

**AMENDED MINUTES
INDIANA GAMING COMMISSION
BUSINESS MEETING**

*Minutes Amended for a second time on January 10, 2003***

**9:30 a.m., December 15, 1997
Indiana Government Center South
402 W. Washington Street
Indianapolis, IN 46204**

PRESENT: Commission members Don Vowels, Chair; Ann Bochnowski, Thomas Milcarek, Robert Sundwick, Bob Swan, Dr. David Ross, Richard Darko, Staff-Jack Thar, Floyd Hannon, Kay Fleming, Michelle Marsden, Cindy Dean, Jill Wulf, Tonya Sallee and members of the public.

Call to Order and Roll Call

Chairman Don Vowels called the meeting to order at approximately 9:35 a.m. (local time). A quorum was present.

Approval of the Minutes

Upon motion by Ann Bochnowski, second by Richard Darko, the minutes of the October 22, 1997 business meeting were unanimously approved as distributed.

Report of the Executive Director

Jack Thar, Executive Director, gave a report to the Commission on the activities of the riverboats.

New Business

Resolution 1997-42

A Resolution Amending 68 IAC 2-3-5, 68 IAC 2-3-6, 68 IAC 10-7, 68 IAC 11-3-1, 68 IAC 11-3-6, 68 IAC 15-5-3, and 68 IAC 15-5-4 and Adopting 68 IAC 2-6-30.1, 68 IAC 10-1-1.1, 68 IAC 10-1-6.2, 68 IAC 14-11 and 68 IAC 14-12 for Publication as Proposed Rules.

Action: Upon motion by Bob Swan, second by Ann Bochnowski, and unanimous vote of those present, the Commission adopted the above mentioned rules as Proposed Rules.

Resolution 1997-43

A Resolution Adopting, as Final Rules, 68 IAC 1-14, 68 IAC 1-15, 68 IAC 1-16, 68 IAC 2-3-9.1, 68 IAC 2-3-9.2, 68 IAC 2-3-9.3, 68 IAC 9-4-5, 68 IAC 10-8, 68 IAC 11-5, 68 IAC 11-6, and 68 IAC 15-3 and Amendments to 68 IAC 1-2-5.1, 68 IAC 1-9-3,

68 IAC 1-9-4, 68 IAC 2-3-5, 68 IAC 3-2-3, 68 IAC 11-2-1, 68 IAC 11-3-1, 68 IAC 15-1-1, 68 IAC 15-2-2, 68 IAC 15-2-4, 68 IAC 15-6-5 and 68 IAC 17-1-1.

Action: Upon motion by Tom Milcarek, second by Richard Darko, and unanimous vote of those present, the Commission adopted the above mentioned rules as Final Rules.

Resolution 1997-44

A Resolution Granting the Executive Director the Authority to issue Permanent Occupational Licenses, Levels 2 and 3.

Action: Upon motion by Richard Darko, second by Ann Bochnowski, unanimous vote of those present, the Commission authorized the Executive Director the authority to issue Permanent Occupational Licenses, levels 2 and 3.

****In Re the matter of Arnold Fleischman**

Arnold Fleischman has applied for an Occupational License, Level 1 for employment with Trump Casino. Concerns regarding Mr. Fleischman's suitability arose during the course of the background investigation by the Indiana State Police, Gaming Enforcement Section. When Mr. Fleischman became aware that his suitability for licensure was a concern, he voluntarily ceased working for Trump. On June 13, 1997, Mr. Fleischman was advised of a settlement offer, that he would be allowed to withdraw his application for an occupational license, but that his file would reflect that the withdrawal was allowed prior to a licensing hearing during which the Commission staff would have recommended denial of the application due to Mr. Fleischman being found unsuitable. Mr. Fleischman has not responded to the Commission's offer concerning the withdrawal of his application.

Greg Hahn, Counsel for Mr. Fleischman addressed the Commission on this date, explaining that he has spoken with Mr. Fleischman and he was advised that Mr. Fleischman did not wish to accept the settlement agreement and wanted the Commission to conduct a suitability hearing. At that time, Mr. Hahn told Mr. Fleischman that he would not be able to continue as his counsel because he had a conflict of interest representing both Mr. Fleischman and Trump Indiana.

Action: Upon motion by Dr. Ross, second by Richard Darko and unanimous vote of those present, the Commission voted to continue this matter until the next business meeting.

Dontai Patrick BC-DEN-1

Dontai Patrick applied for an Occupational License, Level 2 for employment with the Blue Chip Casino as an Imprest Specialist. During his employment, it was discovered that Mr. Patrick stole \$250 from the change cart. Mr. Patrick has been charged with Theft, a Class D Felony in LaPorte County. Blue Chip terminated Mr. Patrick's employment.

** The section of these minutes pertaining to the matter of Arnold Fleischman was amended on January 10, 2003 to more accurately reflect the Actions the Commission took on December 15, 1997.

Action: Upon motion by Bob Swan, second by Tom Milcarek and unanimous vote of those present, the Commission denies the application for an Occupational License, Level 2 submitted by Dontai Patrick.

Arturo Ceballos
EM-DEN-1

Terrel McCuiston
EM-DEN-2

Richard Sixtos
EM-DEN-3

Matthew Stucky
EM-DEN-4

Arturo Ceballos, Terrel McCuiston, Richard Sixtos and Matthew Stucky each applied for an Occupational License, Level 2 for employment with the Empress Casino as slot technicians. Commission Staff issued a notice of Revocation of the Temporary License and Denial of the Permanent Licenses to the above individuals on December 3, 1997 due to the fact that Terrel McCuiston and Matthew Stucky stole tokens from the hoppers of \$25 electronic gaming devices. Arturo Ceballos and Richard Sixtos had knowledge that the other occupational licensees were stealing tokens from electronic gaming devices and agreed to remain silent about the thefts in exchange for the receipt of a portion of the stolen tokens on multiple occasions. They have all been terminated from Empress Casino employment and all have been charged with Theft, a Class D Felony in Lake County.

Action: Upon motion by Ann Bochnowski, second by Bob Swan and unanimous vote of those present, the Commission denies the applications for Occupational Licenses, Level 2 submitted by Arturo Ceballos, Terrel McCuiston, Richard Sixtos and Matthew Stucky.

Edwin J. Cordilla SB-DEN-4

Edwin Cordilla applied for an Occupational License, Level 2 for employment with the Showboat Casino as a Pit Manager. A notice of Revocation of the Temporary License and Denial of the Permanent License was issued to Mr. Cordilla on November 10, 1997 by Commission Staff. During his employment with Showboat, it was discovered that Mr. Cordilla was conducting a craps training school in which he was instructing other occupational licensees to be craps dealers. Pursuant to IC 4-33-8 and 68 IAC 2-5, occupational training schools must be approved by the Commission.

Action: Upon motion by Ann Bochnowski, second by Tom Milcarek and unanimous vote of those present, the Commission voted to reinstate Mr. Cordilla's temporary occupational license on a probationary basis for a period of one (1) year. Mr. Cordilla must not engage in the instruction or teaching of any games, pay a fine in the amount of \$4,000 and must not violate any other Commission regulations.

Dennis R. Harris SB-DEN-5

Dennis Harris applied for an Occupational License, Level 3 for employment with the Showboat Casino in housekeeping. A Notice of Revocation of the Temporary License and Denial of the Permanent License was issued to Mr. Harris on October 21, 1997 by the Commission staff. Mr. Harris's employment with Showboat was terminated after he was caught stealing money from a Housekeeping supervisor's purse. On October 6, 1997, Mr. Harris was interviewed by Indiana State Police, Gaming Enforcement officers and admitted to having stolen money on several occasions.

Action: Upon motion by Bob Swan, second by Dr. David Ross and unanimous vote of those present, the Commission denied the application for an Occupational License, Level 3 submitted by Dennis R. Harris.

Request for Felony Waiver

Stephen G. Lombard, Sr. BC-FEL-2

On or about July 28, 1997, Stephen G. Lombard, Sr. submitted an application for an Occupational License, Level 2 to the Indiana Gaming Commission ("Commission"). Mr. Lombard received an offer of employment with Blue Chip Casino as a security officer. The Commission denied Mr. Lombard's application due to the fact the he has been convicted of a felony. Mr. Lombard submitted a Request for Felony Waiver Form on August 13, 1997. Kay Fleming, Review Officer for the Commission conducted a hearing on October 28, 1997, at the Buffington Harbor Pavilion on the request and issued written Findings of Fact and Recommendation to the Commission that the Request for Felony Waiver of Stephen G. Lombard, Sr. be granted.

Action: Upon motion by Tom Milcarek, second by Dr. David Ross and unanimous vote of those present the Commission voted to adopt the recommendation of the review officer without further review and approves the Request for Felony Waiver of Stephen G. Lombard, Sr.

Anthony J. Tipton SB-FEL-2

On or about August 4, 1997, Anthony J. Tipton submitted an application for an Occupational License, Level 2 to the Indiana Gaming Commission ("Commission"). Mr. Tipton received an offer of employment with Showboat Casino as a floor supervisor. The Commission denied Mr. Tipton's application due to the fact that he has been convicted of a felony. Mr. Tipton submitted a Request for Felony Waiver Form on August 4, 1997. Kay Fleming, Review Officer for the Commission conducted a hearing on October 28, 1997, and issued written Findings of Fact and Recommendation to the Commission that the Request for Felony Waiver of Anthony J. Tipton be denied.

Action: Upon motion by Dr. David Ross, second by Tom Milcarek and unanimous vote of those present, the Commission voted to adopt the recommendation of the review officer without further review and denies the Request for Felony Waiver of Anthony J. Tipton.

Request for a Felony Disqualification Waiver

Tryone Maxey

On or about July 28, 1997, Mr. Maxey applied for an Occupational License, Level 3, which was denied due to a felony conviction. Mr. Maxey submitted a Request for a Felony Waiver form on July 29, 1997. On September 8, 1997, Kay Fleming, Chief Counsel for the Commission, sent a letter to Mr. Maxey denying him a waiver of the felony denial due to his ineligibility to receive a Waiver in accordance with IC 4-33-8. Mr. Maxey appealed the decision to the hearing officer and requested a hearing before an Administrative Law Judge ("ALJ"). The Commission appointed Bernard

L. Pylitt as ALJ on October 24, 1997; the Commission filed a Verified Statement of Facts, Motion to Dismiss or in the Alternative Motion for Summary judgment. Mr. Maxey did not respond to the Commission's Motion for Summary Judgement. On November 12, 1997, Judge Pylitt submitted his Findings of Fact, Conclusions of Law, and Recommendation to the Commission recommending the denial of Mr. Maxey's Request for a Felony Waiver.

Action: Upon motion by Richard Darko, second by Dr. David Ross and unanimous vote of those present, the Commission accepts the recommendation of the ALJ and denies Mr. Tryone Maxey's Request for a Felony Waiver.

Motion for Default Judgment

Nilda T. Rivera, Complaint Number 97-OL-EM-5

Nilda T. Rivera had received an Occupational License, Level 3 for employment with Empress Casino Hammond as a Quality and Assurance Technician. A disciplinary action was initiated against Ms. Rivera on August 12, 1997 On August 22, 1997; Ms. Rivera was served with the complaint and on October 24, 1997, was served the Commission's Motion for Default Judgement. Ms. Rivera has not responded to the Motion of Default Judgement within the statutory time period. Administrative Law Judge Bernard Pylitt recommended that default judgment be entered in favor of the Commission and that Ms. River's temporary occupational license be revoked and her application for a permanent occupational license be denied.

Action: Upon motion by Bob Swan, second by Bob Sundwick and unanimous vote of those present, the Commission accepts the Administrative Law Judge's recommendation and revoked Ms. Rivera's temporary occupational license and denies her application for a permanent occupational license.

Resolution 1997-45

A Resolution Granting Temporary Supplier's Licenses to Four Aces, Inc. and You Bet Tours, Inc.

Action: Upon motion by Ann Bochnowski, second by Bob Sundwick and unanimous vote of those present, the Commission granted Temporary Supplier's license to the above mentioned supplier's.

Resolution 1997-46

A Resolution Granting Permanent Supplier's License to International Electronic Protection, ("IEP").

Action: Upon motion by Tom Milcarek, second by Richard Darko and unanimous vote of those present, the Commission granted a Permanent Supplier's License to IEP.

Request for Bond Reduction

Blue Chip Casino, Inc.

On December 5, 1997, Blue Chip Casino, Inc. paid \$100,000 under a promissory note, which is secured by a mortgage on the Smith Brothers property in Michigan City, Indiana. The payment of the mortgage on the Smith Brothers property was made a condition of the Surety Bond that was posted by Blue Chip.

Action: Upon motion by Bob Swan, second by Bob Sundwick and unanimous vote of those present, the Commission authorized the Aetna Casualty and Surety Company to reduce the Surety Bond posted by Blue Chip in a total amount of \$100,000.

***Empress Casino Hammond**

On July 1, 1997, Empress Casino Hammond (“Empress”) made a payment representing its commitment to the not-for-profit community based foundation (“incubator program”).

Action: Upon motion by Dr. David Ross, second by Bob Sundwick and unanimous vote of those present, the Commission authorizes the United States Fidelity and Guaranty Company to reduce the Surety Bond posted by Empress in a total amount of \$1,000,000.

Casino Aztar

On November 3 and December 8, 1997, Casino Aztar made the same following identical payments to the City of Evansville pursuant to the Development Agreement Between Casino Aztar and City of Evansville and as a condition of the Riverboat Owner’s License issued to Casino Aztar:

| | |
|------------------------------|-----------------|
| Downtown Revitalization | \$83,333.33 |
| Economic Development | 16,666.67 |
| <u>Pigeon Creek Greenway</u> | <u>4,166.57</u> |
| Total | \$104,166.67 |

Action: Upon motion by Bob Swan, second by Dr. David Ross and unanimous vote of those present, the Commission authorizes the National City Bank to reduce the Letter of Credit 101 and Letter of Credit 102 posted by Casino Aztar, beginning with Letter of Credit 101, in a total amount of \$208,333.34.

***Request for Approval of Debt Acquisition**

Casino Aztar

Neil Ciarfalia, Treasurer for Aztar Corporation, spoke to the Commission and staff regarding a reducing revolving credit facility of up to \$300 million, and a term loan of up to \$100 million, subject to a ceiling of \$350 million for both the credit facility and the term loan. This was to comply with the first of two meeting requirements for debt acquisition approvals.

*The sections pertaining to Empress Casino Hammond and Casino Aztar’s Request for Approval of Debt Acquisition in these amended minutes have been corrected to accurately reflect the Actions the Commission took on December 15, 1997.

Next Meeting

The next meeting of the Indiana Gaming Commission will be announced at a later date.

Resume Consideration of the Fifth Ohio River License

Chairman Don Vowels explained to Commissioners that they had two (2) decisions to make today. One being whether or not a 5th License should be issued at this time and (2) which applicant will receive the license. Asking for any motions, Bob Sundwick made the motion to go forward and issue a license today, second by Dr. David Ross.

Action: Upon motion by Bob Sundwick, second by Dr. David Ross, and a vote of the other Commissioners, the motion failed: 5 opposed-2 for.

Adjourn

The meeting was adjourned at approximately 12:30 p.m. by unanimous Commission vote upon motion by Bob Swan, second by Richard Darko.

Minutes

The December 15, 1997 meeting was transcribed by Baynes & Shirey Reporting Services; consequently, the transcript is the complete record of the meeting. Michelle Marsden, Executive Secretary, of the Indiana Gaming Commission, prepared these minutes. Anyone wishing to see the transcript can review it in the Commission office or obtain a copy of the transcript from Baynes & Shirey, Bank One Center/Circle Center, 111 Monument Circle, Ste. 582, Indianapolis, In 46207, (317) 231-9004.

Respectfully submitted,


Michelle Marsden

INDIANA GAMING COMMISSION:


Donald Vowels, Chair


Thomas Milcarek, Secretary