



SOUTH DAKOTA COMMISSION ON GAMING

87 Sherman Street • Deadwood, SD 57732
(605) 578-3074 • dor.sd.gov/gaming

South Dakota Commission on Gaming Administrative Hearing and Quarterly Business Meeting City Hall, Deadwood, South Dakota

MINUTES

December 15, 2021

At 9:00 a.m. the meeting was called to order. Commissioner Karen Wagner and Commissioner Karl Fischer were present. Commissioner Bob Goetz and Commissioner Spencer Hawley participated via Zoom. Staff members present for the meeting were Mike Shaw, Commission Attorney; Susan Christian, Executive Secretary; Craig Sparrow, Deputy Executive Secretary; Mark Aspaas, Commission Architect; Mark Hetzel, Enforcement Agent; and Phil Schlieff, IT Specialist.

The meeting was called to order by Commissioner Wagner at 9:00 a.m. a roll call was taken, and a quorum was present.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Conflicts of Interest Disclosure

On a roll call no conflicts of interest were disclosed.

Commissioner Goetz	Nay
Commissioner Fischer	Nay
Commissioner Hawley	Nay
Commissioner Wagner	Nay

Administrative Hearings

The court reporter for the hearings was Veronica Fish. The following cases were scheduled to be heard:

- Petition for Declaratory Ruling per 1-26-15 regarding additional building determination
KR Deadwood Sherman Street 2020 LLC
- SDCOG vs. Kyle Ashton
- SDCOG vs. Internet Sports International, LTD
- SDCOG vs. B.Y. Development dba Cadillac Jack's
- SDCOG vs. BetMGM
- SDCOG vs. ZCN, LLC dba Deadwood Mountain Grand
- SDCOG vs. IGT, LLC

KR Deadwood Sherman Street 2020, LLC

Present for the hearing representing KR Deadwood, LLC were Roger Tellinghuisen, Attorney, and Brad Burns, Architect. The purpose of the hearing was a petition for declaratory ruling to determine whether the building located at the north side of 51 Sherman Street constitutes a separate building for purposes of determining the number of gaming devices that can be placed within the building and whether thirty (30) gaming devices can be placed in such building assuming compliance with the other rules and requirements for gaming activity and whether the inner access between the building on the north side of 51 Sherman Street and the building at 51 Sherman Street which would be protected by a "water curtain" qualifies as inner access pursuant to ARSD 20:18:25:02. The decision on this matter was deferred to Executive Session.

Kyle Ashton

The purpose of the hearing is to request that the commission take action to revoke Mr. Ashton's gaming license. Mr. Ashton was present for the hearing. The matter to be asserted is that on August 18, 2021 the Defendant plead guilty to a charge of SDCL 22-42-5.1 unauthorized ingestion of controlled drug or substance and that on October 6, 2021, the Defendant received an Order Suspending Imposition of Sentence for a Class 5 Felony. Staff recommends revocation of his gaming license during the probation period. The decision on this matter was deferred to Executive Session.

Internet Sports International, LTD

Present for the hearing representing Internet Sports International, LTD were Ernest Matthews and Roger Tellinghuisen, Attorney. The purpose of the hearing is to take action on a complaint that was filed which alleges grounds for disciplinary action as a result of accepting a Sports wagering bet in excess of the maximum allowed under South Dakota Codified Law. The matter to be asserted is that on September 21, 2021 the Defendant allowed a single bet to be placed and accepted at the kiosk located at the Gold Dust-777 in the amount of \$1,550.00. The decision on this matter was deferred to Executive Session.

B.Y. Development, dba Cadillac Jack's

Present for the hearing representing Cadillac Jack's were Roger Tellinghuisen, Attorney, and David Schneiter, General Manager. The purpose of the hearing is to take action on two complaints that were filed which alleges grounds for disciplinary action as a result of accepting a Sports wagering bet in excess of the maximum allowed under South Dakota Codified Law. (1) The matter to be asserted is that on September 18, 2021 the Defendant accepted a single bet in the amount of \$3,000.00 on the NFL game between the Tampa Bay Buccaneers and the Atlanta Falcons. (2) The matter to be asserted is that on September 20, 2021 the Defendant accepted a single bet in the amount of \$1,300.00 on the NFL game between the Detroit Lions and the Green Bay Packers. The parties agreed and stipulated that the complaints would be consolidated with the complaints and the hearing with BetMGM. The decision on this matter was deferred to Executive Session.

BetMGM

Present for the hearing representing BetMGM were David Main and Roger Tellinghuisen, Attorney. The purpose of the hearing is to take action on three complaints that were filed which alleges grounds for disciplinary action as a result of accepting a Sports wagering bet in excess of the maximum allowed under South Dakota Codified Law. (1) The matter asserted is that on September 20, 2021 the Defendant allowed a single bet to be place and accepted at Cadillac Jack's in the amount of \$3,000.00. (2) The matter asserted is that on September 20, 2021 the Defendant allowed a single bet to be place and accepted at Cadillac Jack's in the amount of \$1,300.00. (3) The matter asserted is that on September 19, 2021 the Defendant allowed a single bet to be place and accepted at Tin Lizzie in the amount of \$1,500.00. By agreement and stipulation of the parties these complaints were consolidated with the hearing in the B.Y. Development complaints. The decision on this matter was deferred to Executive Session.

ZCN, LLC, dba Deadwood Mountain Grand

Present for the hearing representing ZCN, LLC was Kasey Olivier, Attorney. The purpose of the hearing is to take action on a complaint that was filed which alleges grounds for disciplinary action as a result of accepting multiple sports wagering bets for a wager type that was not authorized by the South Dakota Commission on Gaming. The matter to be asserted is that on October 26, 2021 the Defendant accepted seven (7) sports wagers for a wager type that was not authorized. By stipulation and agreement of the parties this hearing was consolidated with the hearing involving IGT, LLC. The decision on this matter was deferred to Executive Session.

IGT, LLC

Present for the hearing representing IGT, LLC was Verne Goodsell, Attorney. The purpose of the hearing is to take action on a complaint that was filed which alleges grounds for disciplinary action as a result wagers being accepted at the Deadwood Mountain Grand kiosks and sports wagering window that were not approved by the South Dakota Commission on Gaming. The matter to be asserted is that on October 26, 2021 due to incorrect set up and programming patrons were able to place wager types that were not approved by the South Dakota Commission on Gaming. By stipulation and agreement of the parties this hearing was consolidated with the hearing involving ZCN, LLC. The decision on this matter was deferred to Executive Session.

The hearing portion of the meeting concluded at 11:10 a.m.

A brief recess was taken at 11:15 a.m.

General Meeting

Commissioner Wagner called the general meeting to order at 11:30 a.m.

Adoption of Quarterly Business Meeting Agenda

Commissioner Fischer made a motion to adopt the agenda. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

September 8, 2021 Quarterly Meeting

Commissioner Goetz made a motion to adopt the minutes as drafted for the September 8, 2021 quarterly meeting. Commissioner Hawley seconded the motion

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Old Business

There was no old business to be discussed.

Comments Executive Secretary

Susan Christian, Executive Secretary, gave a brief comment on the following items:

- Participated in meetings with the industry on working on additional training trying to get something arranged that will fit both the staffing, the commissioners, and the industry needs
- Backing off mobile apps until a later date as they are more complicated and complex
- Operations Manager, Kelly Hanson, and her staff will be contacting licensees to review their Internal Controls for sports wagering
- Sports wagering is a large undertaking, take it seriously, do your education, do your reviews, and monitor it at all times

Comments Department of Revenue Secretary Jim Terwilliger

Jim Terwilliger, Department of Revenue Secretary, gave a brief report on the Department of Revenue, the Amendment A ruling, and the upcoming Legislative Session.

Stipulation of Assurance and Voluntary Compliance

Blue Sky Gaming, Inc dba Tin Lizzie

A monetary penalty of \$1,000.00 to be paid not later than December 14, 2021 and no like violations for the next 12 months was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant failed to notify the commission of a gaming violation in which their sports wagering system was capable of accepting single sports wagers to be placed in excess of the maximum allowable amount of \$1,000.00. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Joshua Thurmes

A monetary penalty of \$350.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant failed to notify the South Dakota Commission on Gaming that he had issued a single wager in the amount of \$1,500.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Hawley made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Tanner Shoup

A monetary penalty of \$350.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant had issued a single wager in the amount of \$3,000.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Warner Zellner

A monetary penalty of \$150.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant had issued a single wager in the amount of \$3,000.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Justine Daniels

A monetary penalty of \$150.00 was forgiven providing the licensee has no gaming violations in the next 12-month period was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant had issued a single wager in the amount of \$1,3000.00 in violation of SDCL 42-7B-14. An informal consultation was held, and licensee agreed to the penalty.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Brandon Maser

A monetary penalty of \$150.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant accepted sports wagers for a type of wager that was not approved by the South Dakota Commission on Gaming. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Hawley made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Matthew Bodine

A monetary penalty of \$150.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant accepted sports wagers for a type of wager that was not approved by the South Dakota Commission on Gaming. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Midnight Star, LLC

A monetary penalty of \$350.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant allowed a Blackjack game to be conducted with an extra six (6) of spades in the six-deck shoe. This is in violation of ARSD 20:18:15:02. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Fischer made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Andrea Weyer

A monetary penalty of \$100.00 to be paid not later than December 14, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action in that the Defendant allowed a Blackjack game to be conducted with an extra six (6) of spades in the six-deck shoe. This is in violation of ARSD 20:18:15:02. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Goetz made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Report from State Steward on Live Racing Season 2021

Larry Eliason, State Steward, gave a brief report on the 2021 live racing season. There were no serious injuries at the track, three violations were issued for Bute over the permitted limit, good attendance and handle at the track, and the purses were reduced from last year so there was a definite shortage of horses.

Live Racing Matters

Verendrye Benevolent Association

Commissioner Fischer made a motion to approve the live racing dates as presented by the Verendrye Benevolent Association. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Release of Deposit In Lieu of Bond

Commissioner Goetz made a motion to approve Resolution 12-15-21-01. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Racing licensing matters

Triple Crown Simulcast Site Renewal

Commissioner Hawley made a motion to approve the simulcast site renewal. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

AmWest Simulcast Provider Renewal

Commissioner Goetz made a motion to approve the simulcast provider renewal. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Sports Events and Wagering Catalog licensees requests

Mike Rodman, Executive Director of the Deadwood Gaming Association, and Roger Tellinghuisen, attorney, representing the Deadwood Gaming Association made a request to withdraw the initial presentation proposal that was submitted and would like to accept and support the Commission staff's proposal for the sports wagering catalog. Mr. Rodman stated that they have contacted the UNLV to develop training for the industry on sports wagering.

Susan Christian, Executive Secretary, recommended approval of the current sports wagering catalog with the proposed changes to the catalog noted in red and to be effective December 31, 2021.

Commissioner Hawley made a motion to approve the sports wagering catalog as staff recommended. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Deadwood Licensing Matters

Key Licenses

Deputy Executive Secretary Sparrow recommended approval of the following:

Kamran Farrokhi	Zachary Edstrom
Brad Matichak	Jeffrey Nehmer
Jessica Lundgren	Marion Culberson
Laurie Mitcheltree	Wesley Barnhouse

Commissioner Hawley made a motion to approve the key license approvals as staff recommended. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

2022 Key License Renewals

Deputy Executive Secretary Sparrow recommended approval of the Key license renewals as listed on pages 167-168 and 170 in the meeting packet.

Commissioner Fischer made a motion to approve the key license renewals as staff recommended. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Business License Approvals

Deputy Executive Secretary Sparrow recommended approval of the following:

- ✓ Approval of 3 Retail Gaming licenses for Door4, LLC (**12187,12188 & 12567-RT's**) with David Barth (**12186-OW**) as the owner and that they be assigned to the Fairmont/Oyster Bay location at 628 Main Street.
- ✓ Approval of DMSC, LLC as the owner of an Operator and two Retail licenses (**12586-OP, 12587&12588-RT's**) with SRK Holdings as the sole member.

Commissioner Goetz made a motion to approve the business license approval as staff recommended. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Approval of dates of 2022 quarterly meeting

- Wednesday March 16, 2022
- Wednesday June 22, 2022
- Wednesday September 21, 2022
- Wednesday December 14, 2022

Commissioner Fischer made a motion to approve the dates scheduled for the 2022 quarterly meetings. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Public Comment

There was no participation for the comment period of the meeting.

Executive Session

Commissioner Fischer made a motion to go into Executive Session. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

At 12:28 p.m. the Commissioners went into Executive Session pursuant to 42-7B-8.1 (1) and (4).

The Executive Session concluded at 1:03 p.m.

Decisions on Administrative Hearings

KR Deadwood Sherman Street, LLC

Commissioner Fischer made a motion to approve the Petition for Declaratory ruling per 1-26-15 regarding the 1951 building and that it constitutes as a separate building. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Kyle Ashton

Commissioner Hawley made a motion to revoke Mr. Ashton's license until the probationary period is completed. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Internet Sports International, LTD

Commissioner Goetz made a motion to levy a fine of \$3,000.00 for the complaint. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

B.Y. Development, dba Cadillac Jack's

Commissioner Hawley made a motion to levy a fine of \$3,000.00 on each of the complaints for a total of a \$6,000.00 fine. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

BetMGM

Commissioner Goetz made a motion to levy a fine of \$3,000.00 on each of the complaints for a total of a \$9,000.00 fine. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

ZCN, LLC dba Deadwood Mountain Grand

Commissioner Fischer made a motion to levy a \$3,000.00 fine for the complaint. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

IGT, LLC

Commissioner Hawley made a motion to levy a fine of \$3,000.00 for the complaint. Commissioner Fischer seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Commissioner Wagner made a motion for all the fines to be paid not later than December 31, 2021. Commissioner Goetz seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

Commissioner Fischer made a motion to adjourn the meeting. Commissioner Hawley seconded the motion.

On a roll call vote motion carried unanimously.

Commissioner Goetz	Aye
Commissioner Fischer	Aye
Commissioner Hawley	Aye
Commissioner Wagner	Aye

The meeting was adjourned at 1:12 p.m.

Respectfully Submitted,

Kathy Beringer



Karen Wagner, Madam Chairman



Susan Christian, Executive Secretary