

**INDIANA GAMING COMMISSION**  
**BUSINESS MEETING**  
10:00 a.m., January 10, 2003  
115 W. Washington St., Ste. 950 South  
Indianapolis, Indiana 46204

**Present:** Commission Members: Donald R. Vowels, Chair; Thomas Milcarek, Secretary; Dale Gettelfinger, and Marya Rose. Dr. David Ross, Ann Bochnowski, and David Carlton were not present. Staff: Glenn R. Lawrence, Cynthia L. Dean, Billy Hamilton, Jennifer Arnold, Jennifer Chelf, Susan Brodnan, Michelle Marsden, Rhonda Dalton, Major Mark Mason, and members of the public.

**Call to Order and Roll Call**

Chairman Donald Vowels called the meeting to order at approximately 10:00 a.m. local time. A quorum was present.

**Approval of the Minutes**

Upon motion by Tom Milcarek, second by Dale Gettelfinger, and unanimous vote of those present, the minutes of the November 15, 2002 business meeting were unanimously approved.

**Report of the Executive Director**

Executive Director Lawrence reported to the Commission on the activities of the riverboat.

Blue Chip, Trump/Majestic, Argosy, and Caesars submitted requests for a waiver of 68 IAC 2-6-27 were approved by the Executive Director. Gaming Laboratories International has reviewed the technical requirements and has determined that the tickets used by the "TITO" system are similar to electronic cards.

The Legislature is now in session. The deadline to submit bills is Monday, January 13, 2003.

**Resolution 2003-1**

A Resolution Adopting 68 IAC 4 For Publication As Proposed Rules.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission adopts Article 4 of Title 68 in its current form for publication as proposed rules, in anticipation of completing the promulgation process required by IC 4-22-2.5 and IC 4-22-2.

**Resolution 2003-2**

A Resolution Granting The Executive Director Authority To Waive 68 IAC 5-3, Debt Acquisition. 68 IAC 5-3-6 and 68 IAC 5-3-7 provide for the "executive director or the commission to waive, alter, or restrict any requirement or procedure set forth in this [68 IAC 5-3] rule". 68 IAC 5-3-7 states the executive director shall report any action taken to the Commission and the "Commission may direct the executive director to take additional or different action."

In order to clarify the ability of the executive director to waive the commission's requirement to approve debt transactions and to efficiently and timely address financial approvals requested by the riverboat licensees, the executive director may grant a waiver of 68 IAC 5-3-2, specifically commission approval,

with the following directive given by the Commission to the executive director.

"The executive director must discuss the proposed debt transaction with two commissioners, the chair and the certified public accountant. Upon agreement of the executive director, the chair and the certified public accountant, the executive director may waive 68 IAC 5-3-2 and report to the commission at the next meeting held under 68 IAC 2-1-5. The receipt of a written waiver from the executive director is sufficient evidence to the riverboat licensee that the commissioners have been contacted and agree with the granting of the waiver."

**Action:** Upon motion by Thomas Milcarek, second by Dale Gettelfinger, and unanimous vote of those present the Commission granted the Executive Director authority to waive 68 IAC 5-3-2 and report to the commission at the next business meeting.

## **New Game Approvals**

### **Resolution 2003-3**

Casino Gaming, LLC submitted the game of Casino Surrender for use in Indiana. Grand Victoria Casino advised, in writing, that it supports the game of Casino Surrender for use in Indiana and has submitted a draft of proposed rules for use in Indiana, which it purports to utilize if the game of Casino Surrender is approved. Gaming Laboratories International has reviewed the information and material submitted by Casino Gaming, LLC. GLI forwarded its report to the Commission and has found that the game of Casino Surrender is a variation of the traditional game of Blackjack.

**Action:** Upon motion by Marya Rose, second by Dale Gettelfinger, and unanimous vote of those present, the Commission approved the game of Casino Surrender for use in Indiana for a trial period of six (6) months. During the trial period, all riverboats who offer the game of Casino Surrender must have pre-approved rules of the game and must report those matters as directed by the Executive Director or the Executive Director's designee. At the end of the trial period, the Commission will consider approving the game of Casino Surrender to be offered on Indiana riverboats on a permanent basis.

## **Occupational License Matters**

### **Request for a Gambling Misdemeanor Waiver**

**William Abrams**

**GV-MG-02-1**

On or about August 8, 1996, Mr. William Abrams submitted an application for an occupational license, level 2 to work for Grand Victoria Casino as a dealer. Mr. Abrams disclosed a gambling-related conviction for gambling. Mr. Abrams was issued a temporary occupational license and a permanent occupational license in spite of the fact that he revealed that he had been convicted in association with a gambling offense. On June 26, 2002, the Commission notified Mr. Abrams that his temporary and permanent licenses were subject to action due to his conviction. Mr. Abrams subsequently submitted a request for a waiver of his gambling-related misdemeanor conviction. Jennifer Chelf, previously appointed as a review officer for such matters, held a hearing on December 4, 2002, to consider Mr. Abrams' waiver request. Mr. Abrams was present at the hearing, pro se. The review officer has issued written Findings of Fact and Recommendation to the Commission that the request for a waiver of Mr. Abrams' gambling-related misdemeanor conviction be granted. As a condition of the waiver, Mr. Abrams occupational license shall be suspended for a period of three (3) business days due to his discourteous behavior toward a Commission agent in December of 2001.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission adopted the recommendation of the review officer granting the request for a gambling misdemeanor waiver of Mr. William Abrams.

**Steven Serrano**  
**MS-DEN-03-1**

On or about August 2, 2002, Steven Serrano received a temporary occupational license, level 2, for employment as a slot attendant at Majestic Star Casino. On or about November 30, 2002, Mr. Serrano was observed removing tokens from a slot machine and placing them in token buckets. A female patron picked up the buckets, and with Mr. Serrano's assistance, cashed them in and received approximately \$1,119. It was later discovered that Mr. Serrano and the patron lived at the same address. Mr. Serrano's employment was terminated because of this incident. Commission staff revoked Mr. Serrano's temporary occupational license and denied his application for a permanent license and formally advised Mr. Serrano of this action on December 31, 2002.

**Action:** Upon motion by Marya Rose, second by Thomas Milcarek, and unanimous vote of those present, the Commission denied the application for an occupational license, level 2, submitted by Steven Serrano. Pursuant to IC 4-21.5-3-6, this order will become effective fifteen (15) days after it is served.

**Appeal of the Denial of the Application for an Occupational License**

**John Patinas**  
**BC-DEN-02-1**

John Pantinas submitted an application for a occupational license, level 2, for employment as a dealer at Blue Chip Casino. Mr. Pantinas previously held a level 2 occupational license and worked at Harrah's Casino as a Dealer from June 3, 1997 to May 31, 1998 and as a Dual-Rate Supervisor from August 10, 1999 to January 5, 2002. Pursuant to circumstances surrounding his departure from Harrah's in January 2002, Mr. Pantinas' application to work at Blue Chip was denied by Commission staff on September 5, 2002. On September 27, 2002, the Commission approved the denial. Mr. Pantinas appealed the decision of the Commission and requested a hearing in the matter on or about October 8, 2002. The Commission appointed Bernard L. Pylitt the Administrative Law Judge in this matter. Judge Pylitt conducted a hearing on December 11, 2002, in East Chicago, Indiana. Mr. Pantinas appeared by his counsel, Craig Hanson. Susan Brodnan and Jennifer Chelf, Staff Attorney's represented the Commission. The Administrative Law Judge submitted his Findings of Fact, Conclusions of Law, and Recommendation to the Commission. Judge Pylitt recommended that the denial of Mr. Pantinas' application for an occupational license be upheld and his appeal be denied.

**Action:** Upon motion by Thomas Milcarek, second by Dale Gettelfinger, and unanimous vote of those present, the Commission accepted the recommendations of the Administrative Law Judge and denies John Pantinas' appeal of the denial of his application for an occupational license.

**Correction of December 15, 1997 Commission Minutes**  
**Arnold Fleischman**

Commission staff discovered inadvertent errors in the Business Meeting Minutes of December 15, 1997. The minutes were corrected as follows:

\*\* ~~"Denial of Occupational License~~ **In Re the matter of Arnold Fleischman TR-DEN-4**  
Arnold Fleischman has applied for an Occupational License, Level 1 for employment with Trump Casino as the General manager. 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, ~~through counsel Don Tabbert,~~ 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 ~~Ann Boehnowski~~ **Dr. Ross**, second by Richard Darko and unanimous vote of those present, the Commission voted to continue this matter until the next business meeting, ~~after which Mr. Fleischman has had time to find new counsel. A certified letter will be mailed for a response no later than January 12, 1998.~~

**Action:** Upon motion by Thomas Milcarek, second by Dale Gettelfinger, the amended minutes of the December 15, 1998 business meeting were unanimously approved.

## **Suppliers' License Matters**

### **Resolution 2003-4**

Resolution Concerning The Renewal Of Suppliers' Licenses for IEP, Ltd., IGT, and Midwest Game.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission granted the renewal of the Suppliers' Licenses issued to IEP Ltd., IGT and Midwest Game on the condition that any outstanding background fees are paid as directed by the Commission staff. The renewed Supplier's Licenses will be valid for a period of one (1) year from the date of issuance.

### **Resolution 2003-5**

A Resolution Concerning The Request Of The Bud Jones Company, Inc. To Withdraw Its Supplier's License.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission approved the request of The Bud Jones Company, Inc. to withdraw its supplier's license.

### **Resolution 2003-6**

A Resolution Concerning The Request For Waiver Of 68 IAC 2-3-5(c)(9) Regarding Merchant Mariner's Documents. On or about December 5, 2002, the Commission staff received from Captain R. E. Seebald, U. S. Coast Guard, a copy of a letter informing Lake Michigan casino vessel operators of a policy change regarding merchant mariner's documents ("MMDs"). The Executive Director issued a memorandum to riverboat owners licensed to operate riverboats on Lake Michigan on December 18, 2002, informing the operators that Commission staff would not exercise its authority to enforce 68 IAC 2-3-5(c)(9) until further notice. In view of the Captain Seebald's determination that MMDs will no longer be required of non-maritime occupational licensees, the Commission has determined that it would be in the best interest

to grant a waiver of the requirements of 68 IAC 2-3-5(c)(9) to the extent that it applies to non-maritime employees.

**Action:** Upon motion by Marya Rose, second by Thomas Milcarek, and unanimous vote of those present, the Commission approved the request to modify 68 IAC 2-3-5(c)(9) to conform to the changed circumstances. The resolution expires thirty (30) days from the date and time the Secretary of State accepts for filing a rule adopted by the Commission effectuating a modification of 68 IAC 2-3-5(c)(9) to conform to changed circumstances.

#### **Resolution 2003-7**

A Resolution Concerning A Waiver of 68 IAC 2-3-6(1)(F) and the Requirement That Identification Badges Display the Signature of The Executive Director. 68 IAC 2-3-6 sets out a requirement pertaining to identification badges, which serve as occupational licenses. 68 IAC 2-3-6(1)(F) specifies that identification badges shall display the signature of the Executive Director. The requirement that identification badges display the signature of the Executive Director has become burdensome to the Commission given the change in Executive Director. Furthermore, the requirement does not serve to provide additional security against counterfeiting.

**Action:** Upon motion by Thomas Milcarek, second by Dale Gettelfinger, and unanimous vote of those present, the Commission granted a waiver of 68 IAC 2-3-6(1)(F). All identification badges in current circulation shall not be deemed to be invalid due to the fact that they display the signature of the former Executive Director of the Commission. The signature of the Executive Director shall be removed from all badges created from this date forward. Badges created from this date forward shall not be deemed to be invalid due to the absence of the Executive Director's signature.

#### **Resolution 2003-8**

A Resolution Concerning The Amendment To The Riverboat Landing Lease Agreement By And Between The Redevelopment Commission Of Evansville And Aztar Indiana Gaming Company, LLC.

**Action:** Upon motion by Marya Rose, second by Dale Gettelfinger, and unanimous vote of those present, the Commission granted the request of Aztar to approve the Amendment to the Lease Agreement by and between the Redevelopment Commission and Aztar.

### **Minority/Women's Business Enterprise Issues**

#### **Trump Indiana/Majestic Star**

Plans have been received from both Trump Indiana and Majestic Star. Both licensees continue to meet the statutory requirements. Keith Rogers appeared on behalf of Trump Indiana and Karry Rogers, appeared on behalf of Majestic Star.

The Commission requested clarification about the 11.83% percentage in Majestic Star's Action Plan. This number is the combined percentage for Buffington Harbor and Majestic Star. Majestic Star's share of the WBE's purchases, year to date, is 8%.

On December 6, 2001 the Commission required that representatives from Trump and Majestic Star appear before the Commission at each "live" meeting to provide a status report on their MBE/WBE action plans. This is their last scheduled appearance before the Commission. The year end reports are due in January. The final reports will be given at the March 14<sup>th</sup> business meeting.

The Commission requested the licensees use the same format when submitting their action plans. Action plans are to include dollar amounts and percentages.

#### **Belterra Casino and Resort**

Ron Gifford, Baker and Daniels local counsel; Alain Uboldi, General Manager; and Gwen Smith, MBE/WBE appeared on behalf of Belterra Casino and Resort. Belterra continues to meet the MBE/WBE statutory requirements.

### **Financing Matters**

#### **Resolution 2003-9**

Kay Fleming, local counsel appeared before the Commission. By letter dated December 19, 2002, Boyd Gaming Corporation requested a waiver by the Executive Director under 68 IAC 5-3-6 of the financial approval requirements with respect to a Rule 144A interim offering. Boyd further requested Commission approval for the issuance of \$300 million, 7.75% Series A Senior Subordinated Notes due 2012 as well as a waiver of the two meeting rule. The Executive Director granted the request for waiver of the financial approval requirements.

**Action:** Upon motion by Dale, second by Thomas Milcarek and unanimous vote of those present, the Commission approved the Request of Boyd Gaming Corporation to issue \$300 million, 7.75% Series A Senior Subordinated Notes due 2012.

#### **Resolution 2003-10**

Kathy Walker, General Manager; Robert Pickus, Vice President and General Counsel; Dana Childress-Jones, Frank McCarthy, of Trump and Greg Hahn, local counsel; appeared before the Commission. Trump Indiana, Inc. requested approval to refinance existing debt through Trump Casino Holdings as well as a waiver of 68 IAC 5-3-2-(b)(3), the two (2) meeting rule. Trump would seek up to \$525 million, for a period of eight years with an interest rate not to exceed 12 .5%.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission approved the request of Trump Indiana for a waiver of 68 IAC 5-3-2(b)(3), the two (2) meeting rule.

**Action:** Upon motion by Dale Gettelfinger, second by Marya Rose, and unanimous vote of those present, the Commission approved Trump Indiana's request to refinance existing debt in an amount of up to \$525 million subject to the preparation of a financial analysis if directed by the Commission staff, and approval of the terms of the final draft and associated documents by the Commission staff.

#### **Resolution 2003-11**

Ron Gifford, Baker and Daniels local counsel, Jack Godfrey, General Counsel Pinnacle Entertainment appeared before the Commission. By letter dated December 31, 2002, Pinnacle Entertainment, Inc. requested approval of a credit facility for an amount of up to \$250 million for a period of up to five years, at an interest rate not to exceed 9% and a waiver of the two (2) meeting rule.

**Action:** Upon motion by, Dale Gettelfinger, second by Thomas Milcarek, and unanimous vote present, the Commission approved Pinnacle's request for a \$300 million credit facility due no later than 2008 subject to the preparation of a financial analysis if deemed necessary by the Commission staff, and approval of the terms of the final draft and associated documents by the Commission staff and approved the request for a waiver of 68 IAC 5-3-2(b)(3), the two (2) meeting rule.

## **Other Business**

Mr. Lawrence introduced:

- M. Glen Lloyd, a retiree of the Internal Revenue Service, who has joined the Indiana Gaming Commission as a field auditor.
- Mr. Joe Koenig, recently appointed by the Governor to serve as the Executive Director of the newly formed Indiana Department of Gaming Research. Mr. Koenig previously served six terms as the Bartholomew County prosecutor.
- Mr. Mike Smith, the new Executive Director of the Casino Association of Indiana.

Chairman Vowels reported that representatives of Rising Sun requested they be allowed a presentation at this business meeting. The Executive Director denied this request and advised the Commission. The Commission suggested the parties continue to negotiate this issue. This issue will be placed on the agenda of the next business meeting. The parties should supply an update of the status of the negotiations to the Executive Director prior to the next business meeting.

## **Next Meeting**

The next meeting of the Indiana Gaming Commission will be March 14, 2003 at 10:00 a.m. in the offices of the Indiana Gaming Commission at 115 W. Washington St., Ste. 950 S., Indianapolis, IN.

## **Adjournment**

Upon motion by Thomas Milcarek, second by Dale Gettelfinger, and unanimous vote of those present, the meeting was adjourned.

## **Minutes**

Baynes & Shirey Reporting Services transcribed the January 10 2003, Business Meeting. Consequently, the transcript is the complete record of the meeting. Anyone wishing to see the transcript can review it in the Commission office or obtain a copy of the transcript from Baynes & Shirey, One Indiana Square #2525, Indianapolis, IN 46204 (317) 231-9003.

Rhonda K. Dalton, Executive Secretary of the Indiana Gaming Commission Staff, prepared these minutes.

Respectfully submitted,

*Rhonda K. Dalton* (FACSIMILE)  
Rhonda K. Dalton

THE INDIANA GAMING COMMISSION:

*Donald R. Vowels* (FACSIMILE)  
Donald Vowels, Chair

*Thomas Milcarek* (FACSIMILE)  
Thomas Milcarek, Secretary