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INDIANA GAMING COMMISSION

THIRD QUARTER 2008 REGULAR BUSINESS MEETING OF THE
INDIANA GAMING COMMISSION

LOCATION:

11999 AVENUE OF THE EMPERORS,
ELIZABETH, INDIANA, 47117-7753

DATE:

AUGUST 28, 2008

REPORTER:

ALICE BALLARD

APPEARANCES

CHAIR: WILLIAM BARRETT

EXECUTIVE DIRECTOR: ERNEST YELTON

COMMISSIONERS:

TAMI TIMBERMAN-WRIGHT

PHIL SICUSO

JENNIFER RESKE

TIM MURPHY

TOM SWIHART

MARY SHY

MARC FINE

ROBERT MORGAN

KESHA RICH

CHRIS GRAY

LEA ELLINGWOOD

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PROCEEDINGS

MR. BARRETT: Good afternoon, ladies and gentleman. We'll now call the third quarter 2008 regular business meeting of the Indiana Gaming Commission to order. We'll begin with the call of the roll of the commissioners. Commissioner Murphy?

MR. MURPHY: Present.

MR. BARRETT: Commissioner Swihart?

MR. SWIHART: Present.

MR. BARRETT: Commissioner Cummings?
Commissioner Shy?

MS. SHY: Here.

MR. BARRETT: Commissioner Fine?

MR. FINE: Here.

MR. BARRETT: Commissioner Morgan?

MR. MORGAN: Present.

MR. BARRETT: And Chad is present.

Commissioners, You have received in your packet the minutes from the May 28th meeting. Are there any questions or corrections?

If not, I'll call for a motion on whether to approve the minutes.

MR. MURPHY: I move we approve the minutes.

1 **MR. SWINHART:** Second.

2 **MR. BARRETT:** Moved and seconded. All in
3 favor?

4 **THE COMMISSIONERS:** Aye.

5 **MR. BARRETT:** Okay. Executive director
6 Yelton, before you begin your report, you have a new
7 member to welcome aboard.

8 **MR. YELTON:** Yes. Ladies and gentleman,
9 please joint me in welcoming Robert Morgan, our newest
10 Commission member. Bob was born and grew up in
11 Toronto, Canada. He went on to study labor management
12 relations at Confederation College in Thunder Bay,
13 Canada. In 1981, Bob went to work for Johnson
14 Equipment Limited, a subsidiary of McCain Foods, Inc.
15 and various regional management positions in Toronto,
16 New York and Chicago. In 1990, he was appointed vice
17 president of the North American Operations and was
18 responsible for the company's profit and loss for both
19 Canadian and U.S. Operations. In 1999, Mr. Morgan left
20 McCain and founded his own business, Docutech Services
21 Inc. which currently provides litigation support
22 services to large law firms throughout the United
23 States. Bob, welcome.

24 **MR. MORGAN:** Thank you.

25 **MR. YELTON:** Mr. Chair and members of

1 Commission, continue to list the Executive Director's
2 report starting with a staff update. Joe Hope? Joe,
3 please stand. He's our newest staff attorney. Joe
4 graduated from Valparaiso School of Law in 2006 and
5 served a one year clerkship with Judge Boyer in the
6 Allen County Superior Court. He comes to us from the
7 Marion County Prosecuting Attorney's Office.

8 Please welcome Julian Agnew. Julian? Who
9 replaced Mark Reeder as our assistant license control
10 director. A lifetime resident of Indianapolis, Julian
11 graduated in December 2005 through the law school of
12 Indiana University at Indianapolis and was admitted to
13 the bar in May. Prior to his employment with the
14 gaming commission, he clerked with the legal department
15 of Loft Property Group.

16 Finally, I'd like to announce Patricia
17 Greenrich (phonetic) who joins the Charity Gaming
18 Division from the Department of Revenue where she
19 worked in both clerical and tax analyst positions.

20 The commission staff has been exceptionally
21 active with record casinos openings and rebrandings for
22 one quarter. We started with Hoosier Park in Anderson
23 for a soft opening on May 29th, Indiana Wyatt in
24 Shelbyville followed a week later on June 6th.
25 Horseshoe Southern Indiana, our host today, revealed

1 its totally remodeled and rebranded boat on July 11th.
2 Ameristar completed its changeover from resorts on July
3 25th. And finally Horseshoe Northern Indiana
4 successfully passed its soft opening on July 29th.

5 Our enforcement division, excuse me, has been
6 recently challenged with the overseeing of casino
7 openings and rebrandings. In addition, the seventh
8 gaming enforcement academy has been scheduled to begin
9 on September 8th. There will be 15 candidates
10 attending the training. Once they have successfully
11 completed the academy, they'll do field training of the
12 respective casinos for a period of two weeks. This
13 class will result in each venue being fully staffed
14 with gaming agents.

15 Our gaming control division has seized 447
16 illegal gaming devices from 69 locations thus far
17 during the calendar year of 2008, and a total of 946
18 illegal gaming devices since the division was formed.
19 An additional 3,085 illegal gambling devices have been
20 reported as removed from the State of Indiana by
21 distributors to avoid seizure. A total of 166 cases
22 have been initiated and 25 felony charges have been
23 filed as of this time.

24 On August 16th of this year, the division
25 encountered its first mobile illegal gambling device

1 situation. A trailer with eight illegal gambling
2 devices bolted to the wall were seized. The trailer
3 had been towed from various locations and opened up for
4 use. Very imaginative.

5 In nine gaming issues, we're proud to
6 announce the gaming control officers assisted local
7 agencies in flood related matters in June. And we're
8 glad to announce that they also received a full grant
9 to purchase mobile radios for each one of the officers.

10 Last Thursday, Tropicana filed what is
11 commonly referred to in bankruptcy proceedings as a
12 section 363 petition to sell Aztar Indiana property.
13 This is consistent with its executive staff's
14 representations when they met with us shortly before
15 the original bankruptcy petition was filed. Our
16 background in financial investigations continue to
17 process the application for transfer of the license to
18 El Dorado in the normal course of business. The
19 internal investigation is on track to conclude in
20 October and action on the application should be right
21 for commission act consideration at our next meeting.

22 Finally, I will recite our waiver summary for
23 the last quarter. The members of the Indiana Casino
24 Association were granted relief from having an employee
25 from the accounting department as part of the soft

1 count team. With the advancement of technology, the
2 need for an employee from a separate department is no
3 longer valid.

4 Aztar had a request approved to place
5 dedicated coverage on progressive display showing
6 incrementation when the display reads a minimum of
7 \$40,000. The accounting or income audit department
8 will be responsible for daily verification of the
9 incremented amounts.

10 French Lick asked and was provided a waiver
11 to allow departmental managers to retain title 31
12 paperwork for two additional days -- business days,
13 excuse me -- to properly review all transactions.

14 Hoosier Park asked for two waivers. The
15 first one was granted to allow them to collect and
16 count the cage tip boxes weekly. The second one, as
17 well, was granted to allow the slot department tip
18 boxes to be dropped and counted biweekly instead of
19 daily.

20 Horseshoe had several waivers. The first,
21 they were granted relief from the requirement that an
22 electronic gaming device must pay out at least 80
23 percent for the Keno game consistent with industry
24 standards and other jurisdictions and was granted a
25 waiver for additional two and ten dollar chips and was

1 approved a request to place dedicated coverage on
2 progressive displays showing incrementation when the
3 display reached a minimum of \$50,000. The progressive
4 meter amounts will be manually logged and audited
5 daily. In addition, the casino will utilize technology
6 that will record the gaming data sent to the display
7 controllers.

8 And, finally, Indiana Live was granted relief
9 from their requirement that jackpot slips must contain
10 the printed name of the slot it's in and the casino
11 cashier. The name of the slot attendant will be
12 printed on the slip by the computer system but the
13 casino cashier will not need to print their names on
14 the slip. Both employees will still sign their name
15 and occupational licensee on the jackpot slip.

16 And that, Mr. Chair, and members of the
17 commission, is the Executive Director's report for
18 today.

19 **MR. BARRETT:** Thank you Executive Director
20 Yelton. We'll proceed then, if there is no business,
21 to voluntary exclusion orders, Ms. Gray.

22 **MS. GRAY:** Good afternoon, commissioners.
23 You have before you 16 orders regarding the voluntary
24 exclusion program. Pursuant to the rules of the
25 program, the identities of the voluntary exclusion

1 program participants must remain confidential.
2 Pursuant to 68 IAC 6-3-2(g), a participant in the
3 program agrees that if he or she violates the term of
4 the program and enters the gaming area of a facility
5 under the jurisdiction of the Commission, they will
6 forfeit any jackpot or thing of value won as a result
7 of a wager. Under order 2008-75 through 2008-90, a
8 total sum of \$11,070.42 was forfeited by John Does 33
9 through 48. These winnings were collected at
10 Ameristar, Argosy, Belterra, Blue Chip, Grand Victoria,
11 Hoosier Park, Hoosier South, Indiana Live and Majestic
12 Star. These winnings were withheld as required by
13 Commission regulations. Commission staff recommends
14 that you approve the remittance of these winnings as
15 fines levied against John Does 33 through 48.

16 **MR. BARRETT:** Thank you, Ms. Gray.
17 Commission members have any questions? If not, chair
18 will call for a motion to approve or deny the proposed
19 orders in case numbers VEP-08-33 through VEP-08-48.

20 **MR. SWINHART:** Move to approve.

21 **MR. MURPHY:** Second.

22 **MR. BARRETT:** It's been moved and seconded.

23 All in favor?

24 **THE COMMISSIONERS:** Aye.

25 **MR. BARRETT:** Thank you, Ms. Gray. Mr.

1 Packer, occupational licensees.

2 **MR. PACKER:** Thank you, Mr. Chairman, members
3 of the Commission, Executive Staff. The process for
4 denial of occupational license applications has gone
5 through a few changes in philosophy among the executive
6 staff and among the legal staff. The limited
7 situations of a felon -- a convicted felon or a person
8 under the age of 18, bring up the situation where the
9 applicant is statutorily ineligible for licensure. The
10 Gaming Commission is forbidden by statute from issuing
11 occupational licenses for people who fall to one of
12 those two categories. There is an exception for
13 convicted felons who proceed through the felony waiver
14 process. But that blanket prohibition, in the opinion
15 of the legal staff, means that in order to A) save time
16 and effort by commission and by the staff at commission
17 meetings, and B) to avoid bringing matters to the
18 commission that require no discretion at all if the
19 staff were to request that the commission delegate its
20 authority to deny licenses that fall into one or both
21 of those two categories, a convicted felon who does not
22 proceed through the felony waiver process or an
23 applicant who is under the age of 18. And resolution
24 08-91 that's before you today addresses that specific
25 matter. At this time, I would ask if the commission

1 staff would recommend that you delegate that authority
2 to the Executive Director.

3 **MR. BARRETT:** Thank you, Mr. Packer. Do the
4 Commission members have any questions? The next member
5 is -- and Mr. Packer, just so that everyone in the room
6 is clear on what the request is and what the delegation
7 would be, these are cases that are wholly objective.
8 There is no subjectivity in the analysis. Either
9 someone is 18 or they're not 18. Either someone with a
10 felony conviction has or can go through the waiver
11 process or not.

12 **MR. PACKER:** Correct.

13 **MR. BARRETT:** Okay.

14 **MR. PACKER:** And staff will still go through
15 the regular -- at least pertaining to the felon -- to
16 the convicted felons -- before this delegation would
17 take effect, the applicant would still go through the
18 staff's ordinary analysis to determine if the
19 individual is eligible for a felony waiver or --

20 **MR. BARRETT:** Or to seek a waiver.

21 **MR. PACKER:** -- to even a seek a waiver. If
22 the individual who is eligible to seek a waiver is then
23 fit to receive that waiver or if the individual decides
24 not to seek a waiver given the regular time frame that
25 the individual has the opportunity to do so.

1 **MR. BARRETT:** So, in other words, the
2 commission is not delegating any of its true decision
3 making obligation. It's a mere ministerial task?

4 **MR. PACKER:** There's -- yeah. There's no real
5 discretion at stake here.

6 **MR. BARRETT:** Okay. Any questions? If not,
7 I'll call for a motion on -- of the proposed order --
8 proposed resolution 2008-91.

9 **MR. MURPHY:** I move to approve that
10 resolution.

11 **MR. SWINHART:** Second.

12 **MR. BARRETT:** It's moved and seconded to
13 approve proposed resolution 2008-91. All in favor?

14 **THE COMMISSIONERS:** Aye.

15 **MR. BARRETT:** Okay. Thank you.

16 **MR. PACKER:** The next matter is 2008-92.
17 This -- I'm switching gears a little bit. This is
18 regarding a settlement agreement in lieu of
19 disciplinary action against Chad Bell. Mr. Bell is a
20 dealer at Horseshoe Southern Indiana. He lives in
21 Evansville and the Gaming Commission received some
22 anonymous tips that he was conducting poker games in
23 his basement. At the time that we got the tips, there
24 were allegations that these games were for thousands of
25 dollars, that Mr. Bell was attracting regular players

1 from Aztar or from Horseshoe Southern Indiana to come
2 to play at his games. The investigation by Commission
3 staff discovered that those allegations were largely
4 unfounded and that the only facts on the record that
5 were reliable to a degree that Commission staff was
6 confident that he had actually done these things were
7 that he did have regular poker games at his house.
8 They were mostly among friends and the stakes were \$20
9 buy-in with an occasional game that was a little bit
10 more than that.

11 Based on those facts, the fact that we
12 actually have strong evidence on, the Commission staff
13 believes that Mr. Bell did violate some of his
14 obligations as an occupational licensee but not to the
15 point that irrevocation of his license or that a more
16 serious disciplinary action should be taken against
17 him. So, we offered a two day suspension of his
18 occupational license, which would -- which he would not
19 be allowed to serve on vacation time or anything like
20 that.

21 It's for those reasons that the Commission
22 staff recommends that the Commission approve the
23 settlement agreement in the matter of 2008-92.

24 **MR. BARRETT:** Thank you, Mr. Packer. I have
25 a couple of questions. Was a referral made to the

1 Vanderburgh County prosecutor's office?

2 **MR. PACKER:** I believe the Gaming Control
3 contacted Vanderburgh County prosecutor's office and
4 that didn't go anywhere.

5 **MR. BARRETT:** Okay.

6 **MR. PACKER:** I don't know if it went any
7 farther than that.

8 **MR. BARRETT:** Does anyone else have any
9 questions?

10 **MS. SHY:** I do. How was the two days
11 determined versus a week or...?

12 **MR. PACKER:** It was determined based on some
13 previous settlement agreements that we had done. Not -
14 - there haven't been any cases identical to this, but
15 in the past where we've seen violations of an
16 individual's obligations under the occupational
17 licensing standards -- the basic violation that Mr.
18 Bell committed here was sort of a morphous. There's
19 not a specific prohibition against having -- against
20 playing illegal poker games in your house for being an
21 occupational licensee. But there's sort of a catch all
22 that says generally be suitable and the Commission
23 should have confidence in your abilities to uphold its
24 statutory obligations. So, the combination of the fact
25 that there was not a specific prohibition against what

1 turned out to be not the felony gambling, the really
2 serious gambling, but misdemeanor gambling in his home
3 and the fact that we've had cases where there have been
4 minor violations in the past and those have resulted in
5 two or three day suspensions in every case.

6 **MR. MURPHY:** I have one more question if I
7 can. Can I ask you a question about one of your nine
8 points?

9 **MR. PACKER:** Yes.

10 **MR. MURPHY:** You mentioned the night that the
11 search warrant was executed, the gaming control officer
12 executing the search warrant was not granted entry.
13 Does that -- did Mr. Bell have anything to do with
14 that?

15 **MR. PACKER:** No, Mr. Bell was not present at
16 that time. It was his girlfriend or friend who was
17 present at the home on that particular night. Marc?

18 **MR. FINE:** Was he -- were the other
19 participants -- were they friends or just -- I mean,
20 acquaintances of his, or just strangers?

21 **MR. PACKER:** All of the evidence that we have
22 based on interviews with Mr. Bell, with his girlfriend,
23 and with a couple other players who were there on the
24 night that gaming control officers gained access to the
25 home is that this was a regular group of people who had

1 known Mr. Bell for a period of time. They -- from all
2 the evidence that we have, this was a "friendly" game.
3 And only on occasion -- the evidence that I think is
4 strongest in that case was that the gaming control
5 officer who was not posing as a gaming control officer
6 but rather just a member of the public was not granted
7 access to the game. So, it's not like you could wander
8 in off the street and say, "I want some poker tonight,
9 I'm going to Chad Bell's house." That is -- from the
10 evidence that we were able to gather and the interviews
11 that we have and the actions of the gaming control
12 officers, that's not the case. This was a friendly
13 game from all indications.

14 And I can assure you that if it was something
15 like what you were talking about, that we would have
16 taken a more serious action and we would have been less
17 likely to settle this.

18 **MR. BARRETT:** What is the process if someone
19 is arrested -- and I know that wasn't the case here --
20 but arrested and convicted of misdemeanor drunk driving
21 --

22 **MR. PACKER:** Okay. Not fitting the --

23 **MR. BARRETT:** Alleging that he is not fit for
24 licensing, yeah.

25 **MR. PACKER:** The individual has 10 days to

1 alert the gaming commission of an arrest, a misdemeanor
2 or more serious arrests. Infractions don't count.
3 That is the commission has the ability to -- or has the
4 authority to review that arrest and to determine if
5 that particular arrest impacts the person's suitability
6 in any meaningful way or any way that is set out in the
7 standards of suitability.

8 One DWI arrest or even conviction is not
9 going to create a disciplinary action. But if we see a
10 pattern of behavior that makes this person a risk to
11 the integrity of the gaming or to the safety of
12 patrons, then that's something that we would take a lot
13 more seriously. But as far as the occupational
14 licensee's obligations, the only obligation that he or
15 she has is to report the arrest and then keep us up to
16 date on the progress of the criminal case.

17 **MR. BARRETT:** In your opinion, does a
18 misdemeanor drunk driving conviction implicate the
19 issues for the integrity of gaming in the state to the
20 extent that a weekly poker game run by a dealer does?

21 **MR. PACKER:** No.

22 **MR. BARRETT:** All right. And having taken
23 that analysis into account, this two day suspension is
24 where you find it?

25 **MR. PACKER:** Yes. A person who is convicted

1 of a misdemeanor DUI would probably not even get a
2 written reprimand from commission staff. We would make
3 a note of it, put it in the individual's file and if it
4 became a pattern or if it led to more serious crimes,
5 then we would have that information to lean back on in
6 a future investigation. But, I'm not aware of any
7 person convicted of misdemeanor DUIs and disciplined by
8 the Gaming Commission.

9 **MR. BARRETT:** No. I'm not either. And I
10 probably asked the question backwards. Do you agree
11 that the facts here come closer to implicating the
12 integrity of gaming?

13 **MR. PACKER:** They are more serious.

14 **MR. BARRETT:** Okay.

15 **MR. PACKER:** Than a simple misdemeanor
16 conviction.

17 **MR. BARRETT:** And although there's no
18 conviction here, we do have an admission against
19 interest.

20 **MR. PACKER:** We do and I -- if a county
21 prosecutor was so inclined and as you are all aware
22 that's rare. This would be a good test case for the
23 misdemeanor gambling offense in Indiana. The facts are
24 all there of course.

25 **MR. BARRETT:** And I'm sure -- how did you --

1 again, how did you land on two days?

2 **MR. PACKER:** The combination of two factors.
3 One was the fact that this wasn't a specific violation
4 of the standards for licensure. And two, taking past
5 disciplinary actions that were either repeated minor
6 offenses or an isolated offense that implicates the
7 integrity of gaming possibly or shows some -- some of
8 that we would be concerned about more than just a
9 regular -- more than just day to day activity, but not
10 anything that we think rises to felony or on casino
11 property issues. That's another thing, is that he kept
12 it at home as far as we know.

13 **MR. BARRETT:** I'm not trying to be sarcastic,
14 but I'm going to make an analogy. I don't -- on the
15 issue of notice -- I don't think banks tell their
16 tellers not to counterfeit money, but they probably
17 shouldn't do it.

18 **MR. PACKER:** Yeah, I agree. And I may have
19 been oversimplifying. The analysis of the suitability
20 standards, not only didn't reveal any specific
21 prohibition against running a home game but there
22 really wasn't anything in the specific enumeration of
23 what -- of the factors for suitability. If it even
24 came close to this scenario, I had to fit it into the
25 catch-all to even find a violation at all. So, that

1 would be something that weighed into the decision to do
2 a two-day settlement.

3 **MR. BARRETT:** Okay. Thank you.

4 Anybody else got any questions? If not, I'll
5 call for a motion whether to approve or deny the
6 proposed settlement agreement in 08-OL-CA-03.

7 **MR. SWINHART:** Move to approve.

8 **MS. SHY:** Second.

9 **MR. BARRETT:** It's been moved and seconded.
10 All in favor?

11 **THE COMMISSIONERS:** Aye.

12 **MR. BARRETT:** All opposed

13 **UNIDENTIFIED COMMISSIONER:** Aye.

14 **MR. BARRETT:** Approved by five to one. Thank
15 you.

16 **MR. PACKER:** Thank you.

17 **MR. BARRETT:** Supplier licensing matters, Ms.
18 Rich.

19 **MS. RICH:** Good afternoon. You have before
20 you Order 2008-93 concerning the supplier's license for
21 Pokertek, Incorporated. On or about October 3, 2007,
22 Pokertek submitted a supplier license application to
23 conduct gaming related business under Indiana's casino
24 licensee. Pokertek manufactures electronic poker table
25 games that require no dealer. They have been in

1 business since 2003 and have customers from all over
2 the world. Pokertek was granted a temporary supplier's
3 license in Indiana on December 12th, 2007, and had a
4 commitment letter from one Indiana casino. IGC staff
5 is aware that Pokertek began working immediately after
6 receiving a temporary license to advance their business
7 within the state. A background and financial
8 investigation was conducted on Pokertek and its key
9 persons. IGC staff could find no derogatory
10 information that would affect the applicant's
11 suitability. The Commission staff recommends you grant
12 Pokertek Incorporated a permanent supplier's license.

13 **MR. BARRETT:** Thank you, Ms. Rich.
14 Commissioners have any questions? If not, I'll call
15 for a motion in proposed Order 2008-93.

16 **MR. MURPHY:** I move we approve the order.

17 **MR. SWINHART:** Second.

18 **MR. BARRETT:** It's been moved and seconded.

19 All in favor?

20 **THE COMMISSIONERS:** Aye.

21 **MR. BARRETT:** All opposed. It is unanimous,
22 and you have one more I believe?

23 **MS. RICH:** Yes. You have before you Order
24 2008-94 regarding renewal of supplier's licenses.

25 Pursuant to Indiana Code 4-33 and 68 IAC 2-2 the

1 Commission has previously approved a temporary
2 supplier's license for GEMACO Incorporated, Progressive
3 Gaming International Corp, Atronic Americas, LLC, Glory
4 (USA) Incorporated, GPI USA, Incorporated and GPI
5 S.A.S.

6 A supplier's license is valid for a period of
7 one year. Pursuant to IAC-4-33-7-8 and 68 IAC-2-2-8, a
8 supplier's license must be renewed annually and a
9 payment of \$5,000 for the annual renewal fee must be
10 remitted. Each of these licensee's have requested
11 renewal of their license and have paid their
12 appropriate renewal fees. The Commission staff
13 recommends that you approve the renewal of the licenses
14 for these six providers.

15 **MR. BARRETT:** Thank you. Anyone have any
16 questions of Ms. Rich? If not, I'll call for a motion
17 in proposed order 2008-94.

18 **MR. SWINHART:** Move to approve.

19 **MR. MURPHY:** Second.

20 **MR. BARRETT:** It's been moved and seconded.

21 All in favor?

22 **THE COMMISSIONERS:** Aye.

23 **MR. BARRETT:** All opposed? Thank you, Ms.

24 Rich.

25 **MS. RICH:** Thank you.

1 **MR. BARRETT:** Mr. Sicuso?

2 **MR. SICUSO:** Thank you Mr. Chair. As is
3 proposed, Order 2008-95 would ratify interim granting
4 of approval for a financing that Executive Director
5 Yelton issued on August 6th, 2008, to Pinnacle
6 Entertainment, Inc. The interim approval that was
7 authorized by the Executive Director would allow
8 Pinnacle to refinance one or both of the senior
9 subordinated notes and without receiving prior
10 commission approval or having to follow the two meeting
11 rule that's in our regulations. The interim approval
12 which would be good through December 31st of this year,
13 authorizes Pinnacle to use any number of mechanisms to
14 do the refinancing, including things such as making
15 some changes to their existing bank facility or
16 possibly issuing some new notes. Resolution 2008-74,
17 which you passed earlier this year, requires that we
18 bring any interim approval before you for ratification
19 in case you want to direct the Executive Director in a
20 different way.

21 So, we are bringing this to you with the
22 recommendation that you ratify the intern approval.

23 **MR. BARRETT:** Thank you. Anyone have any
24 questions for Mr. Sicuso? If not, the Chair will call
25 for a motion in proposed Order 2008-95.

1 **MR. MURPHY:** Move to approve.

2 **MR SWINHART:** I'll second the motion.

3 **MR. BARRETT:** It's been moved and seconded.

4 All in favor?

5 **THE COMMISSIONERS:** Aye.

6 **MR. BARRETT:** All opposed? Thank you. Now,
7 you have two license renewals.

8 **MR. SICUSO:** Correct. The first one is for
9 Blue Chip. As is proposed Order 2008-96 would renew
10 Blue Chip Casino, LLC's riverboat license for a period
11 of one year. The Blue Chip licensee timely submitted a
12 request for the renewal as well as the requisite \$5,000
13 fee and the renewal is properly before you today after
14 one interim extension that was granted by Executive
15 Director Yelton. The staff's position that Blue Chip
16 is in substantial compliance with all the gaming laws
17 and would recommend that the license be renewed at this
18 time. If you do have any questions, I believe that
19 General Manager Ted Bovich is present today if you'd
20 like to ask him anything.

21 **MR. BARRETT:** Thank you. Commission members
22 have any questions of either the staff or
23 representative of the licensee? All right, then I'll
24 call for a motion on proposed Order 2008-96 regarding
25 the renewal of Blue Chip Casino's license.

1 **MR. SWINHART:** Move to approve.

2 **MR. MURPHY:** Second.

3 **MR. BARRETT:** Moved and seconded. All in
4 favor?

5 **THE COMMISSIONERS:** Aye.

6 **MR. BARRETT:** All opposed. Thank you.
7 Majestic Star.

8 **MR. SICUSO:** Yes sir, the -- both Majestic
9 Star licenses are up for renewal today. Majestic Star
10 Casino LLC and the Majestic Star Casino II and have
11 timely submitted their requests as well as the \$5,000
12 fee. Prior to today's meeting and in your package we
13 did receive, produce for you some additional
14 information about Majestic Star's finances that you
15 have had an opportunity to review as well as some
16 finances for a relevant affiliated company. The
17 renewal of both Majestic Star licenses is properly
18 before you today again after one extension that was
19 rendered by Executive Director Yelton. So, if you have
20 any questions prior to taking a motion or voting on
21 this -- these renewals, I believe the CFO John Bennett
22 is present before you today.

23 **MR. BARRETT:** Mr. Bennett?

24 **MR. BENNETT:** Good afternoon, sir.

25 **MR. BARRETT:** Thank you for making the trip

1 down. I believe there are -- there may be some
2 questions from commission members and if they ask
3 anything, if we ask anything that you believe calls for
4 some confidential information, we understand that and
5 if you could just let us know, we will work through
6 that issue outside of this forum.

7 **MR. BENNETT:** Sure.

8 **MR. BARRETT:** Okay. Thanks.

9 **MR. SWINHART:** Okay. I have a question. In
10 the past, you have indicated that you have a medical
11 facility in Gary that had condominiums and any of the
12 improvements that would have been done in Gary were now
13 being delayed until Pittsburgh got up and running and
14 then the financing would then be available to enhance
15 the properties in Gary. Now that you've got an equity
16 partner, that appears to be a little harder to do.
17 What plans do you have to enhance your cash flow to
18 make these improvements to be, you know, competitive in
19 the market?

20 **MR. BENNETT:** Well -- and just to back up a
21 little bit on Pittsburgh. You know, Pittsburgh has
22 been structured totally separate from Majestic Star and
23 there's no proceeds from any sort of Pittsburgh
24 Financing or Operations that would enhance Majestic
25 Star nor is there going to be any use of funds for

1 Majestic Star to be able to enhance the Pittsburgh
2 Operations, so just to clarify, they are separate and
3 distinct entities with no financial overlap.

4 The situation with Majestic Star is
5 challenging. I -- you know, I think we all are aware
6 of that. You know we operate in a very competitive
7 environment. We saw Horseshoe open up its new facility
8 here recently. Our cash flows, due to our management
9 team, have stabilized to a certain degree. But
10 certainly the situation with companies, high leverage
11 and limitations in terms of being an access capital
12 market are going to make it difficult in the near term
13 to be able to do the types of things that we had
14 envisioned a while ago. I mean, the things that you're
15 talking about are going to require a fairly sizable
16 capital infusion to be able to do that. And at this
17 point in time, I think the company would be challenged
18 to be able to bring that capital on board.

19 **MR. SWINHART:** Okay. Are you trying to do
20 that internally or have you considered an outside
21 equity source?

22 **MR. BENNETT:** We are -- I mean, we will look
23 at all different sources and all different combinations
24 of things in order to be able to improve our assets in
25 Gary. One of the things that we are doing is we are

1 evaluating currently our deck capacity of the footage
2 position, things of that nature. Trying to analyze the
3 best use of, you know, financing, but in terms of the
4 actual structure and how that would come together at
5 this point in time, you know, we're just not prepared
6 to be able to exactly make a statement.

7 **MR. SWINHART:** Thank you.

8 **MR. BARRETT:** Does anyone else have any
9 questions?

10 **MR. MORGAN:** Mr. Bennett?

11 **MR. BENNETT:** Yes.

12 **MR. MORGAN:** What -- where do you see -- what
13 is the future financially going forward for the
14 operation in Gary?

15 **MR. BENNETT:** The -- I think that, you know,
16 certainly when we look at Majestic Star, we see risk.
17 The risk being, you know, there's a new dynamic on Lake
18 Michigan with regard to casinos. Single level gaming
19 vessels which are certainly preferred by customers and
20 are much more efficient to operate. You don't have to
21 deal with the, you know, multi-level casino decks. So,
22 I think that, you know, when we look at Majestic, there
23 is some risk there.

24 I think our management team has done an
25 excellent job in trying to mitigate some of the

1 competitive exposures that we have encountered so far
2 with the opening of Four Wind, Blue Chip's new single
3 level baby vessel and of course the Horseshoe. They
4 have done a good job in refining their marketing
5 programs, their direct mail programs. I think we do
6 have a loyal base of customers that will continue to be
7 loyal to us. But the risk and the exposure is still
8 there.

9 Obviously, our goal is we have to remain
10 competitive in the market. And operating the
11 facilities that we are currently operating, the assets
12 -- is, you know, tying one hand behind our back and
13 it's like we have to structure the company properly to
14 be able to, you know, to raise the funds, to raise the
15 money that's going to be needed to be able to, you
16 know, to continue to be competitive in that
17 marketplace. And that's what we're currently focused
18 on.

19 **MR. MORGAN:** So, do you have plans for
20 enhancing the Gary property?

21 **MR. BENNETT:** We have -- I mean what we have
22 got, is we have concepts in place, things that we want
23 to do with regard to a single level gaming vessel,
24 developing the 300 plus acres that we own to enhance
25 our gaming operation. You know, the one thing

1 about the Majestic Star I and II and what we have there
2 is we really have an opportunity to be able to do
3 something pretty spectacular.

4 Now, we're the only property on Lake Michigan and that
5 that has 300 acres of developable land around it.

6 Because there is the potential there to do something
7 great. We own the harbor in which our two casinos
8 currently reside. You know, for our development plan,
9 we can bring a single level gaming vessel and basically
10 envelop it and not even disrupt our existing operation.
11 So, the canvas is there. And I think that there is a
12 lot of opportunity in that market. Our biggest problem
13 is our capital structure and trying to raise money in
14 the environment.

15 **MR. MURPHY:** Question, please, Mr. Bennett.

16 **MR. BENNETT:** Sure.

17 **MR. MURPHY:** Are you aware that we are in
18 possession of your financial statements; correct?

19 **MR. BENNETT:** I'm sorry?

20 **MR. MURPHY:** Are you aware of the fact that
21 we're in possession of the financial statements that
22 you sent us.

23 **MR. BENNETT:** Oh, yes, those have been
24 provided.

25 **MR. MURPHY:** Are those confidential

1 information? What we have in front of us.
2 Specifically I'm talking about the first six months
3 income statement. My question really and let me just
4 ask my question and then you can tell me.

5 **MR. BENNETT:** Okay.

6 **MR. MURPHY:** My question really is looking at
7 the first six months financial statements and the
8 number at the bottom, the bottom line --

9 **MR. BENNETT:** Um-hum.

10 **MR. MURPHY:** -- how long can you sustain that
11 kind of performance?

12 **MR. BENNETT:** From a cash flow standpoint,
13 it's, you know, it -- if we talk about it and I'm sorry
14 I'm just going to -- and I did answer your question in
15 a different way.

16 You know, if we talk about the company from a
17 cash flow standpoint, you know, where we're currently
18 at, we generate enough cash flow to be able to service
19 our debt.

20 **MR. MURPHY:** I see that, yeah.

21 **MR. BENNETT:** What we don't do is generate
22 enough cash flow to be able to reinvest in our
23 properties and continue to make them as competitive in
24 the marketplace. So, that is going to put our future
25 cash flow at risk. And putting our future cash flow

1 risk is then going to put at risk the ability to
2 service our debt. What we have to do in the very short
3 term is figure -- come out -- come to a solution to try
4 to again restructure the company in such a way that we
5 can continue to invest back in our assets, make
6 ourselves competitive in the marketplace and, you know,
7 and build on a business. So, I apologize; I'm not sure
8 I gave you the specific date as to how long it can
9 last. You know, I think that there is a number of
10 dynamics that will call in to question. We've only
11 seen Horseshoe open for a short period of time. I
12 think that the general belief is that there is a lot of
13 risk to our business. So far, we have held up pretty
14 well. But we also know that when a new casino comes on
15 board that there is going to be a ramp up time
16 associated with that and we are concerned that we
17 haven't seen the full ramp up of the Horseshoe and as a
18 result we don't know the full level of the impact to
19 our business.

20 **MR. SWIHART:** I guess the concern is if
21 you're up for next renewal, are we going to hear the
22 same thing. Are you going to have some solutions
23 before that?

24 **MR. BENNETT:** I think we're going to have to,
25 yes.

1 **MR. SWIHART:** Okay.

2 **MR. BARRETT:** Anyone else? Just a second,
3 Mr. Bennett. Mr. Sicuso's staff, for the record, does
4 recommend renewal; correct?

5 **MR. SICUSO:** I'm not giving a recommendation
6 on this. I don't know if the staff has considered
7 recommending specifically on this one.

8 **MR. BARRETT:** The Commission needs to bear in
9 mind that this can be reviewed at any stage. It's not
10 an annual review. If the renewal is granted today and
11 something arises within two or three months that causes
12 concern, we can bring this back. You don't have to
13 wait for another year.

14 **MR. SICUSO:** And that was going to be my next
15 comment --

16 **MR. BARRETT:** I'm sorry.

17 **MR. SICUSO:** -- to Mr. Bennett.

18 **MR. BARRETT:** You understand that if the
19 license is renewed, although the renewal period is for
20 a year, it's not a year before we might look again and
21 you can tell from this meeting and from past meetings
22 where we've asked representatives of the company to
23 appear that there are significant concerns about the
24 ability to comply.

25 **MR. BENNETT:** I understand and I certainly

1 understand your sense of urgency in this matter.

2 **MR. BARRETT:** All right. Thank you.

3 **MR. SWIHART:** Can we make a motion to approve
4 renewal?

5 **MR. FINE:** Second.

6 **MR. BARRETT:** It's been moved and seconded to
7 approve the renewal of the Majestic Star license
8 pursuant to proposed order 2008-97. All in favor?

9 **THE COMMISSIONERS:** Aye.

10 **MR. BARRETT:** All opposed? Thank you.

11 Ms. Gray has some disciplinary actions.
12 Welcome back.

13 **MS. GRAY:** Thank you. Good afternoon again.
14 You have before you eleven settlement agreements
15 concerning disciplinary actions. The first settlement
16 is the Ameristar Casino, Order 2008-98 which includes
17 two counts. The first count violated the rule
18 requiring an occupational license to be renewed
19 annually. The second count violated the rule requiring
20 progressive controller to be housed in a double key
21 compartment where the gaming agent will control one of
22 those keys. The rule also requires an entry
23 authorization lock be maintained in each controller.
24 Ameristar has agreed to a total monetary settlement of
25 \$11,000 in lieu of disciplinary actions. Are there any

1 questions concerning this order?

2 **MR. BARRETT:** No. Next one.

3 **MS. GRAY:** The second order, 2008-99 is a
4 settlement agreement with Argosy and it includes five
5 counts. In the first count, the casino failed to
6 comply with their internal control in accepting and
7 accounting for tips. The second count violates the
8 rule the roulette wheel at an unopened table to be
9 covered and securely locked. The third count violated
10 the rule requiring the internal space of an electronic
11 gaming device not be accessible when the door is
12 closed. In the fourth count, two underage persons were
13 allowed to board the casino. In the fifth count, the
14 casino did not timely notify the gaming agent about a
15 termination of an employee. Argosy has agreed to a
16 total monetary settlement of \$33,500 in lieu of
17 disciplinary action. Are there any questions?

18 **MR. BARRETT:** That's the Aztar then.

19 **MS. GRAY:** Order 2008-100 is a settlement
20 agreement with Aztar wherein an underage person was
21 allowed aboard the casino. Aztar has agreed to a
22 monetary settlement of \$1,500 in lieu of a disciplinary
23 action. Are there any questions regarding that?

24 **MR. YELTON:** I have one.

25 **MS. GRAY:** Okay.

1 **MR. YELTON:** There is a scale by which these
2 fines are assessed based on number of violations.

3 Where are we on this one?

4 **MS. GRAY:** This is the first time --

5 **MR. YELTON:** First one.

6 **MS. GRAY:** -- in the past six months.

7 **MR. YELTON:** Okay. Thank you.

8 **MR. BARRETT:** I also may note, I think --
9 correct me if I'm wrong, Chris -- this is the first
10 disciplinary action we've had since our POA has taken
11 control of the operations; is that correct?

12 **MS. GRAY:** Um-hum.

13 **MR. BARRETT:** Thank you. Belterra.

14 **MS. GRAY:** Okay. Order 2008-101 is a
15 settlement agreement with Belterra including two
16 counts. In the first count, the casino failed to
17 perform a coin test on the slot machine prior to
18 putting it into play. In a second count, an underage
19 person was allowed to enter the casino. Belterra has
20 agreed to a total monetary settlement of \$4,000 in lieu
21 of disciplinary action. Are there any questions
22 regarding this agreement?

23 **MR. BARRETT:** Okay. Blue Chip.

24 **MS. GRAY:** Order 2008-102 is a settlement
25 agreement with Blue Chip and includes seven counts.

1 The first count violated the rule requiring completion
2 of a soft count room log. In the second count, the
3 casino violated the rule requiring notification to
4 gaming enforcement when an occupational licensee
5 transferred from one position to another. In the third
6 count, Blue Chip employees failed to timely report any
7 apparent criminal activity. In the fourth count,
8 employees failed to comply with the internal controls
9 regarding cashiers to secure their funds when away from
10 their assigned window. The fifth count violated the
11 VEP rule. Blue Chip has agreed to a total monetary
12 settlement of \$35,750 in lieu of disciplinary action.
13 Are there any questions?

14 **MR. SWIHART:** What happened to counts six and
15 seven?

16 **MS. GRAY:** Count six, it was -- they allowed
17 an underage patron to board the casino and in count
18 seven they failed to - they allowed a --

19 **MR. BARRETT:** I believe the allegation is
20 that they left a soft count room's outer door
21 unsecured.

22 **MS. GRAY:** Yes. That is correct. They left
23 the outer door --.

24 **MR. BARRETT:** All right. Does anyone have
25 any questions on the Blue Chip? Okay. French Lick.

1 **MS. GRAY:** Okay. Order 2008-103 is a
2 settlement agreement with French Lick that includes
3 three counts. In the first count, three underage
4 persons were allowed to board the casino. In a second
5 count, the casino failed to timely report a shipment of
6 slot machine CPU boards. In the third count, the
7 casino did not lock the tray lid on the table games.
8 French Lick has agreed to a total monetary settlement
9 of \$24,000 in lieu of disciplinary action. Are there
10 any questions?

11 **MR. BARRETT:** Grand Vic

12 **MS. GRAY:** The Settlement Order 2008-104 is a
13 settlement agreement with Grand Victoria wherein the
14 casino failed to maintain properly a vendor and visitor
15 log as well as a visitor log in the surveillance room.
16 The Grand Victoria has agreed to a monetary settlement
17 of \$5,000 in lieu of disciplinary action. Are there
18 any questions?

19 **MR. BARRETT:** Okay. Horseshoe.

20 **MS. GRAY:** Order 2008-105 is a Settlement
21 Agreement with Horseshoe that includes two counts. In
22 the first count, the casino did not timely file their
23 RG-1 Form. The second count violated the rule
24 requiring an occupational license to be renewed
25 annually. Horseshoe has agreed to a total monetary

1 settlement of \$9,000 in lieu of disciplinary action.

2 Are there any questions?

3 **MR. BENNETT:** And for the audience, that was
4 Horseshoe Hammond as to Horseshoe Southern Indiana.

5 **MS. GRAY:** Order 2008-106 is a settlement
6 agreement with Horseshoe Southern Indiana formerly
7 known as Caesars that includes five counts. The first
8 count violated the rule requiring playing cards not
9 being utilized at a gaming table to be kept in a locked
10 compartment. The second count violated the rule
11 requiring a roulette wheel to be covered and locked
12 when the roulette table is not open for gaming. In the
13 third count, the casino failed to timely report any
14 apparent criminal activity. In the fourth count, the
15 casino violated VEP rules. In the fifth count, two
16 underage persons were allowed to board the casino.
17 Horseshoe Southern Indiana has agreed to a total
18 monetary settlement of \$59,000 in lieu of a
19 disciplinary action. Are there any questions?

20 **MR. BARRETT:** As to Indiana Live then.

21 **MS. GRAY:** The Order 2008-107 is a settlement
22 agreement with Indiana Live wherein the casino failed
23 to follow the VEP rule. Indiana Live has agreed to a
24 monetary settlement of \$7,500 in lieu of disciplinary
25 action. Are there any questions?

1 **MR. BARRETT:** And The Majestic Star.

2 **MS. GRAY:** The final order, Order 2008-108,
3 is a settlement agreement with Majestic Star involving
4 five counts. In the first count, the casino allowed
5 three underage persons to board the casino. The second
6 count violated the rule requiring the submission of
7 rules for tournament play. The third count violated
8 the rule of filing an occupational license to be
9 renewed annually. In the fourth count, the casino
10 failed to notify the commission of the rate of
11 progression for a progressive slot machine. The fifth
12 count violated the rule requiring the casino to post
13 signs indicating the casino's policy for holding a
14 seat. Majestic Star has agreed to pay a total monetary
15 settlement of \$34,500 in lieu of disciplinary action.
16 Are there any questions?

17 **MR. BARRETT:** All right. If there are no
18 questions, then the --

19 **MS. GRAY:** The casino staff recommends that
20 you approve Order 2008-98 through 2008-108 each of
21 which assumes one of the settlement agreements that we
22 just discussed.

23 **MR. BARRETT:** Then I'll call for a motion on
24 whether to approve the proposed orders enumerated by
25 Ms. Gray.

1 **MR. MURPHY:** I move we approve the orders.

2 **MS. SHY:** I'll second.

3 **MR. BARRETT:** Moved and seconded. All in
4 favor?

5 **THE COMMISSIONERS:** Aye.

6 **MR. BARRETT:** All opposed? Okay.
7 Unanimously. Thank you, Ms. Gray. Ms. Ellingwood?

8 **MS. ELLINGWOOD:** Good afternoon.

9 **MR. BARRETT:** Good afternoon.

10 **MS. ELLINGWOOD:** I have for you three
11 resolutions. The first of which is 2008-109 regarding
12 the transfer of power from the commission to the
13 Executive Director. Since the transfer of charity
14 gaming from the Indiana Department of Revenue to the
15 Gaming Commission in 2006, the Commission has annually
16 passed resolutions conferring upon Executive Director
17 all powers necessary to ensure the efficient and
18 responsive operation of charity gaming. Currently,
19 there are about 2,800 licensees in Indiana. During the
20 past year, approximately 3,600 licenses were issued.
21 Thousands of complaints were received and about 250
22 investigations were conducted. Due to the vast number
23 of licensees and the nature of regulating charity
24 gaming, the Commission staff believes that requiring
25 the Commission to meet for purposes of updating the

1 restrictions of charity gaming would be burdensome,
2 inefficient and unresponsive to the needs of charity
3 gaming. As Indiana code clearly contemplates the
4 transfer of authority from the Commission to the
5 Executive Director, Commission staff recommends the
6 Commission adopt this resolution, transferring
7 authority to the Executive Director on a continual
8 basis unless or until the Commission desires to
9 terminate that transfer of authority. Staff recommends
10 that the Commission continue to act as main authority
11 with respect to the adoption of administrative rules
12 and irrevocation of charity gaming licenses which is
13 consistent with Indiana Code 4-22 and and Indiana Code
14 4-21.5 respectively.

15 **MR. BARRETT:** I have a question. 4-32.2-3-1
16 provides that we have the authority by resolution to
17 assign the Executive Director any duty as imposed on
18 the body; correct?

19 **MS. ELLINGWOOD:** Right.

20 **MR. BARRETT:** And that's all that's being
21 done.

22 **MS. ELLINGWOOD:** Right. Essentially what
23 you're doing is what you have done on an annual basis
24 in the past. We just won't have to keep coming in
25 front of you yearly to renew it.

1 **MR. BARRETT:** Okay. Anyone else have any
2 questions? If not, then I call for a vote then on
3 proposed resolution, 2008-109.

4 **MS. SHY:** Move to approve.

5 **MR. FINE:** Second.

6 **MR. BARRETT:** It's been moved and seconded.
7 All in favor?

8 **THE COMMISSIONERS:** Aye.

9 **MR. BARRETT:** All opposed? It passes. Next
10 one.

11 **MS. ELLINGWOOD:** Switching gears. You have
12 in front of you Resolution 2008-110. On March 31st of
13 this year, the Commission adopted resolution 2008-39 an
14 Emergency Rule which sets standards for patrons
15 counting systems. That rule established an accuracy
16 standard of 97 percent for purposes of tracking patrons
17 ingress and egress onto and off of riverboat property.
18 That rule is set to expire on September 28. During the
19 course of the past two months, it has become evident to
20 the Commission staff that riverboat licensees may have
21 trouble meeting the deadlines for meeting accuracy
22 standards. As a result, Commission staff recommends
23 readopting or rather adopting a new administrative rule
24 which re-establishes a 97 percent accuracy requirement
25 but which also provides a waiver provision which would

1 allow the Executive Director to waive certain portions
2 of that rule that are burdensome and which can't be met
3 and also extend the deadline for meeting the accuracy
4 standards. The emergency rule also identifies key
5 terms to be used throughout the administrative rule.
6 Those terms are unrelated to the admissions accuracy
7 requirements that are necessary to provide clarity.
8 Commission Staff continues to monitor the independent
9 testing of a new counter system being installed at
10 Indiana Riverboats to verify that the accuracy rate
11 established in the rule are realistic in all casino
12 environments. It is possible that testing will reveal
13 that additional changes should be made to the standards
14 prior to adoption of final regulations. While the
15 emergency rules are set, the Commission will finalize
16 its analysis of the patron counting system and will
17 proceed with the formal rule making procedures set
18 forth in Indiana Code 4-22-2 so that a new final rule
19 may be formally adopted before the emergency expires --
20 emergency rule expires rather.

21 **MR. BARRETT:** Commissioners have any
22 questions?

23 **MS. SHY:** I do. Is the question that we
24 can't get to 97 percent or just can't get there yet?

25 **MS. ELLINGWOOD:** My understanding is can't

1 get there yet. Tests are ongoing now and I'm not sure
2 what the results of those tests have been. But
3 initially the date set was September 1st, then, you
4 know, with it right around the corner, it's obvious
5 that we're not going to be able to, or they're not
6 going to be able to meet that deadline. So, one of the
7 big things we wanted to do here is actually extend that
8 deadline to give us a little bit of time to see if
9 that's realistic.

10 **MR. BARRETT:** I might add, I think we have
11 tested primarily four venues and the last two or three
12 have become far more positive than the initial ones and
13 we are very optimistic that this will be refined. Part
14 of the reason we're here with another emergency rule is
15 because we're just not there yet. But I think we're
16 getting very close.

17 **MR. FINE:** What percentage are you operating
18 at?

19 **MS. ELLINGWOOD:** We're not really sure. I
20 think 95 percent.

21 **MS. RESKE:** Tests are ongoing. We don't know
22 yet.

23 **MR. BARRETT:** Anyone else? Okay, then I'll
24 call for a motion on proposed resolution 2008-110.

25 **MR. SWIHART:** Move to accept.

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MR. MURPHY: Second.

MR. BARRETT: It's been moved and seconded to adopt resolution 2008-110. All in favor?

THE COMMISSIONERS: Aye.

MR. BARRETT: All opposed? Okay. Thank you. Next.

MS. ELLINGWOOD: Finally, you have before you Resolution 2008-111. On May 28th of this year, the Commission adopted LSA Document 08-75 as a final rule for minority limited business enterprise utilization standards. After the meeting, Commission staff recognized it's procedural error in the rule adoption process regarding publication of the notice and the adoption and validity of the rule at risk. Commission staff decided to temporarily withdraw the rule until the procedural error could be corrected. Commission staff republished a notice correctly, held a second public hearing for purposes of receiving comments from the public on the rule and no one attended that second public hearing. Additionally, no written comments were received. Accordingly, the substantial regulation is identical to that presented at the May Commission. Commission staff asks that you adopt the rule before you since the rule may become final on approval of the Office of the Attorney General and the Governor.

1 **MR. BARRETT:** Thank you. Anyone have any
2 questions? If not I'll call for a motion on proposed
3 resolution 2008-111.

4 **MR. SWIHART:** Move to adopt.

5 **MS. SHY:** I'll second.

6 **MR. BARRETT:** It's been moved and seconded.
7 All in favor?

8 **THE COMMISSIONERS:** Aye.

9 **MR. BARRETT:** All opposed? Thank you. Mr.
10 Reiter, good afternoon.

11 **MR. REITER:** Good afternoon.

12 **MR. BARRETT:** Welcome.

13 **MR. REITER:** The first matter before you is
14 the rule changing the definition of slot machine. This
15 rule expands the definition of slot machine and
16 provides a differential slot machine electronic gaming
17 device by setting forth more specific characteristics
18 such as, controlled by a microprocessor or equivalent.
19 Utilizes a random number generator in the determination
20 of game outcome and may utilize a live host, but does
21 not need to do so. Commission staff held a public
22 hearing on July 23rd, 2008. No persons attended the
23 public hearing and there were no comments made at the
24 hearing. There were no written public comments as
25 well. As required by statute, the rule was submitted

1 to the Indiana Economic Development Corporation. They
2 do not object to the impact of this rule and the State
3 Budget Agency recommends this rule. Commission staff
4 respectfully asks that you pass this rule.

5 **MR. BARRETT:** Thank you. Anyone have any
6 questions for Mr. Reiter? If not, I'll call for a
7 motion and proposed resolution of 2008-112.

8 **MS. SHY:** Move to approve.

9 **MR. SWIHART:** Second.

10 **MR. BARRETT:** It's been moved and seconded.
11 All in favor?

12 **THE COMMISSIONERS:** Aye.

13 **MR. BARRETT:** All opposed? Approved
14 unanimately.

15 **MR. REITER:** The second matter before you as
16 a final rule regarding junket operations. As I briefed
17 you in the winter meeting, junketeers are a useful part
18 of casino marketing because they allow casinos to bring
19 in high net worth gamblers to Indiana casinos and the
20 surrounding properties. As required by statute,
21 Commission staff submitted the rule to the Office of
22 Management and Budget, Indiana Economic Development
23 Corporation, and the State Budget Agency for review of
24 any fiscal impacts made by the rule.

25 Commission staff also held a public hearing on the

1 proposed rule and there were no comments made at the
2 hearing. One comment was received by the Casino
3 Association during the public comment period. That
4 comment focused on three issues: (1) Clarification of
5 fees, (2) Relief from the badging requirement; and (3)
6 Relief from the section requiring that they maintain a
7 junket operations log.

8 The language was amended and accordingly, the
9 rule is now clear that key persons and substantial
10 owners are required to submit an application fee as
11 well as an annual renewal fee. Badges for junketeers
12 have been removed from the requirement. And casinos
13 are required to maintain a brief log consisting of key
14 information only.

15 Commission staff recommends approval and we
16 respectfully ask that you approve the rule.

17 **MR. BARRETT:** Thank you. Anyone have any
18 questions for Mr. Reiter on the Junket Resolution? If
19 not, I'll call for a motion on proposed resolution 08-
20 113.

21 **MR. SWIHART:** Move to approve.

22 **MS. SHY:** Second.

23 **MR. BARRETT:** It's been moved and seconded.

24 All in favor?

25 **THE COMMISSIONERS:** Aye.

1 **MR. BARRETT:** All opposed? Thank you, Mr.
2 Reiter. Before we come to the next and final item, I
3 wanted to take a moment and acknowledge that we had a
4 tour of the new rebranded Horseshoe facilities this
5 morning with Mr. Macer and the team here and it is a
6 wonderful facility. You've done a great job and we
7 thank you for your hospitality in hosting us last night
8 and providing us these facilities today. It's very
9 nice. We all appreciate it.

10 Our next meeting, fourth quarter meeting,
11 will be some time in November. Watch the website.
12 Thank you. We're adjourned. Have a good day.

13 (MEETING CONCLUDED)

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CERTIFICATE OF REPORTER

COMMONWEALTH OF KENTUCKY AT LARGE

I do hereby certify that the witness in the foregoing transcript was taken on the date, and at the time and place set out on the Title page hereof, by me after first being duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the said Matter was recorded stenographically and mechanically by me and then reduced to typewritten form under my direction, and constitutes a true record of the transcript as taken, all to the best of my skill and ability. I further certify that the inspection, reading and signing of said transcript were waived by counsel for the respective parties and by the witness. I certify that I am not a relative or employee of either counsel and that I am in no way interested financially, directly or indirectly, in this action.

ALICE J. BALLARD, PUBLIC NOTARY

SUBMITTED ON: 09/05/2008

MY COMMISSION EXPIRES: 09/14/2012