



## SOUTH DAKOTA COMMISSION ON GAMING

87 Sherman Street • Deadwood, SD 57732  
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### **South Dakota Commission on Gaming Proposed Amendments to Rules Hearing, Administrative Hearing, and Quarterly Business Meeting City Hall, Deadwood, South Dakota**

#### **MINUTES**

September 8, 2021

At 9:00 a.m. the meeting was called to order. Commissioner Karen Wagner, Commissioner Karl Fischer, Commissioner Bob Goetz, Commissioner Spencer Hawley, and Commissioner Mike Wordeman were present. Staff members present for the meeting were Mike Shaw, Commission Attorney; Doug Abraham, Commission Attorney; Susan Christian, Executive Secretary; Craig Sparrow, Deputy Executive Secretary; 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 Wordeman	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 Wordeman	Nay
Commissioner Wagner	Nay

## Administrative Hearing

The court reporter for the hearing was Veronica Fish. The following case was scheduled to be heard:

- SDCG vs. Kevin Gabert

### Kevin Gabert

The purpose of the hearing is that a complaint was filed alleging that the Defendant stole one (1) one-hundred-dollar bill from Cadillac Jack's on July 15, 2021 while performing the duties of cashier, which is a violation of ARSD 20:18:08:02. Mr. Gabert was present for the hearing. Staff is recommending revocation of his license. The decision on this matter was deferred to Executive Session.

This concludes the hearing.

A brief recess was taken at 9:38 a.m. and the meeting resumed at 9:40 a.m.

### Proposed Rule Amendments

**Gaming Rules: 20:18:16:15.23, 20:18:35:01, 20:18:35:18, 20:18:35.01:03, 20:18:35.01:12, 20:18:35.01:05, 20:18:35:05.01, 20:18:36:18, 20:18:26:27, 20:18:36:27.01, 20:18:36:36**

#### **20:18:16:15.23 Variations of the play-Dakota Duel Draw**

Commissioner Wordeman made a motion to adopt the proposed rule amendment. Commissioner Hawley seconded the motion which carried unanimously.

The following rules were adopted at the July rules hearing meeting and the proposed amendments are to provide clarity and to follow the recommendations from Legislative Research Council Code Counsel.

#### **20:18:35:01 Definitions**

#### **20:18:35:18 Tournaments, contests, and pools**

#### **20:18:35.01:03 Certification Testing**

#### **20:18:35.01:12 Test accounts**

#### **20:18:35.01:05 Winning wagers and vouchers**

#### **20:18:35:05.01 Vouchers-System recording requirements**

#### **20:18:36:18 Account credits and deposits**

#### **20:18:26:27 Suspension and restoration of accounts**

#### **20:18:36:27.01 Suspension of account**

#### **20:18:36:36 Securing payment methods**

Commissioner Fischer made a motion to adopt the proposed rules as amended by Legislative Research Council. Commissioner Wordeman seconded the motion which carried unanimously.

## **General Meeting**

Commissioner Wagner called the general meeting to order at 9:54 a.m.

## **Adoption of Quarterly Business Meeting Agenda**

There were two changes to the agenda

- 1) Department of Revenue Secretary Jim Terwilliger will not be attending the meeting
- 2) Deadwood licensing matters to add a form (page 117)

Commissioner Goetz made a motion to adopt the agenda with the changes. Commissioner Fischer seconded the motion which carried unanimously.

## **July 7, 2021 Special Meeting**

Commissioner Hawley made a motion to adopt the minutes as drafted for the July 7, 2021 special meeting. Commissioner Goetz seconded the motion which carried unanimously.

## **July 14, 2021 Rules Hearing Special Meeting**

Commissioner Fischer made a motion to adopt the minutes as drafted for the July 14, 2021 rules hearing special meeting. Commissioner Goetz seconded the motion which carried unanimously.

## **Old Business**

There was no old business to be discussed.

## **Comments Executive Secretary**

Susan Christian, Executive Secretary, gave brief comments on the following: what we have before us in the agenda and the meeting packet is the cumulative effect of everything that has been going on since it was voted on and passed to amend 42-7B to allow sports wagering in the City of Deadwood; the staff has been working very hard and diligently to meet the requests of the industry; looking forward to the initial start and the continued cooperation between the industry our staff and the Commission; and it has been a learning experience and we will continue to learn and evolve.

## **Stipulation of Assurance and Voluntary Compliance**

### **DHII, LLC dba Hickok's**

A monetary penalty of \$500.00 to be paid not later than July 15, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by receiving a payment to secure a 16% ownership of DHII, LLC prior to the Commission approving the gaming contract and before the purchasing party had been licensed. An informal consultation was held, and licensee agreed to the penalty and the fine was received on August 30, 2021.

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

## **Sean Gray**

A monetary penalty of \$300.00 to be paid not later than July 19, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by failing to burn an exposed card as required per ARSD 20:18:15:28 and failure to notify the Executive Secretary the discovery of a violation as required per ARSD 20:18:12.01:02, An informal consultation was held, and license agreed to the penalty and paid the fine.

Commissioner Wordeman made a motion to accept the Stipulation of Assurance and Voluntary Compliance and imposed penalty. Commissioner Goetz seconded the motion which carried unanimously.

## **Super G Investments, dba Silverado/Franklin**

A monetary penalty of \$2,500.00 to be paid not later than September 7, 2021 was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by allowing an underaged individual to place 3 wagers in less than a 5-minute time span and that there was no licensed gaming employee on the Franklin premises that had a full view of and control over the gaming being conducted. 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 which carried unanimously.

## **Live Racing Matters**

### **Veterinarian Service Contract**

Commissioner Goetz made a motion to approve the veterinarian service contract with Copper Animal Clinic for the 2021 horse race season. Commissioner Fischer seconded the motion which carried unanimously.

### **Ft. Pierre Race Condition Book**

Commissioner Fischer made a motion to approve the Ft. Pierre race condition book for the 2021 horse race season. Commissioner Goetz seconded the motion which carried unanimously.

## **Sports Events and Wagering Catalogue**

Staff is requesting approval of the recommended events and wagers on page 101 of the meeting packet that will allow a reasonable initial offering as we continue to learn and understand sports wagering. Staff is requesting a 90-day trial period as authorized in ARSD 20:18:35:05 (3).

Commissioner Wordeman made a motion to approve the Sports Events and Wagering catalogue for a 90-day period as staff recommended with the change to include NCAA Football and NCAA Hockey in the "Parlays of Moneyline" column. Commissioner Hawley seconded the motion which carried unanimously.

## Deadwood Licensing Matters

### Business License Approvals

- ✓ Approval of Black Diamond Capital, LLC to be approved for another retail license **(12193-RT)** and that it be assigned to the Hotel by Gold Dust at 25 Lee Street.
- ✓ Approval of an Operator **(12150-OP)** and two retail licenses **(12134 & 12135-RT)** for Clark and Apex, LLC with Kurt Fjelland **(12136-OW)** the owner and that they be assigned to 612 and 614 Main.
- ✓ Approval of Deals Publications, Inc to be approved for another retail license **(12311-RT)** and that it be assigned to the Celebrity Hotel at 629 Main Street.
- ✓ Approval of an Operator license **(12284-OP)** for Toby Keehn as the owner.
- ✓ Approval of Everi Payments, Inc. **(12300-AE)** with Everi Holdings, Inc. as owners of an Associated Equipment license.

Commissioner Fischer made a motion to approve the business license approvals as staff recommended. Commissioner Goetz seconded the motion which carried unanimously.

### Business License Approval

- ✓ Approval of a conditional license to IGT for a Sports Wagering Services Providers license **(12241-SW)** for 12 months to allow for the completion of the background investigation of contracted third parties, or until the Commission makes a final determination on the application and upon the following conditions:
  - Taking full responsibility for the actions or inactions of any third party contracted with to provide sports wagering services to licensed operators in Deadwood, complete and sign the attached agreement; and
  - Provide a list of all third-party vendors contracted with to provide sports wagering services to licensed operators within the city of Deadwood, including associated equipment providers, within fourteen (14) days of licensure and supplemented within fourteen (14) days of any additional contracts.

Commissioner Wordeman made a motion to approve the conditional license for IGT. Commissioner Hawley seconded the motion which carried unanimously.

### **Business License Temporary Approval**

- ✓ Temporary approval of a Sports Wagering Services Providers license to BetMGM, LLC (**12269-SW**) for 12 months to allow for the completion of the background investigation of contracted third parties, or until the Commission makes a final determination on the application and upon the following conditions:
  - Successful completion of the background investigation within twelve (12) months;
  - Report all disciplinary action taken against Applicant by any regulatory agency and providing updates to Commission Staff as to the status of any disciplinary action;
  - Taking full responsibility for the actions or inactions of any third party contracted with to provide sports wagering services to licensed operators in Deadwood, complete and sign the attached agreement; and
  - Provide a list of all third-party vendors contracted with to provide sports wagering services to licensed operators within the city of Deadwood, including associated equipment providers, within fourteen (14) days of licensure and supplemented within fourteen (14) days of any additional contracts.

Commissioner Hawley made a motion to approve the temporary conditional license for BetMGM, LLC. Commissioner Goetz seconded the motion which carried unanimously.

### **Business License Temporary Approval**

- ✓ Temporary approval of a Sports Wagering Services Providers license to Internet Sports International, LTD (ISI) (**12253-SW**) for 12 months to allow for the completion of the background investigation of contracted third parties, or until the Commission makes a final determination on the application and upon the following conditions:
  - Successful completion of the background investigation within twelve (12) months;
  - Report all disciplinary action taken against Applicant by any regulatory agency and providing updates to Commission Staff as to the status of any disciplinary action;
  - Taking full responsibility for the actions or inactions of any third party contracted with to provide sports wagering services to licensed operators in Deadwood, complete and sign the attached agreement; and
  - Provide a list of all third-party vendors contracted with to provide sports wagering services to licensed operators within the city of Deadwood, including associated equipment providers, within fourteen (14) days of licensure and supplemented within fourteen (14) days of any additional contracts.

Commissioner Fischer made a motion to approve the temporary conditional license for Internet Sports International, LTD. Commissioner Goetz seconded the motion which carried unanimously.

### **Date of next meeting**

The next quarterly meeting is scheduled for Wednesday December 15, 2021.

Commissioner Fischer made a motion to authorize the Executive Secretary to charter a plane for the next meeting if there is no state plane available. Commissioner Hawley seconded the motion which carried unanimously.

## **DGA, Executive Director Mike Rodman**

Mike Rodman, Executive Director for the Deadwood Gaming Association, addressed the Commission thanking Susan Christian, Craig Sparrow, and staff for all the work that they did to get Sports Wagering going. Stated there will be an opening ceremony at Tin Lizzie Casino on September 9, 2021 at 10:00 a.m. The DGA will be going to the Legislative session to correct the excise tax issue.

## **Public Comment**

Roger Tellinghusien, representing FSB Technology, a sports wagering service provider that has not been approved yet. Mr. Tellinghuisen addressed the Commission on thanking Susan Christian, Craig Sparrow, and Mike Shaw for all the help that they have given his client through the process and for explaining the license process for the other applicants that have applied for a sports wagering services provider license but have not been approved yet.

Gary King, representing Rushmore Gaming, addressed the Commission on server clarification.

## **Executive Session**

Commissioner Fischer made a motion to go into Executive Session. Commissioner Hawley seconded the motion which carried unanimously.

At 11:15 a.m. the Commissioners went into Executive Session pursuant to SDCL 1-25-2 (1) (3) and (4) and 42-7B-8.1 (4).

The Executive Session concluded at 11:24 a.m.

## **Action Items**

### **Decision on Kevin Gabert**


Commissioner Wordeman made a motion to revoke Mr. Gabert's license. Commissioner Hawley seconded the motion which carried unanimously.

Commissioner Goetz made a motion to adjourn the meeting. Commissioner Fischer seconded the motion which carried unanimously.

The meeting was adjourned at 11:25 a.m.

Respectfully Submitted,

Kathy Beringer

  
Karen Wagner, Madam Chairman

  
Susan Christian, Executive Secretary