me to the best of my ability and
7 thereafter reduced to typewriting under my direction;
8 that I am neither counsel for, related to, nor employed
9 by any of the parties to the action in which this
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11 relative or employee of any attorney or counsel employed
12 by the parties thereto, nor financially or otherwise
13 interested in the outcome of the action.

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Patricia A. Stewart

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CCR 401

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MISSOURI GAMING COMMISSION
Third Open Session Minutes
February 26, 2020

The Missouri Gaming Commission (the “Commission”) went into the second open session meeting at approximately 3:00 p.m. on February 26, 2020, at the Missouri Gaming Commission, 3417 Knipp Drive, Jefferson City, Missouri.

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

The closed session meeting ended at 3:02 p.m.