



## SOUTH DAKOTA COMMISSION ON GAMING

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### UNAPPROVED MINUTES

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

#### MINUTES

September 28, 2022

At 9:00 a.m. the meeting was called to order. Chairman Karen Wagner, Vice Chairman Karl Fischer, Commissioner Spencer Hawley, Commissioner Bob Goetz, and Commissioner Harry Christianson were present. Staff members present for the meeting were Doug Abraham, Commission Attorney; Susan Christian, Executive Secretary; Mark Heltzel, Deputy Executive Secretary; Kelly Hanson, Operations Manager; Brian Swets, Enforcement Agent; Brandon Snyder, Enforcement Agent; and Phil Schlieff, IT Specialist.

The meeting was called to order by Chairman Wagner at 9:00 a.m. and a quorum was present.

On a roll call all were present.

Commissioner Goetz	Aye
Vice Chairman Fischer	Aye
Commissioner Hawley	Aye
Commissioner Christianson	Aye
Chairman Wagner	Aye

#### **Conflicts of Interest Disclosure**

On a roll call no conflicts of interest were disclosed.

Commissioner Goetz	Nay
Vice Chairman Fischer	Nay
Commissioner Hawley	Nay
Commissioner Christianson	Nay
Chairman Wagner	Nay

## **Administrative Hearing**

The court reporter for the hearing was Tina Pruss. The following cases were scheduled to be heard:

- In the matter of one (1) seized slot machine
- SDCG vs DHIH, LLC dba as Hickok's
- SDCG vs Mustang Sally  
and  
SDCG vs Jennifer Haefs

Chairman Wagner served as the hearing officer.

### **The Matter of One Virus Shock Slot Machine**

The purpose of the hearing is to determine if the Virus Shock slot machine No. 2125000, U-4 000732, serial number 002527, which was seized from 814 Main Street, Gregory, South Dakota on June 9, 2022, is contraband and may be destroyed. Tera Kiley was served notice of the hearing by certified mail but was not present. The decision on this matter was deferred to Executive Session.

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

Present for the hearing representing DHIH, LLC was Nick Moser, Attorney. This hearing is a contested case alleging grounds for disciplinary action alleging that on January 30, 2022, Hickok Casino allowed patrons to place sports wagers with other patrons at the Hickok Casino while in the bar area. Hickok Casino does not have approved sports wagering therefore the bets were in violation of SDCL 22-25-1. The decision on this matter was deferred to Executive Session.

### **Mustang Sally Jennifer Haefs**

Present for the hearing representing Mustang Sally and Jennifer Haefs was Roger Tellinghusein, Attorney. Toby Keehn, owner of Mustang Sally, was present and waived his 5<sup>th</sup> amendment rights and testified on his own behalf. Jennifer Haefs was present but invoked her 5<sup>th</sup> Amendment privilege and did not testify. The hearing was a contested case pursuant to an Initial Compliant alleging grounds for disciplinary action as a result of knowingly placing and accepting proxy sports wagers, allowing the owner to participate in gaming on his own premises and as a proxy for individuals, and extending credit for the purpose of sports wagering. Staff recommended that the license's for Mustang Sally be revoked with a fine and the license for Jennifer Haefs be revoked with a fine. The decision on this matter was deferred to Executive Session.

A brief recess was taken at 10:57 a.m. and resumed at 11:07 a.m.

The hearing portion of the meeting was concluded at 11:29 a.m.

## **General Meeting**

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

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

Commissioner Goetz made a motion to approve the meeting agenda. Vice Chairman Fischer seconded the motion which carried unanimously.

## **June 22, 2022, Quarterly Meeting**

Commissioner Hawley made a motion to adopt the minutes as drafted for the June 22, 2022, quarterly meeting. Commissioner Goetz seconded the motion which carried unanimously.

## **Old Business**

- Under 21 years of age on the Casino's gaming floor

Chairman Wagner stated that there was an old business item to be discussed regarding the underage gaming. This was an issue that was brought forth and discussed at the June 22<sup>nd</sup> meeting. At that point in time the industry had asked that we allow them the opportunity to make some changes and corrections, and to deal with resolving the issue of the underage individuals that are on the gaming floor. At this point we will have the staff provide comments, then will take comments from the industry, and then we will ask questions.

## **Staff Comments**

Susan Christian, Executive Secretary, stated that since the June 22<sup>nd</sup> meeting this is what was identified:

- 16 minors were on the gaming floor for more than a few minutes
- In 2022 there were 84 fake IDs identified and were reported to the police department and 82 of them were identified by Saloon #10
- 3 minors were arrested for participating in gambling
- 2 minors had fake IDs; 2 minors were stopped before they participated in gambling
- 1 minor put money in a machine, but it didn't accept the bill and an agent had approached the individual

Since the August 18<sup>th</sup> meeting with the industry one incident in a casino did occur and resulted in an informal consultation. In lite of that we have observed the industry step up by putting up signs, two places have put out formal polices to their employees, casinos are having meetings with staff instructing them to more actively engage and to be actively engaged in checking IDs. Casinos seem to be more actively engaged for checking IDs for alcohol than for the gambling.

Mark Heltzel, Deputy Executive Secretary, stated that he was seeing an upswing in signage around town, posters, found 6 minors that attempted or tried to gamble, casinos are reworking the gaming floor and roping off the floor for families. Actively engaged in checking IDs for gaming is not at the same level as for checking IDs for alcohol.

## **Comments by the Industry**

Roger Tellinghusien, representing the Deadwood Gaming Association, addressed the Commission that this is a significant topic of conversation amongst the casino managers and owners. The industry has taken this to heart and are trying to make positive changes, more signage, more staffing, and as importantly education of staff and impart the significance of the need to follow through. There were a lot of people in Deadwood at times for special events. There are going to be occasions where an underage individual is on the floor that doesn't get caught. There needs to be consequences for the ones that break the law. The industry will continue to address the issue.

## **Staff Comments**

Deputy Executive Heltzel stated that the underage individuals are arrested, taken to jail, and charged with a misdemeanor.

Commissioner Christianson stated that there are two concerns underage gambling, and underage minors on the gaming floor with parents.

Chairman Wagner stated that the bottom line is that we are going into 90 days and the Commission was expecting more than just a conversation as we are still seeing the types of individuals on the floor. The underage and kids those are issues and concerns. How many of the casinos have added staff for security for more than just special events.

Deputy Secretary Heltzel stated that the Commission on Gaming along with the Deadwood police department on October 4, 2022, are presenting an ID class and there are currently 200 signed up for the class.

Chairman Wagner stated that are often hearing comments that as long as the minor is three feet from the machine then it is okay for them to be in the vicinity. There are employees that still may be operating under that thought process. This is not in the rule and needs to be put forth to employees that it is not an option and minors need to be off the floor. So, in looking at the rules as they currently stand, do they provide enough clarity.

Executive Secretary Christian stated that rule 20:18:12.01:23 Age of participants, has a lot of ambiguity in the rule as loitering and exceptions cause problems. The rule 20:18:12.01:16 Premise monitoring required, came into effect in 1998 and has never been looked at. This rule needs to be definitive. Casinos are unable to have ample coverage with the monitors in the cage or bar area. The ambiguity of the rule is very difficult, and it puts the industry and the commission at odds.

Deputy Executive Secretary Heltzel stated that some places put up monitors in the cashier cage, but the problem is how do you monitor the floor and take care of customers.

Chairman Wagner directed staff to move forward and look at the rules and to have something for the December meeting. Staff will work with the industry when going through the rules.

## **Remarks by Executive Secretary**

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

- Executive Secretary Christian, Commissioner Wagner, Commissioner Hawley, and Deputy Executive Secretary, Mark Heltzel will be attending G2E in October
- Topics at G2E will be crypto currency, cashless wagering, sports wagering, and a new concept of sports wagering based on the stock market
- A reminder to the industry of the ID training on October 4<sup>th</sup> and that the training will be repeated if needed

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

### **BY Development, dba Cadillac Jack's Gaming**

A monetary penalty of \$2,500.00 to be paid not later than September 26, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by allowing on August 5, 2022, an underage person to participate in gaming by playing a slot machine. This is in violation of 42-7B-35. The complaint further alleged that during this period of time there was not an employee who was in full view and control of the gaming being operated. This is in violation of 42-7B-40. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

Commissioner Christianson made a motion to accept the Stipulation and Assurance of Voluntary Compliance and the 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 26, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by allowing on August 19, 2022, an underage person to participate in gaming by playing a slot machine. This is in violation of 42-7B-35. The complaint further alleged that during this period of time there was not an employee who was in full view and control of the gaming being operated. This is in violation of 42-7B-40. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

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

Commissioner Christianson stated that its important that we keep these fines reasonable when they are self-reporting. We want to encourage self-reporting. Chairman Wagner commented that she appreciates the fact that they did self-report.

## **Andrea Speiser**

A monetary penalty of \$100.00 to be paid not later than September 26, 2022, was imposed for a complaint that was filed alleging that the Defendant engaged in conduct constituting grounds for disciplinary action by accepting wagers in amounts over the posted 3 Card Poker maximum bet limit. An informal consultation was held, and licensee agreed to the penalty and paid the fine.

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

## **Revocation of License Steve Aristide**

On August 31, 2022, Steve Aristide voluntarily surrendered his gaming license after pleading guilty to a Class 5 Felony. On August 23, 2022, Licensee received an Order Suspending Imposition of Sentence with two years (2) probation. Staff recommended to revoke his license and that he be put on the Exclusion List. Mr. Aristide was not present at the meeting.

Vice Chairman Fischer made a motion to revoke his license. Commissioner Goetz seconded the motion which carried unanimously.

Commissioner Christianson made a motion to put Steve Aristide on the Exclusion List. Commissioner Hawley seconded the motion which carried unanimously.

## **Deadwood Licensing Matters**

### **Key License Approvals**

Deputy Executive Secretary Heltzel recommended approval of the following:

Collette Ladson	Jason Walth	Andrew Burke
Janet Keating	Isaac Rieb	Newton Glassman
Zachary Morris	James Riley	Rocco DiPucchio
Sheldon Johnson	Kevin Whalen	Gabriel De Alba

Additional Key Approval – Adam Halter

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

### **Business License Approvals**

Deputy Executive Secretary Heltzel recommended approval of the following:

- Approval of an Associated Equipment license (**12342-AE**) for Stadium Technology Group
- Approval of a Manufacturer license (**11968-MA**) for Bluberi Gaming Canada, Inc.

- In September of 2021 the following sports wagering service providers license were issued temporary conditional license: **BetMGM, LLC** (12269-SW), Internet Sports International, LTD (**ISI**) (12253-SW), and **IGT** (12241-SW) were issued a license with conditions.

The conditions were 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 too provided sports wagering services to licensed operators in Deadwood, complete and sign attached agreement, and
- Provided a list of all third-party vendors contracted with to provided 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

Staff would ask that these conditions remain in place at this time until the March 2023 meeting.

Commissioner Goetz made a motion to approve the business licenses as staff recommended. Commissioner Hawley seconded the motion which carried unanimously.

### **Business License Renewal**

Deputy Executive Secretary Heltzel recommended approval of the following:

- Retail license (**0117-RT**) held by Pat Roberts which is currently unassigned.

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

### **Public Comment**

Michael Johnson addressed the Commission reminding them of the history of the city and that it is more than just a gaming city. It is a family town for people to come to visit and to enjoy the history of Deadwood.

### **Date of Next Meeting**

The next quarterly meeting is scheduled for December 14, 2022.

## **Executive Session**

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

At 12:35 p.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 was concluded at 1:24 p.m. with the following action taken.

## **Decision on Administrative Hearings**

### **Seized Virus Shock slot machine**

Vice Chairman Fischer made a motion to allow staff to destroy the Virus Shock slot machine. Commissioner Goetz seconded the motion which carried unanimously.

### **DHIH, LLC**

Commissioner Goetz made a motion to impose a penalty of \$2,500.00 due not later than October 15, 2022. Vice Chairman Fischer seconded the motion which carried unanimously.

### **Mustang Sally**

Commissioner Christianson made a motion to revoke Mustang Sally's Operator and Retail license and impose a penalty of \$25,000.00 due not later than October 31, 2022. Commissioner Goetz seconded the motion which carried unanimously.

### **Jennifer Haefs**

Commissioner Christianson made a motion to revoke Jennifer Haefs support license. Commissioner Hawley seconded the motion which carried unanimously.

### **Exclusion List**

Commissioner Hawley made a motion to put Tyrone Reed on the Exclusion List. Commissioner Christianson seconded the motion which carried unanimously.

Commissioner Hawley made a motion to put Isaac Kermu on the Exclusion List. Commissioner Christianson seconded the motion which carried unanimously.



**Adjournment**

With no further business to be discussed Vice Chairman Fischer made a motion to adjourn the meeting. Commissioner Christianson seconded the motion which carried unanimously.

The meeting was adjourned at 1:29 p.m.

Respectfully Submitted,

Kathy Beringer

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Karen Wagner, Madam Chairman

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Susan Christian, Executive Secretary