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TRIBAL ADVISORY COMMITTEE  
MEETING  
SUQUAMISH, WASHINGTON  
VOLUME II

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SUQUAMISH CLEARWATER CASINO RESORT  
15347 SUQUAMISH WAY NORTHEAST  
CHIEF KITSAP HALL  
DECEMBER 7, 2011  
8:17 A.M.

TRANSCRIBED BY: CHERYL L. O'HALECK

Job No. NJ366119

1 SUQUAMISH, WASHINGTON; DECEMBER 7, 2011

2 8:17 A.M.

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4

5 MR. FISHER: Okay. Good morning,  
6 everybody. We're off to a slightly delayed start due to  
7 the technology.

8 Okay. How are we going to start this  
9 morning? Anybody have anything on your mind from  
10 yesterday you want to bring up?

11 Robin?

12 MS. LASH: I notice on the agenda we did  
13 have a line item for the summaries. I don't think we  
14 ever addressed that. I just wondered if -- I know we  
15 haven't gotten any and I don't see a note-taker, so I  
16 guess --

17 MR. FISHER: Well, I'm still going to do  
18 a summary from this meeting, but I'm going to do it in  
19 the way that we talked about at the end of the Rapid  
20 City meeting, which it will contain the consensus things  
21 and any kind of action items.

22 MS. LASH: That's all we need.

23 MR. FISHER: And I'm about that close to  
24 having the November summary ready and the October,  
25 revised October summary ready to send out. So if I can,

1 I might do it in the evening this week, otherwise it  
2 will come early next week. And then this one will  
3 follow.

4 So I got caught up short between the --  
5 with the holiday and the short time frame between the  
6 two meetings. And honestly, it also -- to create the  
7 November summary also proved to be a little -- a lot  
8 more work than I had originally anticipated in order to  
9 put it all together, to take all the different pieces we  
10 did and then also mark it to show the changes to the  
11 TGWG document. And so it just took me longer than I  
12 expected, and I got caught up short in the time.

13 MR. MCGHEE: Just FYI, I have to leave  
14 tomorrow early, probably around -- whatever that ferry  
15 is, 10:00 something, 11:00 something. So I won't be  
16 here for tomorrow afternoon. So all the really  
17 important stuff we need to do today.

18 MR. FISHER: All right. Thanks for  
19 letting us know.

20 MR. MORGAN: Robert, I'm in the same boat  
21 at 3:00. I have to be in Phoenix the next day at  
22 9:00 a.m.

23 MR. FISHER: So you're going to leave at  
24 what time?

25 MR. MORGAN: I think 3:00, because my

1 understanding is there is a 3:50 ferry back across.

2 MR. MCGHEE: I mean, how long should you  
3 give yourself to get to the airport, back to the ferry?

4

5 MR. CULLOO: You're what, 15 minutes from  
6 the ferry? You're a 35-minute crossing and then you  
7 have 20 to 25 minutes to the airport. And if you have a  
8 rental car return, whatever is appropriate.

9 For those leaving Friday morning -- is  
10 anyone leaving Friday morning? You have rush-hour  
11 traffic going over in the morning. So you might want to  
12 get there a half-hour before the thing leaves or you  
13 might be pushing onto the next ferry, which could be an  
14 hour difference. It's a major commute to Seattle  
15 between the 6:30 and 8:00 ferries.

16 MR. MCGHEE: I'm not opposed as far as  
17 working late.

18 MR. CULLOO: We've got to work later  
19 because you have to go early?

20 MS. LASH: I know. Thanks, Daniel.

21 MR. MCGHEE: Just volunteering.

22 MR. GARVIN: At least he's not opposed to  
23 it. Thanks.

24 MR. MCGHEE: Thanks, Steve. I'm going to  
25 stay by myself right here.

1 MR. FISHER: All right. Well, we may be  
2 able to get -- I mean, we're on a track to end at 5:00  
3 on Thursday, so we'll just -- we haven't quite caught  
4 back up to the agenda yet, but who knows? Maybe we'll  
5 be able to do that and be done early enough for Matthew,  
6 anyway, to be here for the end. Otherwise, I'm on a  
7 track to end us at 5:00, unless you tell me otherwise.

8 MR. MCGHEE: And Matt can speak on my  
9 behalf fully. I trust him.

10 MR. MORGAN: Sorry?

11 MR. MCGHEE: You can speak on my behalf.

12 MR. FISHER: Maybe you should get him to  
13 leave now.

14 MR. MORGAN: This hand is being a little  
15 disagreeable right now. We're not there quite yet.

16 MR. FISHER: All right. Anybody have  
17 anything else on your mind as we get started here?

18 MR. MORGAN: Can you remind us where we  
19 stopped at, like where the conversation was so we all  
20 start from the same page?

21 MS. TAHDOOAHNIPPAH: What did you say?

22 MR. MORGAN: Remind us where we stopped  
23 at.

24 MR. FISHER: Where we stopped was in

25 543 --

1 ASSOCIATE COMMISSIONER LITTLE: 543.9(i).

2 MR. FISHER: Right.

3 ASSOCIATE COMMISSIONER LITTLE: That's  
4 because I have a little sign.

5 MR. FISHER: That's good.

6 MS. THOMAS: I have a star next to it.

7 MR. FISHER: So I have to get the  
8 document open.

9 MS. TAHDOOAHNIPPAH: Page 13.

10 MR. FISHER: All right. So we were  
11 talking about a couple different things with respect to  
12 that section, one of which was the heading, and then to  
13 what extent does the section include the things that  
14 were in the heading and whether that was appropriate or  
15 not appropriate, and then what the guidance reflected  
16 from what's in the -- what was in the heading.

17 And so we pretty much stopped at the  
18 point where we were talking about the -- kind of  
19 flipping back and forth between the heading and the  
20 content of the section (g), and to what extent the  
21 contest and tournaments and giveaways were or were not  
22 appropriate to be included in that section (g).

23 So you can see on the screen we did talk  
24 about taking out the heading, but taking out the heading  
25 doesn't get to the issue of what's covered by the

1 section and what's appropriate to put in the guidance.

2 MS. THOMAS: Actually, I think it does,  
3 because if you read the guidance, I know it says "such  
4 as," but it does cover the promotions and whether or not  
5 there is a tournament that reduces those promotional  
6 amounts. So I think just having that --

7 MR. FISHER: Just deleting the heading?

8 MS. THOMAS: Deleting the heading to that  
9 point. The guidance still covers how those promotional  
10 pools are paid back to the guest.

11 MR. FISHER: Oh, okay. So what do other  
12 people think about that?

13 MR. WILSON: What's the question?

14 MR. FISHER: Have we taken care of the  
15 concerns and the issues in this section just by deleting  
16 the heading? And then should we turn our attention from  
17 the section to the guidance document?

18 So part of that question is back to Rest  
19 about some of the concerns that you raised about that  
20 section.

21 MR. WEST: Well, my concern was that  
22 progressive pools and pots are different than contests,  
23 tournaments and giveaway programs. So I don't know what  
24 the TGWG's intent as far as do they want to cover both  
25 areas in the section or just progressive promotional

1 pools and pots? I mean, as it relates to card games.

2 MR. FISHER: Go ahead, Kathi.

3 MS. HAMEL: I think, as I mentioned  
4 yesterday, the intent was to include contests and  
5 tournaments if the funds contributed were from the  
6 patron. So my answer would be yes, they would all be in  
7 the same section because they would have the same types  
8 of controls if the patron contributed to the prize pool.

9 MR. WEST: Okay. Well, there is nothing  
10 in the standards that's listed that even discusses  
11 contests, tournaments and prize pools, just one and two,  
12 just generic-type considerations found in most standards  
13 for bad beats, promotional pots.

14 MS. HAMEL: And I think that's why we had  
15 said "such as," so that they would all be lumped  
16 together when talking about promotional.

17 MR. FISHER: So does that address the  
18 concern you raised, Rest, or not?

19 MR. WEST: No. It just seems to tie the  
20 two together, and I think it needs to be revised or  
21 something.

22 MR. MORGAN: The standard needs to be  
23 revised or the guidance document needs to be revised?

24 MR. WEST: I don't know. Something needs  
25 to be revised.



1 MR. MCGHEE: You've got to have a  
2 solution, Rest, you can't just have a problem.

3 MR. FISHER: Right.

4 Tom?

5 MR. WILSON: I have a question or just  
6 kind of an observation.

7 I'm concerned that if you focus too much  
8 on form over substance that we're going to be spending  
9 time talking about how the document should look for  
10 where a piece should or shouldn't be.

11 For me, I'm more concerned does it  
12 capture what it needs to capture. And I think that the  
13 NIGC will be here for the duration over whatever. The  
14 fact that it exists in section (a) as opposed to section  
15 (b) is less important to me than it is that have we  
16 captured all the components that we needed to capture in  
17 the document.

18 So I personally would prefer to spend not  
19 as much time on the form of the document as opposed to  
20 discussing the substance that's presented there and not  
21 get sidetracked into, well, should this really be in  
22 this section or that section, because that doesn't add a  
23 lot to me. What I'm trying to determine is have we  
24 captured everything that needs to be captured relating  
25 to the issue that that particular section is talking

1 about.

2           So -- because I have a feeling that, as  
3 we go through this, because the TGWG document is in the  
4 format that it's in, we're going to run across this  
5 frequently, I suspect, that, well, they moved some  
6 pieces over here and some pieces over there. And I  
7 think we just have to accept that that's the way the  
8 document is in its current form, but that doesn't mean  
9 that has to be the way the document is in its finished  
10 product form.

11           ASSOCIATE COMMISSIONER LITTLE: Yeah, I  
12 definitely appreciate what you're saying, and you're  
13 right, and we don't want to be beating these issues.

14           I think Rest raises a very good point.  
15 And I think we're trying to determine has it been moved  
16 to another location? Is it addressed somewhere else?  
17 And if so, how do we deal with it? Because it's an  
18 issue that, you know, our accountants, our auditors feel  
19 is important to look at. And I think just an  
20 understanding, is it somewhere else? Is it something  
21 that should be addressed here you feel or is it  
22 something that could be addressed somewhere else?

23           MR. WEST: Well, I have a -- I mean, I  
24 just have a fundamental -- I mean, do you intend to have  
25 standards in card games of promotional pots and pools,

1 number one. And then are you going to also have  
2 standards in case some of these promotional pots and  
3 pools may go -- some of the portion of the funds may be  
4 used in contests, tournaments and giveaways.

5 So number one, do you want to have bad  
6 beat type standards in card games and then have  
7 something else to say in instances where promotional  
8 funds are used for contests, tournaments, giveaways, or  
9 whatever, have some guidance or standards on that?  
10 Because I hear you saying -- to me, you're only  
11 addressing the specific instance of when promotional  
12 funds are used in contests, tournaments and giveaways.  
13 Does this also relate to regular bad beat, where the  
14 money is never going to be used in a promotional pot or  
15 pool in contests or giveaways?

16 MR. MCGHEE: What's bad beat mean? We  
17 don't have card games.

18 MR. WHEATLEY: It's a poker jackpot,  
19 basically.

20 ASSOCIATE COMMISSIONER LITTLE: That's  
21 shared by everybody, right?

22 MR. WHEATLEY: Player funds are  
23 contributed to increase the progressive until it's hit.

24 ASSOCIATE COMMISSIONER LITTLE: But the  
25 players have to bet. If they don't bet, they don't

1 share.

2 MR. WHEATLEY: They don't contribute to  
3 the progressive.

4 MR. MORGAN: I guess what I'm trying to  
5 figure out is what I hear Kathi really saying is it  
6 doesn't really matter because it's the same type of  
7 controls that would control it. And I'm trying to  
8 figure out from you, Rest, do you think there is  
9 something missing from the standard? It's confusing,  
10 it's not clear enough? Is there something in the  
11 guidance document that you can pick up and pull into the  
12 standard that does make it clearer for you, or no, it's  
13 been missed in the standard and it's been missed in the  
14 guidance document? Because, again, the intent was the  
15 standard was a higher level, general controls, and the  
16 guidance document went into more specifics.

17 So I guess I'm trying to figure out from  
18 your point of view, did we just miss it entirely because  
19 it's not clear, or is there something in the guidance  
20 document that better delineates those two subjects and  
21 yeah, we're just missing a word in the standard or  
22 something that makes it more clear in your mind?

23 MR. WEST: Well, the heading tends to  
24 isolate it to only those instances when funds that are  
25 earned from promotional -- they're not earned, they're

1 the players' money, are going to be used in contests,  
2 tournaments and giveaways. In a lot of instances in  
3 most card games, I mean, it just sits in a bad beat  
4 until somebody hits a bad beat. They're not used in  
5 contests, tournaments and giveaways.

6 MS. THOMAS: That's not necessarily true,  
7 because our properties actually do run contests and  
8 tournaments to lower that amount.

9 (Simultaneous discussion.)

10 MR. FISHER: So can you say that again?  
11 Because both of you were talking at the same time.

12 MR. WEST: Generally, that's what happens  
13 in card rooms. And you might have money going to  
14 reserve, bad beats, and after a certain point -- there  
15 is various and sundry different ways.

16 MR. WHEATLEY: I think we also do the  
17 same as Christina. We have not necessarily a bad beat,  
18 but a player-supported jackpot, it's a progressive, that  
19 goes up every single day as player contributions, but it  
20 also goes down a certain amount every single  
21 day, because there is qualifying hands that a player is  
22 awarded. If somebody gets four aces, there is a  
23 progressive associated with that hand and that lowers  
24 the progressive jackpot. So it daily fluctuates, the  
25 actual pool goes up and down every single day.

1                   So it's a little bit different, but yeah.

2                   MS. THOMAS: So the bad beat is like your  
3 overall jackpot, but you still have these other  
4 promotions going on with those dollars that are  
5 fluctuating that amount.

6                   MR. CULLOO: You're taking that money for  
7 those type of promotions from the players, it's their  
8 money.

9                   MS. TAHDOOAHNIPPAH: I kind of get what  
10 you're saying, though, about that it could be  
11 interpreted by reading this that this (i) only applies  
12 when it's a contest, tournament.

13                   MR. WEST: And if you have some kind of  
14 formal contest or tournament rules --

15                   MS. TAHDOOAHNIPPAH: And I think if you  
16 were just to strike that, to just leave it promotional  
17 progressive pots and pools, then it would include  
18 everything. And then you could interpret -- you would  
19 interpret it as just that, bad beat by itself, and then  
20 any other fund associated with it.

21                   MR. MCGHEE: The "such as" part, didn't  
22 we delete that yesterday?

23                   MS. THOMAS: We didn't. That's kind of  
24 where we left off.

25                   MR. FISHER: So, Kathi, did you have

1 something you wanted to say? Can you wait one second?  
2 I'm sorry.

3 Okay, go ahead.

4 MS. HAMEL: We do have a section in  
5 543.9(h) which is the posted rules. And in our guidance  
6 document, there is extensive guidance on rules for just  
7 this, bringing -- addressing Rest's questions about the  
8 rules, you know, how the pots are split, any  
9 administrative fees, the nature of the qualifying hand,  
10 a list of the available prizes.

11 And also, there is a new section that's  
12 543.10, which is gaming promotions. You're not  
13 specifically tied just to card games, but that section  
14 would cover controls for all types of gaming promotions;  
15 again, rules, nature of the prizes.

16 MR. MORGAN: I leaned on my institutional  
17 knowledge for this, this explanation, so I'm prepared to  
18 take (inaudible.)

19 One of the reasons that you have to be  
20 careful when you're running a Class II card game is  
21 because a card game, a Class II card game is defined by  
22 the statute, IGRA itself. So when you look at IGRA 2703  
23 on what a tournament Class II gaming means, and I'll go  
24 down to 7(a)(ii), card games that are explicitly  
25 authorized by the law of the state or, two, are not

1 explicitly prohibited by law in the state and are played  
2 at any location in the state but only if such card games  
3 are played in conformity with those laws and  
4 regulations, if any, of the state regarding hours or  
5 period of operations, such as card games, limitational  
6 wagers or pot size in such card games.

7 So if you get too specific in your  
8 regulations at the NIGC level, you're going to come into  
9 conflict with how tribes play those Class II card games  
10 in the first place, because they have to play those in  
11 conformance with how the state says you can play those  
12 Class II card games.

13 That was one of the reasons that maybe  
14 we're not as specific here as you would like, because  
15 there is a risk that you run in violation of the statute  
16 as you delve too far into detail here, because in a  
17 Class II card game, it has to be something that's  
18 otherwise allowed in the state, what they play, which is  
19 different from a Class III card game.

20 MR. WEST: I'm arguing the TGWG document  
21 is too specific. It's pointing towards contests,  
22 tournaments and giveaways. I'm saying it needs to be  
23 more general. There needs to be some standards or  
24 guidance -- well, there is some guidance back there --  
25 on the general situation where you have a bad beat, how



1 funds go into the bad beat, how they're paid out, then  
2 also a situation where the jurisdiction allows whatever,  
3 when some of the funds can be taken and put into a  
4 contest or some other kind of promotion.

5 Also, tournaments generally, from my  
6 experience, don't use funds out of promotional pots,  
7 they're generally -- sometimes a casino sees a little  
8 bit of the money, the players buy into the tournaments  
9 with \$20 buy-ins or whatever.

10 So there is going to be some instances  
11 where maybe some of these other things identified as  
12 contests, tournaments and giveaway programs are not  
13 funded by the players' money.

14 MS. THOMAS: I think Kathi explained it.  
15 Then that would fall under the gaming promotion section.  
16 If it's not dealing specifically with the player-funded  
17 dollars, then it would fall under this other section  
18 (g).

19 MR. FISHER: Just the next section in the  
20 document.

21 MS. THOMAS: Yes.

22 MR. WEST: It would fall under what?

23 MR. FISHER: 543.10.

24 MR. WHEATLEY: I think it can make it a  
25 little bit confusing, because how do you determine what

1 tournament is coming out of -- I mean, most tournaments  
2 are player funded, but they aren't necessarily player  
3 funded out of the progressive pool that's there, they're  
4 player funded through an entry buy-in. So which section  
5 does it fall in? In that case, it is player funded.  
6 Does it fall under 543.9 or does it fall under 543.10?  
7 So I think it can be a little confusing.

8 MR. WILSON: And I might point out in  
9 that regard, we have run across this same issue, where  
10 one section prescribes one way of doing something and  
11 another section prescribes a different way of doing  
12 something, but there is not a good delineation between  
13 this section means these types of things and this  
14 section means this.

15 And as I look at the document 543.9, it  
16 does reference a number of places where it's  
17 referencing, depending on the type of promotion or  
18 payout, the different sections of the document.

19 So there is a reference to 543.14, when  
20 gaming promotions are used in conjunction with Class II,  
21 gaming controls should be established with payouts in  
22 accordance with 543.14, but then there is another  
23 section in the same document that says when gaming  
24 promotions are used in conjunction with Class II gaming,  
25 then controls must be established for auditing and

1 accounting in accordance with 543.19.

2 So what it appears to me is that to  
3 effectively use this document, the -- it's in the  
4 guidance where the cross-referencing exists to the  
5 different components that I think they're trying to  
6 exist or -- and again, this is where I think the  
7 confusion is going to be with this document, is that the  
8 standard -- the standard itself is not going to point  
9 you to all the places where the standard envisions the  
10 controls may exist to meet the standard, but the  
11 guidance document points you to a number of different  
12 places that you have to take into account in order to  
13 get to the necessary controls to meet the standard.

14 And so that's -- that's the mechanics of  
15 how this document works, which is different than the way  
16 the MICS (inaudible), because in the current world of  
17 the MICS, everything is kind of grouped and laid out  
18 together, that you see the whole component right there,  
19 and you're not necessarily referencing other sections of  
20 the MICS to answer the fundamental question that the  
21 control standard is trying to achieve.

22 I don't know if that helps or not, but --

23 MR. FISHER: All right. So do we need to  
24 make any changes to this section or to the guidance, or  
25 is it good the way it is?

1 MR. WILSON: I have to say, again, that I  
2 think that if -- I mean, NIGC has identified, in my  
3 mind, a risk that appears not to be maybe mitigated.  
4 And maybe it is or it isn't, but because of the way the  
5 document is laid out, it's not maybe apparently -- it's  
6 just not readily apparent.

7 But again, if we're going to spend  
8 time -- it seems to me that we should document the fact  
9 that there appears to be an issue, that there is a risk  
10 that is not captured. And maybe it is being captured,  
11 but we're going to spend a lot of time trying to  
12 determine the format of this document to answer that  
13 question. And I would say that the objective is we need  
14 to ensure that that risk is being mitigated somewhere in  
15 either the standard or the document. But I'm not sure  
16 how we get -- there is something that we're even able to  
17 decide for purposes of what we're discussing.

18 And I say that because there is no  
19 guarantee that this document is going to look the way  
20 that it looks today. And while we may all conclude that  
21 there is a change that needs to be made today to make it  
22 more clearer for purposes of our deliberation, the fact  
23 of the matter is this may all change when it goes  
24 through the format of how is it going to look in a  
25 regulatory structure.

1 MR. WEST: I'm still trying to make my  
2 point, and I don't think I'm a good communicator.

3 My point is, this section with the  
4 lead-in implies that this only applies to situations  
5 where money is taken out of promotional pots and pools  
6 and used in contests, tournaments and giveaways. So  
7 what do you do with a regular promotional pool? There  
8 is no guidance for just a plain old bad beat situation.  
9 This is very specific toward that.

10 MR. WILSON: Yeah, this is specific to  
11 patron-funded promotions. At least the standard is  
12 specific to patron-funded promotions.

13 MR. WEST: Used in contests, tournaments  
14 and giveaways only. It's very specific to that.

15 MR. MCGHEE: But if you take that for  
16 so-and-so out like we discussed, then it becomes broad  
17 to be considered whenever there is a promotional pool  
18 involved, right?

19 MR. FISHER: Right. So what I hear,  
20 that's not the intention, is to limit it to only  
21 contests --

22 MR. WEST: Well, that's the way it reads.

23 MR. FISHER: So if you take it out of the  
24 heading -- so I'm hearing two things. The heading  
25 implies that it only applies to those sections. So if

1 you take it out of the heading, maybe you've addressed  
2 that, and that there is nothing in the guidance to  
3 address the more general situations that Rest has  
4 described.

5 MR. WEST: Exactly.

6 MR. FISHER: So you could review the  
7 guidance and think about whether there are changes to be  
8 made in the guidance or whether it covers, in your view,  
9 the situation, the more general situations that Rest has  
10 described.

11 Dan?

12 MR. MCGHEE: Maybe a suggestion, and  
13 I'm -- we don't have card games, so it's really hard for  
14 me to imagine what you're talking about sometimes. But  
15 maybe if we do something like we did last time, where a  
16 smaller group of people who do have these card games and  
17 deal with this and understand what he's saying at our  
18 break or lunch could get together with Rest, like we did  
19 with Nimish that time, and try to fix this problem in a  
20 smaller group and come back with a suggestion, whether  
21 it be in the guidance documents or whatever, that they  
22 can agree on. And he can be there to advise. Because  
23 I'm thinking you take that out and it fixes everything,  
24 and I'm obviously not getting it.

25 MR. FISHER: There is no easy fix to

1 address these concerns.

2 MR. WILSON: I would move that there is a  
3 small caucus that is identified to discuss this issue  
4 amongst the folks that have the concern, because  
5 otherwise we're going to spend time at no resolution.

6 ASSOCIATE COMMISSIONER LITTLE: And the  
7 chances are there are other documents that will come up.  
8 So we're going to volunteer you for that committee  
9 tomorrow afternoon, Dan.

10 (Simultaneous discussion.)

11 MR. WEST: What about striking everything  
12 after promotional pots and pools in the heading? I  
13 mean, this thing is dragging on, you know. In my  
14 opinion, we're taking up too much time on topics that,  
15 you know, we could probably take care of and move  
16 forward.

17 MR. FISHER: So that portion of the  
18 heading, the "such as" part, strike that?

19 MR. CULLOO: We did that yesterday  
20 anyway. We already agreed to that yesterday.

21 MR. MCGHEE: We didn't vote on it. It  
22 was suggested.

23 MR. FISHER: So --

24 MR. MCGHEE: So the recommendation would  
25 be to strike that and maybe it would address further in

1 the guidance documents that concern.

2 ASSOCIATE COMMISSIONER LITTLE: That  
3 issue.

4 MR. MORGAN: I'm going to reiterate one  
5 more time. Class II card games are played differently  
6 in every jurisdiction based on state regulations. If  
7 you get too specific, even in your guidance document,  
8 that the NIGC says the safe harbor is to do it A and the  
9 state disagrees with you and says it's B, and therefore  
10 it's a Class III game and now you owe me money, you're  
11 going to cause a lot of intended consequences. Be very  
12 careful what you tinker with here, because every  
13 jurisdiction runs cards a little bit differently.

14 I know Rest keeps on saying bad beat. We  
15 specifically stayed away from those types of words  
16 because we didn't want what you named an activity  
17 dictating how you treated the activity. Tread lightly  
18 as you go down that road, would be my advice.

19 MR. MCGHEE: But does removing the rest  
20 of that heading affect that?

21 MR. MORGAN: No, no. You're talking  
22 about going back into the guidance documents and being  
23 more specific and delineating out. We may be having  
24 unintended consequences in jurisdictions that are  
25 running Class II. If you cross that line, the state is



1 going to say you owe me money now.

2 MR. WHEATLEY: But if that goes in the  
3 guidance documents, then that tribe doesn't have to  
4 adopt those particular guidance if it conflicts with  
5 their state law.

6 MR. MORGAN: They don't, but that's the  
7 safe harbor. That's what I worry about. If the NIGC  
8 says if you do it this way you're good and the state  
9 says if you do it that way you're not good, you may put  
10 a tribe in a conundrum. So you have to be very clear on  
11 your guidance about options, that cultured environment,  
12 how do you do it differently.

13 ASSOCIATE COMMISSIONER LITTLE: That's a  
14 good point, Matt.

15 MR. MORGAN: That's the word.

16 MR. FISHER: So we have the change to the  
17 standard in terms of the heading. Do you want to say in  
18 terms of something about don't mess with the guidance to  
19 mess us up or --

20 MS. LASH: Well, why don't you just say  
21 you have to comply with the law of the state and have  
22 that language in there?

23 MR. MORGAN: Please see definition of  
24 Class II again, the same thing we did in bingo. I know  
25 you want to add more to it, you want to do more, but the

1 statute is very specific on what Class II is. And when  
2 you start messing with the statute, you have lots of  
3 unintended consequences.

4 MR. WILSON: Well, is what you're saying,  
5 Matthew, that the -- as I understand what you're saying  
6 is that the particular state's control of that game  
7 overrides whatever NIGC may or may not say?

8 MS. HAMEL: No.

9 ASSOCIATE COMMISSIONER LITTLE: It can't  
10 be in conflict.

11 MR. MORGAN: It can't be in conflict with  
12 what the state does.

13 MR. WILSON: So if it just says that,  
14 then isn't that the issue, that, you know, promotions,  
15 progressive pots and pools, whatever, blah-blah-blah,  
16 but cannot be in conflict with?

17 MR. CALLAGHAN: Your compact addresses  
18 both.

19 MR. WILSON: Yeah.

20 MR. CALLAGHAN: Then would it not be,  
21 under the current decision, because now it's a compact  
22 issue, a quasi Class III, even though it's not, then  
23 would the NIGC be able to come in and audit that?

24 Again, going with Matthew's point, it's a  
25 slippery slope.

1 MR. WEST: Well, most times it's not  
2 covered by a compact, it's Class II.

3 MR. MORGAN: Oklahoma, it's all compact.

4 MR. WEST: I know it's Class III in  
5 Oklahoma. Every state is different.

6 I tend to think that the heading, as  
7 originally proposed, might come in conflict with some of  
8 the jurisdictions that don't allow promotional pots to  
9 be used in contests, tournaments and giveaways. So  
10 that's probably helping with your argument right there.

11 MR. FISHER: Okay, we fixed the heading.  
12 I'm pretty sure when we go around the table, changing  
13 the heading is not going to be a problem. So then the  
14 question is does this capture the note to NIGC about  
15 what the guidance should be, or is there something else  
16 we need to say here?

17 So that's kind of what I hear as we were  
18 going around talking about the guidance.

19 Let's just wait for Matthew and Kathi to  
20 get back here. Let's take a quick short pause here for  
21 a moment.

22 Matt, can you check the screen and see if  
23 that captures it enough? Mostly?

24 MR. MORGAN: (Nods head.)

25 MR. WILSON: I need to ask a question of

1 an advisor back here.

2 MR. FISHER: Let's take a five-minute  
3 pause here for a second and go off the record.

4 (Recess.)

5 MR. FISHER: All right. So I know over  
6 the break, people have been talking about the -- how to  
7 frame the recommendation on the guidance. And so what's  
8 up on the screen are two different variations. And so  
9 I've heard a lot of people say this one should be  
10 changed by taking out that, and so that's what this one  
11 is.

12 So there is the options for you about  
13 which one works or if we need to do something  
14 differently.

15 MS. TAHDOOAHNIPPAH: I like (c).

16 MR. MORGAN: I agree, I like (c).

17 MS. THOMAS: (c).

18 MR. FISHER: Yeah, I kind of figured  
19 people were going to coalesce around (c). Should we  
20 test it or wait for Leo and Daniel to get back?

21 MR. RAMOS: Matthew can speak for Daniel.

22 MS. LASH: He's got two arms. One is  
23 Daniel's.

24 MR. FISHER: So we might as well do both  
25 things at the same time. Let's just get rid of that and

1 then we can do that, which is just to confirm to strike  
2 the heading. Let's see if we can do both things.

3 So if you agree with those two changes,  
4 striking the heading and the note to NIGC as set forth  
5 on the screen, raise your hand.

6 Good. Great. All right. So is that  
7 enough of 543.9(i)?

8 ASSOCIATE COMMISSIONER LITTLE: I think  
9 the last two comparisons of this section were sections  
10 that were deleted. And I just -- probably a quick  
11 understanding of why would be very helpful.

12 MR. WEST: I have a comment on the  
13 (i)(2), at least once a week increases or decreases, if  
14 we're to that point in the standards.

15 MR. FISHER: Say that again, Rest? Where  
16 are you?

17 MR. WEST: It's under promotions, pots  
18 and giveaways. It's number two, at least once a week  
19 increases.

20 MR. FISHER: Okay.

21 MR. MCGHEE: What's the question?

22 MR. WEST: I would just recommend that be  
23 revised, because some readers may interpret the standard  
24 that they only have to update their promotional pots and  
25 pools balances once a week, where it should be any time

1 that they have increases or decreases, at least on a  
2 gaming day. For every gaming day where they have an  
3 increase or decrease, the balance should be updated to  
4 reflect the proper balance.

5 MR. MCGHEE: What you're asking, as far  
6 as being updated, is the same as being verified and  
7 reconciled?

8 MR. WEST: Yeah, yeah. And it's  
9 typically displayed in the card room, the balance of the  
10 promotional pot, or should be.

11 MR. FISHER: Kathi?

12 MS. HAMEL: I think the intent of the  
13 standard was the review and not the daily posting,  
14 because it talks about being verified, supported by  
15 documentation, recorded and reconciled.

16 MR. MCGHEE: Is there anywhere that does  
17 discuss the daily part of it? Maybe in the guidance  
18 documents.

19 MS. HAMEL: Not specifically. I believe  
20 it's in the guidance.

21 MR. WHEATLEY: Regardless, it probably  
22 should still be audited and verified any time there is  
23 an activity.

24 MR. WEST: I mean, that's the only time  
25 you can be accurate, as far as posting.

1 MR. WHEATLEY: Well, I think Matthew had  
2 made mention there may be properties that only operate  
3 those games Thursday through Saturday. So there would  
4 be no need to audit or reconcile on a Monday, Tuesday,  
5 Wednesday. If you put in daily or weekly, then that --

6 MR. MCGHEE: I think it says at least  
7 once a week, meaning if you do it more, then you should  
8 do it more, because it's a minimum regulation here. At  
9 least once a week you should do it. But as a practice,  
10 you should do it every day. But when you put it in  
11 here, you put down the least amount, the minimum. That  
12 doesn't mean you shouldn't do it every day, and not  
13 every day if you don't play it every day. So that's why  
14 it's vague to say at least once a week.

15 MR. FISHER: Matthew?

16 MR. MORGAN: This is what we struggled  
17 with in the group work, whether to define it daily,  
18 weekly, shift because of some of these instances of when  
19 you do it. Because I think everybody agrees with that  
20 concept, you know, when there are changes, increase,  
21 decrease, you do need to verify. It was a matter of how  
22 do you capture that idea at a minimum standard to make  
23 sure that, you know, you're not telling somebody to do  
24 something and confusing them when you didn't have  
25 activity. And that went to being procedurally

1 descriptive of so I'm really going to have to -- you  
2 know, making sure that somebody didn't say, okay, I'm  
3 going to have to go in and do this even a day when that  
4 wasn't touched.

5 MR. WHEATLEY: I think Rest's language  
6 handles that appropriately, if you just say any time  
7 there is an activity.

8 MR. WEST: Again, I'm trying to be an  
9 advocate for the small gaming activities that don't have  
10 the expertise of others in this room that will take this  
11 literally and say we only have to do this once a week.  
12 Of course, the bad beat pot may go up and down. You  
13 want to have the correct amount posted in your card room  
14 or you're going to get into a lot of issues with your  
15 players. I mean, they're the worst people in the world  
16 to deal with, maybe except for the OTD players.

17 MR. MCGHEE: What about at the end of a  
18 gaming day? Because if you just say whenever activity  
19 happens, that means like every hour.

20 MR. FISHER: Right.

21 MR. MCGHEE: That's where the question  
22 came? Is it the end of a shift? Is it the end of the  
23 game? Is it once a day? So if we just say as the  
24 activity occurs, that would be good. But I mean, does  
25 card games operate the same way as like a gaming day, at



1 the end of the gaming day? If you only played three  
2 times that week, you only have to do it three times that  
3 week because it's the end of your gaming day. So just  
4 say at the end of the gaming day.

5 (Simultaneous discussion.)

6 MR. CULLOO: That's not correct, either,  
7 because that's verified by the accounting department,  
8 also. And it should be the start of the next gaming day  
9 where you increase your pot. So it's really the start  
10 of the next gaming day.

11 MR. MCGHEE: So what would you say there?

12 MS. HAMEL: It needs a new standard.

13 MR. CULLOO: Because he's right, the  
14 players will know, they'll come in the next day and say  
15 that pool hasn't increased.

16 MR. WEST: If you're showing \$25,000 on  
17 your bad beat and it gets hit and they say, well, we  
18 haven't reconciled it for a few days, I guarantee you're  
19 going to get some bad --

20 MR. CULLOO: I'm just saying that  
21 typically, I wouldn't allow my poker room manager to do  
22 that. That has to be verified, an amount, by the  
23 accounting account.

24 MR. WEST: It goes to the soft count.

25 MR. MCGHEE: So give us something to put

1 in here to fix it. What should the --

2 MR. CULLOO: Again, another thing is if  
3 your poker room opens before the start of soft count the  
4 next day or doesn't close, that doesn't fit that  
5 standard, either.

6 MR. MORGAN: That's the trouble we had.  
7 Because if you default back to the TGRA says what you  
8 can do at minimum, it's at least a week. I think it's  
9 one of those areas that we probably, my recollection, we  
10 had to compromise on, because how do you capture and fit  
11 every jurisdiction minimum.

12 (Simultaneous discussion.)

13 MR. MCGHEE: I think you could leave  
14 it -- well, you could put it in here and maybe even  
15 leave it like it is, but definitely -- because it says  
16 at least once a week, but in your guidance document you  
17 should explain it out. But if you're playing cards just  
18 a day prior to, you should do this or whatever. Because  
19 like you said, it's going to be different at every  
20 property as how to how they play it.

21 MR. FISHER: Right. So if I'm hearing  
22 this correctly, it's an instance in which there is  
23 agreement about what you need to do. What the tricky  
24 part is is capturing in the language all the different  
25 variations.

1                   And so you might just say either address  
2 those -- you know, figure out a way to change the  
3 language to address the variations at a conceptual  
4 level, or do it through the guidance or through the  
5 regulation and then not try to mess with the language  
6 or --

7                   MR. MCGHEE: Well, if you take out at  
8 least once a week, take that out, and just say increases  
9 and decreases to the promotional pool shall be verified,  
10 and just say shall be done, period, it doesn't say when.  
11 But in your guidance document, when you're explaining  
12 it, you might do it when you would more do it at a  
13 property. But maybe just take out the time frame  
14 altogether so it doesn't say every day or once a week,  
15 it says you have to do it.

16                  MR. CULLOO: I think that's a good  
17 recommendation, actually.

18                  MR. MCGHEE: Just start with increases.

19                  MR. FISHER: And then include in the  
20 guidance document --

21                  MS. HAMEL: A best practice.

22                  MR. FISHER: -- a best practice.

23                  MR. MCGHEE: Yeah, a best practice of how  
24 to do that.

25                  MR. FISHER: Okay. Does that work?

1 MR. CALLAGHAN: The inference drawn, if  
2 you were to take a -- without that being in the guidance  
3 area, the inference drawn from (2) is that 100 percent  
4 of every dollar that goes into that promotional pool is  
5 going to be added to bad beat. If you go any more  
6 specific than that, it's going to go contrary to how  
7 some people practice.

8 So for example, if the house seeded  
9 \$10,000 of bad beat, the determination was they were  
10 going to get that money back before. Incrementally, 50  
11 cents out of every dollar could be going back to repay  
12 the house seeding, or you could have a house that said  
13 administrative cost, I'm going to take ten cents out of  
14 every dollar. So not every whole dollar may necessarily  
15 be going into that bad beat.

16 Again, as I mentioned, I think this is a  
17 more of a revenue audit rather than an operational  
18 audit. Revenue audit needs to go in and tie it to the  
19 cent, to the penny, but let's not get involved in how  
20 it's incremented to the bad beat.

21 MR. MCGHEE: So does (2) work?

22 MR. CALLAGHAN: I support that.

23 MR. MCGHEE: I hope we don't ever get  
24 card games at our place. It sounds way too complicated.

25 Don't put that down now.

1 MR. FISHER: LOL.

2 MR. CULLOO: Daniel McGhee.

3 MR. MCGHEE: LOL, LOL.

4 MR. FISHER: Okay. So let's test these  
5 two changes here. So if you support the changes as  
6 described on the screen, raise your hand.

7 Okay. So I guess that means we probably  
8 took care of all of -- we didn't actually test the rest  
9 of 543(i), but I'm guessing that -- were there other  
10 questions in there?

11 MR. MCGHEE: With the taking out of the  
12 "such as" contest, did we test that?

13 MR. FISHER: We did test that and we're  
14 done. What we didn't kind of test was that stuff.

15 So is there more in 543 in (i) or should  
16 we just test this and get ready to move on to the next  
17 section?

18 ASSOCIATE COMMISSIONER LITTLE: I think  
19 from 15 on in the comparison document there is two  
20 sections that we had just highlighted that were deleted.  
21 And we're pretty confident, these were moved to other  
22 sections?

23 MS. HAMEL: (Nods head.)

24 ASSOCIATE COMMISSIONER LITTLE: So we're  
25 good, we don't need to discuss those.

1 MR. FISHER: Okay. So then let's test  
2 the language that's the rest of 543.9(i). That's the  
3 TGWG version up there. If you support that, raise your  
4 hand.

5 Is that it for card games? There we go.  
6 The whole thing is yellow.

7 ASSOCIATE COMMISSIONER LITTLE: May I  
8 make a suggestion?

9 MR. FISHER: Yes.

10 ASSOCIATE COMMISSIONER LITTLE: I think  
11 we're scheduled to go back into pull tabs. Since we've  
12 been beating up promotions here --

13 MR. MCGHEE: Go to promotions since we're  
14 in that frame of mine.

15 ASSOCIATE COMMISSIONER LITTLE: And then  
16 go back to pull tabs after that.

17 MR. FISHER: Sure. So we're going to  
18 jump on the agenda, we're going to go to 543.10. 543.10  
19 is Tab E, I believe. So it should just follow that  
20 after -- yeah, Tab E in the notebooks.

21 This is a similar issue here. So did  
22 anything we did on the card games discussion about the  
23 progressive pots and pools inform the comment that you  
24 have down here about the implication of this standard  
25 provision? Do you still have a problem with it or not a

1 problem? Does your comment still stand?

2 So I'm looking at the bottom of page one  
3 on the comparison document where it has the NIGC comment  
4 in there.

5 ASSOCIATE COMMISSIONER LITTLE: I think  
6 the comment that we had for this was that the guidance  
7 document needs to be a little clearer.

8 MR. FISHER: So we'll go to Tom and then  
9 Dan. Go ahead, Tom.

10 MR. WILSON: So the second comment, the  
11 effective -- the second comment that NIGC has talks  
12 about the new conclusion of a stand-alone gaming  
13 promotion section implies the standards will apply to  
14 all promotions provided by a gaming operation. That was  
15 the intent, is it not?

16 MS. HAMEL: If the funds come from the  
17 gaming operations that fund the promotion. So you have  
18 control.

19 MR. MCGHEE: I know there was a lot of  
20 discussion during the meeting, because, if I understand  
21 it right, there was nothing that addressed how to handle  
22 all the promotions that were happening at casinos on the  
23 floor, whether it be a giveaway or drawing or whatever.  
24 And it came back to if you have a promotion or drawing  
25 or anything and it's not done right or people are

1 cheating or whatever, that it affects the integrity of  
2 the gaming establishment. And there was nothing in  
3 place for commissions to even say, hey, we should  
4 have -- we need to regulate that kind of activity. And  
5 a lot of -- most of the commissions were doing it, but  
6 they had nothing backing it up.

7 So that's why a section was mentioned,  
8 because our thinking was that we would get a promotion  
9 and we would read it to make sure certain rules were in  
10 there about how you're going to do this drawing and how  
11 you're going to do that, but if they ever wanted to say  
12 you don't have the authority, it needed to be addressed,  
13 because there were so many promotions happening. We get  
14 like three a month.

15 So we wanted something in the standards  
16 to address that hey, promotions need to be regulated  
17 and, you know, if you're going to have a drum even, is  
18 it under security? Is it surveillance? Who is drawing  
19 it? Are you drawing it with a family member? Those  
20 would be your guidance. Obviously, it needed to be  
21 addressed. That's why it's put in here. So it's just  
22 promotion by the gaming establishment.

23 MR. MORGAN: This was a contentious  
24 discussion at the work group, because there are people  
25 within the group that took the view that NIGC, you have



1 very limited authority and your limitations only extend  
2 to gaming funds, not everything that happens within the  
3 casino is in your purview. While it may be in the  
4 TGRA's purview, it's not within your purview, and these  
5 are federal minimum standards. There are other folks  
6 that took the view if it's happening in the gaming  
7 facility, no matter what, I would like rules to address  
8 it.

9 What you see there may -- it may shift  
10 back and forth because, again, we had different elements  
11 in the argument. But we did define what gaming  
12 promotion was. It is in the definitions, what is a  
13 gaming promotion.

14 Gaming promotions is a type of marketing  
15 activity conducted by a gaming operation which includes  
16 two but not all three of the following elements: Prize,  
17 chance, consideration. If you have all three, it  
18 becomes a game, yes, sir.

19 MR. MCGHEE: And there was a lot of legal  
20 discussion about that I remember, but I know I  
21 definitely -- from our point of view, gaming -- I mean,  
22 if -- if a promotion is done, you know what I mean? And  
23 it's some form of gaming, is it not?

24 I don't know. I just know that I think  
25 from a Commission standpoint, that if your job is to

1 protect the integrity of the gaming establishment and  
2 you're holding promotions and you make sure all your  
3 gaming machines and your card games are done fairly and  
4 everything is done fairly but then you hold promotions  
5 that aren't accountable to anybody and they're just done  
6 however you want to, then no matter how well you do  
7 your card games and things you're still going to have --  
8 your integrity is still going to be shot because you  
9 cheat on that.

10 And I feel like that's always held on the  
11 gaming floor, it's held with gaming funds, it's all  
12 relating to gaming, it's to promote gaming. So that's  
13 why I think it belongs in the regs somewhere.

14 MR. CULLOO: The comment I would make on  
15 that, in our environment, where I'm at, we have a patron  
16 dispute provision, where the patron can go to the  
17 regulatory authority and initiate an investigation.

18 My problem is when people start using  
19 words like "fair," who defines fair? If I'm in a small  
20 facility and my players club personnel is a tribal  
21 member and they draw -- and they're just drawing a name  
22 out and their relatives play the game and it's all on  
23 the up-and-up and they pull out a family member, is that  
24 a fair promotion? Is there anything wrong with that?

25 MR. MCGHEE: Well, see, when it's listed

1 here, it's listed -- if you just look at it, it says  
2 there has to be rules. So your TGRA would decide the  
3 rules of your promotion.

4 MR. CULLOO: I think the operations  
5 should determine rules and submit them for review. But  
6 again, you made a comment personally that if you drew a  
7 family -- a family member drew another family member's  
8 name.

9 MR. MCGHEE: As an example.

10 MR. CULLOO: But as an example, what if  
11 that fact does occur? Would the rules state, in your  
12 vision, that that can't happen?

13 MR. MCGHEE: No. If it were me at my  
14 establishment, if you were going to allow that to  
15 happen, what are your rules behind that to make sure  
16 it's not questionable.

17 (Simultaneous discussion.)

18 MR. CULLOO: So in other words, the  
19 drawing is on the camera.

20 MR. MCGHEE: Even though they drew out  
21 their sister --

22 MR. FISHER: Wait, wait. Sorry, you have  
23 to have one person at a time.

24 MS. TAHDOOAHNIPPAH: Your direct family  
25 members cannot participate in those kind of promotions.

1 They specifically state those kind of things.

2 MR. MCGHEE: And if ours didn't, I would  
3 just need to know as the TGRA. So if I got a complaint,  
4 I can just say, well, maybe he drew out his sister but I  
5 can assure you that because of the standards and  
6 everything that was in place that it was coincidence,  
7 that he did not cheat, it was done fair, because we have  
8 standards in place to prevent cheaters.

9 MR. CULLOO: At our facility, most of our  
10 club members and a lot of our gamblers are tribal  
11 members. There is no way to come up with a standard  
12 like that. But a regulatory authority could say, well,  
13 I think, like you, that's a reasonable rule to have,  
14 that tribal members -- family members can't win a  
15 drawing. Well, how could I possibly, as an operator,  
16 put that standard in place in my specific circumstance?  
17 I can't do it.

18 MR. WHEATLEY: We define it as immediate  
19 family member and then we define what an immediate  
20 family is.

21 MR. CULLOO: But again, even immediate,  
22 I've got some tribal members that are really strong  
23 players. And why should I punish them? Because, again,  
24 the role of our casino, also, is to provide tribal  
25 employment.

1 MR. WHEATLEY: Our definition of  
2 immediate is very narrow as in under the same roof.

3 MR. CULLOO: But again, I could tell you  
4 I could have a son or a daughter --

5 MR. MCGHEE: But that's all subject -- I  
6 mean, as far as the regulation, it doesn't prevent or  
7 make you do anything. All it says is you have to have  
8 rules, you have to have the accounting for the promotion  
9 to make sure it's tracked, the money you're giving away  
10 or whatever, and then it says TGRA approval, whatever  
11 that be, meaning if they allow immediate family or don't  
12 allow immediate family or whatever.

13 There is only three things it does in  
14 this standard. It says you have to have rules, you have  
15 to account for the money, and your TGRA needs to approve  
16 it. So it doesn't get into the details of it must have  
17 a camera, it must have this. It just says make sure  
18 it's all done on a level they're comfortable with to  
19 ensure the integrity of the facility.

20 MR. CULLOO: So I understand the  
21 operations are going to write the rules, but I also know  
22 when they're submitted, I could have a commissioner say  
23 I don't like that rule. And operationally, it's a bad  
24 decision on their part.

25 MR. FISHER: Matthew?

1           MR. MORGAN: You all's discussion kind of  
2 gets into my point, is why it's very important sometimes  
3 that we keep in mind that these are going to be federal  
4 minimum rules that go out in the country. And  
5 sometimes, you know, especially in the standard, we're  
6 not talking about what's best practice, we're not even  
7 talking about what each individual jurisdiction does  
8 either operational or regulatory, we're saying  
9 generally, as a federal minimum rule, what should you  
10 have in gaming promotions.

11           Now, then we'll provide a guidance  
12 document, hopefully NIGC will have a guidance document  
13 saying this is one way to do it, if you do it this way  
14 we're okay with it. But even down further down at a  
15 local level, there are a lot of controls that we get  
16 into. And I think that was a discussion we got into  
17 yesterday. A lot of times when we publish these the way  
18 the commission is set up, it's they're not a minimum,  
19 this is a rule now.

20           So hopefully this is broad enough. You  
21 know, so it tells you three things you have to do; you  
22 have to have the rules and you have to account for the  
23 money and you have to have TGRA approval. Then, you  
24 know, the inference in what you're telling local  
25 jurisdictions is you need to go out and flesh out how

1 you do that, what are those rules, if you have specific  
2 prohibitions on who can participate. But you do need  
3 some controls around gaming promotions at a federal --  
4 at a federal level minimally.

5 MR. WILSON: I can tell you that we do  
6 lots of promotions. And under our compacts, we're  
7 required to approve. But to Leo's point, what does TGRA  
8 approval mean? In my perspective, it just means I'm  
9 approving not that you're having a promotion but that  
10 you're -- you have rules in place and that it's --  
11 everything is properly accounted for.

12 I will tell you, however, that that,  
13 depending on the TGRA, that can be -- this wording could  
14 be perceived that we -- you know, the TGRA actually has  
15 to approve the promotion, the business aspect of it,  
16 which is not what the intent is.

17 So I recognize your concern, because we  
18 deal with that issue. And we're very careful to ensure  
19 that we are not -- we are not approving the promotion in  
20 terms of whether it's a good idea to give away a great  
21 prize or not, we're merely making sure that there is  
22 rules in place and that there is accounting for the  
23 dollars expended on the promotion.

24 So to me, this says what it's supposed to  
25 say. But I think the term, the TGRA approval, because

1 words have meaning, can get misconstrued as to what is  
2 it that we're asking the TGRA to approve. Are we asking  
3 them to approve the actual that you can have a  
4 promotion, or are we asking the TGRA that they're just  
5 approving the rules? And so inherent with this approval  
6 comes, well, at what point is the TGRA overstepping  
7 operationally into a promotion as opposed to just the  
8 purpose of what is that approval.

9 So I guess what I'm saying is I think  
10 that there is a valid concern that with the term TGRA  
11 approval, what really are they approving. Because I  
12 have been down this very road. Well, you're approving  
13 the promotion. Well, no, we're not really approving the  
14 promotion, we're just approving the rules, if you will.

15 So this is a problematic area, in my  
16 mind.

17 MR. MCGHEE: We look at it -- when we  
18 look at it, we only look at the rules or the controls  
19 around the promotion, not the promotion. Because you'll  
20 get it all the time, well, like that's a stupid rule.  
21 You can't really do anything about it. That's your job.  
22 You know what I mean?

23 MR. CULLOO: But his point, someone can  
24 interpret it as saying we're approving the promotion.

25 MR. MCGHEE: What I'm thinking of, where



1 it says controls must be established in a manner to  
2 design, blank, blank, blank, blank, and then (3) is to  
3 not -- is to include but not be limited to TGRA  
4 approval, maybe you could just add TGRA approval of  
5 controls. Because the only thing we should be looking  
6 at as TGRA is the controls designed to  
7 prevent unauthorized access, cheating, misappropriation  
8 forgery, theft or fraud. So it limits the TGRA to say  
9 are you only looking at those things, not should I give  
10 away sundaes or should I give away watches.

11 MS. TAHDOOAHNIPPAH: There are also  
12 applicable laws or regulations if you have established  
13 controls already, like are they in line with your  
14 established, you know, controls, internal controls,  
15 system of internal controls.

16 MR. MCGHEE: The problem is to try to  
17 alleviate his concern.

18 MR. MORGAN: I agree with you. There are  
19 certain jurisdictions where there -- I will say this.  
20 Generally, you know, there is an antagonistic view, at  
21 least we see some internal struggle between operators  
22 and regulators. Every property everywhere, operators  
23 say regulators, you infringe too much, regulators say,  
24 you're going too far. That's just naturally the way  
25 it's set up, that's the dynamic. At each individual

1 jurisdiction, sometimes that dynamic is more prominent  
2 than other jurisdictions. That's just inherent.

3 If you try to address that and you say  
4 only controls, what you're doing is you're telling the  
5 NIGC what the local gaming commission can do and can't  
6 do. You can't go into that type of detail at a federal  
7 level. Whatever best practices is is something  
8 different.

9 And to address Tom's on the TGRA  
10 approval, in the guidance documents, we do put in there  
11 that TGRAs may find it's most efficient to approve  
12 promotions by type or template and review these things  
13 within it. So we kind of tell them what we think you  
14 should be looking at.

15 MR. CULLOO: Where are you looking at?

16 MR. MORGAN: The guidance document on  
17 (g).

18 Again, that's guidance. If your TGRA  
19 says I'm going to approve every one of them, and going  
20 back to risk, and that risk is too much there, that is  
21 their prerogative if that is how their statute is set up  
22 and they have that authority. Whether the operation  
23 agrees or disagrees is something different.

24 MR. CULLOO: But why would you not say  
25 approve the gaming promotional rules and not the program

1     itself? Not the actual promotion, but approve the  
2     rules.

3                   MR. MORGAN: Because NIGC has the ability  
4     to approve your gaming ordinance, which the tribal  
5     government, as a sovereign government, sets up, whoever  
6     has that authority. For them to come back in by  
7     regulation and try to dictate what the authority of the  
8     TGRA is through a regulation is illegal. You cannot  
9     limit those in that way.

10                   Their job is to pass judgment on the  
11     ordinance. The tribal government then makes that  
12     decision who has that authority. In some places, it may  
13     not be the TGRA. That's the tribal government's  
14     prerogative as a sovereign government. And some of  
15     those things are just -- they are different at the local  
16     level, and some of those things you have to work out.

17                   MR. CULLOO: Well, this isn't about  
18     conflict between TGRA and operations, it's about  
19     understanding things they're not always trained to  
20     understand, particularly when you start going into  
21     calculations on how you get things, how you issue  
22     things. It's not always that sense of they understand  
23     how a promotion works. You can look at the rules and  
24     say I don't think that's fair, and that's one thing, but  
25     when you take the base of the program, the promotion

1 sometimes, the understanding is just not there to make  
2 an evaluation whether it is, quote unquote, fair or not.

3 MR. MCGHEE: Well, and I think the intent  
4 of this is not for TGRA to even approve your rules or  
5 your promotion so much as it is, even though you don't  
6 want to say it, is the control. Your rules are not  
7 going to say where your drum should be and how many  
8 observers you should have. That's not going to be in  
9 your rules every time.

10 But as a TGRA, what I'm going to approve  
11 are a list of controls that I think you should have in  
12 place wherever you're going to have a drawing that  
13 involves a drum. If you're going to have a drawing that  
14 involves an automatic whatever, here are the controls  
15 that have to be in place.

16 And when I get your promotion, I'm not  
17 going to look at the rules, I'm just going to make sure  
18 it met the controls that are already in place. You know  
19 what I mean? And if I say no, then your job would be to  
20 show me where I'm inadequate on the controls that you  
21 said we had to follow. You know what I mean?

22 MR. CULLOO: So with that thought, you go  
23 to what it says under gaming promotions, why could it  
24 just not end at fraud and such controls and all that  
25 stuff be included in the guidance document? Why do you

1 have to put that there? Why can't it be in the guidance  
2 document?

3 MR. MORGAN: That was minimally you have  
4 to cover these three things, minimally. And how your  
5 local TGRA interprets approval of what and where is the  
6 prerogative of your local TGRA and what authority the  
7 tribe has given it.

8 MR. FISHER: Tom?

9 MR. WILSON: You know, Matt, that point,  
10 as I'm looking at this, I'm not sure that the TGRA  
11 approval should be in the standard, because my tribe may  
12 say that, as part of our ordinance, that we have to  
13 approve promotions, but some other tribe may say, well,  
14 the TGRA doesn't have to approve the promotions, you  
15 know, somebody else does. And you mention that it may  
16 not be the TGRA that approves the promotion.

17 I mean, the risk is that there is no  
18 rules and there is no accounting for promotion. That's  
19 what the standard is trying to address. But who  
20 approves it, in my mind, is -- to be regulated at the  
21 federal level, to say that the TGRA has to be the one to  
22 approve it, I can tell you that wording, that TGRA  
23 approval, brings in all kinds of debate and argument at  
24 the tribal level, because it becomes a thing about,  
25 well, the MICS say that the TGRA has to approve it. And

1 is that really the intent or is the intent that you have  
2 to have rules and you have to have accounting?

3 Now, if, locally, through your ordinance  
4 or through local regulation, you want to adopt that it's  
5 the TGRA who should approve that, then certainly you can  
6 do that. But I'm just not sure that in this case at the  
7 federal level mandating that the TGRA has to be the one  
8 to approve it for promotions is necessarily -- makes the  
9 most sense.

10 MR. MAGEE: Tom, under the heading gaming  
11 promotions. If it was a promotion other than gaming, I  
12 would probably agree. However, the heading has gaming  
13 promotions. So therefore, it does follow under the  
14 tribal regulator's purview.

15 MR. WILSON: But that is decided at  
16 the -- you know, from your tribe, because a tribe may  
17 have something else that approves that. And my concern  
18 is that that word "approval" -- and I don't mean to keep  
19 harping on this, but I have had this same discussion  
20 over and over and over when there is a word like this  
21 that talks about that TGRA has to approve it.

22 And unfortunately, you know, Daniel, I  
23 hear too much about, well, the intent was and the intent  
24 is. And that is just the kind of ambiguity that we get  
25 into when we start talking about, well, what was the

1 intent of the word "approval"? Well, at my property it  
2 means this. Well, at my property it means that.

3 If that's where the approval should be  
4 decided, then it should be at that level, and I don't  
5 feel like it should be something that should be mandated  
6 at the federal level.

7 MR. MORGAN: If you look back at TGRA and  
8 how it's defined, it's defined by whoever the tribe  
9 designates has authority. So it doesn't necessarily  
10 have to be your gaming commission, they can say the  
11 business council can approve this or promotions staff.

12 So we defined it broadly. It is made to  
13 be set up to give you that flexibility. So whatever you  
14 deem appropriate is approval at your place, whoever has  
15 the unit, is the approval. If you want to say every hot  
16 seat drawing is approved as long as you follow this  
17 template, that's approval. If you say every approval  
18 you want to have is hereby deemed approved until next  
19 year, that's your prerogative.

20 MR. FISHER: So we got --

21 MR. WILSON: Why does the approval have  
22 to be federal level?

23 MR. MORGAN: Because the document is set  
24 up to give -- in Class II, the primary regulator is the  
25 tribe. And that gives the authority to the tribe to

1 make those decisions. They're just recognizing that's  
2 where the primary authority is.

3 MR. FISHER: So we've got Jeff and then  
4 Brian and then Daniel.

5 MR. WHEATLEY: I would argue that the  
6 approval is for the controls of the promotion and not  
7 the promotion itself. That's what it says right there,  
8 such controls must include but not be limited to  
9 following TGRA approval. We're not saying that TGRA has  
10 to approve the promotion or the overall payback  
11 percentage or the odds of the promotion, they have to  
12 approve the controls of the promotion.

13 MR. FISHER: Brian?

14 MR. CALLAGHAN: Similar to the argument  
15 you presented on the card games and it could be in  
16 conflict with state laws, these aren't gaming  
17 promotions, these are marketing promotions.

18 MR. MORGAN: I was going to go there.

19 MR. CALLAGHAN: If you want to call it a  
20 gaming promotion, then maybe it could be construed in a  
21 certain jurisdiction that this is, in fact, a lottery,  
22 or are we getting involved in something that we're  
23 not -- this is purely a marketing promotion because  
24 you're drawing patrons in. And that's where you could  
25 split the fine hair, why are you drawing the patrons in.



1 So the heading there, to me, it's too much of a  
2 challenge.

3 Now, what I agree with is certain  
4 promotions are cash or cash-like events. For instance,  
5 the barrel draws, they need to be taken into revenue  
6 audit and accounted for, the total number, what went  
7 into the drum, what came out of the drum, and how they  
8 went into the drum and all that. I agree with that.

9 So I think what you're trying to do is,  
10 one, support your brothers and sisters in the TGRAs in  
11 saying that you've got this authority over these things.  
12 You know, fortunately or unfortunately, even if you put  
13 it in there, that may not get it. But to me, the  
14 marketing promotion is a business decision. I take a  
15 look at it from a fraud perspective and how we can  
16 mitigate that.

17 So I don't know how we re-style this.

18 MR. FISHER: So we've got Daniel and then  
19 back to Matthew.

20 MR. MCGHEE: I get the point you're  
21 making. I think if you take it out of here, it's  
22 inherent anyway in the whole document.

23 MR. FISHER: What is?

24 MR. MCGHEE: That the TGRA can have  
25 approval of promotions, if they want. Because if you

1 put it in the controls and your standards that I pass at  
2 the local level and I say TGRA approval there, then it's  
3 going to exist.

4 So I'm not opposed to it being there or  
5 not being there, because whether it's there or not, it's  
6 still there. You know what I mean? So it doesn't have  
7 to be listed.

8 Yeah, what I'm going to do at my place is  
9 I'm going to make sure it meets the controls. And then  
10 if I put in my standards that we pass at the local level  
11 that I have to sign off on it or the commission does,  
12 then we will. If they don't want me to sign off on it  
13 or they want me to review it, we go that way.

14 I'm okay with it not being there, TGRA  
15 approval, because it can be -- I would say hate to be in  
16 a situation if you did have a commission that said look,  
17 it just says we just have to approve the promotion, and  
18 I don't like it. You know what I mean?

19 So to keep it from being misinterpreted,  
20 then, you know, strike it, because I think I have that  
21 authority either way or can have that authority, if my  
22 commission agrees with it.

23 MR. FISHER: Matthew, then Tom.

24 MR. MORGAN: I'll agree with you a little  
25 bit, Daniel, on whether it's there or not. This was a

1 little bit supported -- I agree with what you were  
2 saying, Brian, to help TGRAs clearly recognize they have  
3 that authority. And some of this, if you're having  
4 local issues, back to training and technical assistance,  
5 on where you should be looking from an agency, that's  
6 probably helpful.

7 The other point that I'm going to bring  
8 up, along with Brian, we had our conflict on what's a  
9 marketing promotion and what's a gaming promotion. If  
10 you read the definition of this gaming promotion, we are  
11 going outside of probably what authority NIGC has,  
12 because it's a question of when do you cross that line,  
13 when does -- when does that money circulate enough where  
14 it's de-identified, you know, when does it become a  
15 gaming activity, when is it a marketing activity.

16 The way it currently reads, I agree with  
17 you, we have given broad authority here at a federal  
18 level to NIGC, which personally I would question whether  
19 they actually have that statutory ability to look at.

20 The worry is within your gaming  
21 operations at a local level, a lot of TGRAs say yes,  
22 it's something I should be concerned with. I always  
23 tell them I agree, you should be concerned with it at  
24 your level. The question is is that dictated from a  
25 federal level or is that a local issue that you go into

1 as expanded beyond, because you get into that regulatory  
2 versus business decision; who has that authority, what  
3 type of promotion is it or is it not.

4 So I did want to bring that up to the  
5 group to make sure -- like I said, it was a contentious  
6 subject. You had people, and I think Daniel holds that  
7 thought, it's in the gaming facility, operations does  
8 it, it needs to be covered. There was just as many  
9 people on the other side that said no, you need to be  
10 clear. Where is that money generated from, what type of  
11 promotion is that. And it's outside of this small box,  
12 NIGC does not have that authority to be dictating rules  
13 over those type of marketing promotions, because that's  
14 only marketing, and therefore is outside their  
15 jurisdiction.

16 MR. FISHER: Tom?

17 MR. WILSON: I think that, you know, the  
18 concern is -- and I know in our state, our section on  
19 promotions in the compact is one little paragraph. And  
20 the primary role that we're supposed to play is to  
21 ensure that a promotion is not otherwise a lottery,  
22 because lotteries are regulated and promotions are not,  
23 per se.

24 I think, actually -- you know, I'm in  
25 agreement with Brian. And I think what NIGC in their

1 comment is saying is that this probably shouldn't be in  
2 there, either, that promotions are unique, different  
3 from property to property. And my feeling is that if a  
4 particular tribe feels like they need to regulate  
5 promotions at a certain level, then that tribe can pass  
6 a regulation to say, for our tribe, here is what we  
7 think promotions have to meet or not meet.

8 But I'm just concerned that when you talk  
9 about promotions, that's such a wide variety. And like  
10 I say, at our property, we have hundreds of promotions  
11 going on throughout the year.

12 The idea that there would be federal  
13 intervention into a promotion, I can say, you know,  
14 absolutely, right now, that I could not vote in favor,  
15 in representing my tribe, to have that level of  
16 intervention.

17 So I think for my tribe, the NIGC, if I  
18 understand your comment, is that why is this even in  
19 here at all.

20 MR. WEST: No. I mean, I think it needs  
21 to be in there. I think promotions, contests,  
22 tournaments are a frequent form of abuse. I think there  
23 needs to be some wording in the MICS for that and some  
24 standards in the MICS and some guidance in the MICS.

25 MR. CALLAGHAN: I also believe that there

1 is people stealing towels. This is marketing, it's not  
2 gaming. I can't support, will not support.

3 MR. MCGHEE: But you're talking about,  
4 okay, stealing towels is one thing, but as far as when  
5 you're talking about the way in which you conduct a  
6 game, whether it be called a promotion or whatever, if  
7 I've entered into something, I played for something, my  
8 name was put into this barrel because I played so much  
9 money here, I want to know that it's being done fairly  
10 or it's being done with rules and it's not been cheated,  
11 because most of the time the promotions are because I  
12 got so many points because I played so much money.

13 MR. CALLAGHAN: Then it becomes a  
14 criminal matter.

15 (Simultaneous discussion.)

16 MR. FISHER: We need to have one person  
17 talking at a time.

18 MR. CULLOO: I think what we're not  
19 stating here is our guests and patrons are the better  
20 reviewer of our promotions and rules than anyone in this  
21 room, because they're certainly going to let us know  
22 when these things aren't fair. Believe me, we get  
23 comment cards; I don't think the rules would be should  
24 this, I don't think the rules should be that way.

25 So I would destroy my business -- I

1 understand what you're saying, Rest, that there are some  
2 that don't do it right, but is that lack of just not  
3 knowing how to design a promotion or is that outright  
4 fraud? And my guests know what's fair and what's not  
5 fair and let me know.

6 For me to even think about running a  
7 promotion without clearly posted rules explaining that,  
8 that would kill my business, my guests would just leave,  
9 because we do a lot of promotions, like you, we do  
10 hundreds of them.

11 So I think the market is going to  
12 determine that more than this. I'm not going to support  
13 this, either.

14 MR. MCGHEE: They can do that for gaming  
15 machines, too. They're going to know if the gaming  
16 machine is not working right. So should we not have  
17 regs because we're just going to wait for the customer  
18 to tell us that's not working right? You could have the  
19 same argument.

20 MR. FISHER: Matthew and John.

21 MR. MORGAN: To me, Daniel, there is a  
22 clear difference between gaming related and marketing.  
23 What the Tribal Gaming Work Group did is they did not  
24 really delineate between the two because of how you  
25 define gaming promotion.

1           You know, we inherently said we're taking  
2     in a non-gaming related market. And that's the question  
3     that goes back to it's not that it's not a good idea to  
4     do it, but does NIGC have the ability to enforce that  
5     rule through a regulation? Because you get to the  
6     slippery slope when you get to (inaudible) real quickly,  
7     do you have that authority under IGRA to go in and not  
8     only promulgate that regulation but to enforce that  
9     regulation if something goes wrong.

10           This may be better served in a bulletin  
11     from them to say hey, guys, this is a good idea to do,  
12     this is a best practice, what bulletins are intended  
13     for, guidance, and we think you should be doing it.  
14     Because in my experience, 99.5 percent of the  
15     jurisdictions, when NIGC issues a bulletin, follows it.  
16     Those five percent that don't may or may not follow it  
17     as a regulation anyway.

18           And that's where I think I'm in agreement  
19     with Brian and Leo and these guys, that to give you  
20     authority you don't have invites somebody to come in and  
21     challenge this. And I am not prepared to support it if  
22     I think we're setting up for a challenge right off the  
23     bat.

24           If you want to somehow go in and  
25     delineate between what is gaming and what is marketing,



1 that's a different discussion. But as written, that  
2 delineation needs to be made or it needs to come out.  
3 Because to have the NIGC come in and look at my  
4 marketing promotions, no matter what I want to do at a  
5 local level as the commissioner, is very different when  
6 these guys come in and say you're violating a federal  
7 regulation, i.e. law, and I am going to bring an  
8 enforcement action on you for violating this. That's --

9 MR. MCGHEE: But we have rules against  
10 comps, too. And that's -- there's federal rules against  
11 comps. And that's not for regular gaming activities,  
12 but it's related to gaming and it's related to gaming  
13 money and how it's done and the appearance of  
14 impropriety. There is rules and controls about that.

15 So when you're doing something like  
16 promotions, there is the -- there can be the appearance  
17 of impropriety. So we put rules in place for that. So  
18 if that's the argument, why do we have rules for comps  
19 or anything else?

20 MR. FISHER: So let's go to John and then  
21 Tom.

22 MR. MAGEE: Well, I kind of agree with  
23 Daniel on this. It seems like there has to be some sort  
24 of rules covering gaming promotions or marketing  
25 promotions.

1           You know, generally, all our gaming --  
2 marketing revenue comes from the gaming. The marketing  
3 supports the gaming floor. It's a drive gaming  
4 business. And to say that -- I think all it's just  
5 saying is you're trying to limit the fraud and theft  
6 that happens in promotions.

7           And Leo's point was, well, the players  
8 are the best ones to determine whether a promotion is  
9 being fair enough. Well, in our end, from my  
10 standpoint, the players or the patrons are the ones who  
11 are cheating and frauding the most, you know. That's  
12 what you're trying to protect. You're trying to protect  
13 the game so that the promotion is played fairly.

14           I'm not exactly buying Matthew's argument  
15 that NIGC is going to step in and start auditing our  
16 promotions and our marketing. I don't read that, I  
17 don't get that from this. But I do believe that there  
18 should be some sort of rules governing this.

19           MR. MORGAN: Federal or tribal? That's  
20 my question, federal or tribal.

21           MR. MAGEE: I firmly believe that there  
22 should be some sort of reference in the federal level  
23 saying, hey, you need to have some sort of rules in  
24 place.

25           MR. FISHER: So let's go to Tom.

1           MR. WILSON: So just fundamentally, in my  
2 TGO, my tribal ordinance, we have the authority to  
3 promulgate regulations at the tribal level. I don't  
4 know if everybody's ordinance allows that or not. And I  
5 mean, certainly if -- if there are tribes that do not  
6 allow that in their ordinance, then this could be  
7 problematic, I suppose, from that standpoint.

8           But it seems to me that if we talk about  
9 sovereignty, then this is a fundamental issue that -- I  
10 don't need the Federal Government telling me that I need  
11 to regulate promotions, per se. I'm not disagreeing,  
12 myself, that there don't need to be controls about that,  
13 but I have a mechanism to achieve that, you know,  
14 currently.

15           So I'm not understanding -- my concern is  
16 that I know that if this written the way that it is and  
17 the way that it's in here it will open up a door,  
18 potentially, for promotions now to come under the  
19 auspices of NIGC. And we have an issue with the state  
20 about that, as well, about the fact that -- and this is  
21 why in our compact promotions there is just this tiny  
22 little thing, because the real concern has to do with  
23 lotteries versus promotions, because that has a very  
24 distinct legal implication to it.

25           But I guess what I'm not getting is why

1 this -- in this particular case, we're so adamant that  
2 it -- that it has to be at the federal level dealing  
3 with promotions that are predominantly marketing and  
4 not gaming in nature. When I say "not gaming in  
5 nature," if it were a lottery, then that's a gaming  
6 activity. But generally, promotions are -- can be very  
7 broad. And it just seems to me that that could be  
8 regulated at the local level and not at the federal  
9 level.

10 MR. FISHER: Leo?

11 MR. CULLOO: I just want to be clear on  
12 something. When I said about the guest, I'm not  
13 saying -- they don't control the controls. Some of the  
14 rules they may comment on, that's what I meant, if they  
15 felt the rules are unfair, not the controls. Because  
16 you're right, the guests are more likely to manipulate a  
17 promotion than any employee.

18 But again, I think it's important to  
19 reemphasize that I don't think that has a place here. I  
20 think locally, it's in the best interest of the tribe to  
21 establish rules on that. But I think that should be  
22 done at the local level, not at the federal level. I  
23 just don't think it's appropriate.

24 ASSOCIATE COMMISSIONER LITTLE: So what  
25 I'm hearing, there is some different opinions. And you

1 know, I listened to Brian, Tom and Matt, and I can agree  
2 with a lot of what you say. And then I can also listen  
3 to John and Leo and Dan. Leo is kind of in the middle  
4 of there sometimes, but I can agree with a lot of what  
5 you're saying. So this area might be where we just  
6 don't have a consensus on it. I understand that. There  
7 was a couple of points I just want to be clear about.

8           So in this document, the TGRA approval, I  
9 actually think the guidance documents do a pretty good  
10 job of providing that this is just for approval of the  
11 aspects of the promotion, not the business decision of  
12 the promotion. Am I clear on that?

13           MR. MAGEE: Right.

14           ASSOCIATE COMMISSIONER LITTLE: Really  
15 our only -- outside of this question that we kind of  
16 talked a little bit about, and I feel like this might be  
17 something that you guys all want to handle, was the  
18 accounting. And we actually think we probably should  
19 wait until we get to the accounting section to raise  
20 that. So we think it probably is something that NIGC  
21 will want to look at, but it sounds like there is not a  
22 clear consensus here, and we'll take that into  
23 consideration.

24           MR. FISHER: So maybe before you conclude  
25 that we can't get consensus, maybe there is something

1 that we need to have some additional either off-line  
2 discussions about how you might address this or --  
3 because it sounds like the issues that have arisen in  
4 the context of this discussion are similar issues that  
5 arose in the TGWG discussions. And you found the  
6 balance in this, to a certain extent, and so now those  
7 issues are back, in terms of questioning the way you've  
8 proposed to do it and even the inclusion of anything in  
9 here in the first place.

10 So maybe what we should do is set up a  
11 small group that continues this discussion, or we can  
12 keep going with the full group.

13 Go ahead, Matthew.

14 MR. MORGAN: Going back to procedures, I  
15 do think we -- you know, if not consensus, at some point  
16 you may want a vote just so you're clear on what -- how  
17 the group is divided. But this issue will come up  
18 again. We do get to comps, Daniel brought that up. But  
19 that's another area where this same type of discussion  
20 came up of not a best practice, not a good idea, just at  
21 what level is it appropriate -- who gets the ability to  
22 write the rule and enforce the rule. Is that a federal  
23 responsibility or is that a tribal responsibility? And  
24 I mean, it's the same discussion that will come up in  
25 comps.

1 MR. FISHER: Okay. So the question of  
2 the group is are we at a point where, because of the  
3 previous discussions and everything that's been said  
4 here, where -- that you want to test for consensus, and  
5 if you don't have it then we move into the kind of  
6 description of why there is no consensus, or do you want  
7 to see if you can work towards finding something that  
8 you can reach consensus on? So which way do you want to  
9 go?

10 Daniel?

11 MR. MCGHEE: Well, it would be different  
12 if we were talking about a one-word thing, but what we  
13 have is people either want it in or people don't want it  
14 in. And you may not be able to come to some compromise  
15 on that, because it's either all or nothing. It can't  
16 be that if we take away TGRA approval, will that make  
17 people happy, because the issue is in or not in.

18 So I don't know if consensus can be  
19 reached, because there is no compromise between in and  
20 out.

21 MR. FISHER: That's true. So do you want  
22 to work on it or do you want to just conclude that  
23 you're not going to get there?

24 MR. WILSON: I want to go on record  
25 voting whether this is in or out.

1 MR. FISHER: In or out. Okay. So  
2 let's -- before we do that, Rest has got his hand up.

3 MR. WEST: To me, the question is -- and  
4 I think part of the problem is the definition, is it  
5 saying gaming promotion is marketing, it's a type of  
6 gaming activity or something like.

7 It seems like you should have marketing  
8 activities over here and gaming promotions over here and  
9 there should be a line. If I'm sitting at a slot  
10 machine and I'm pulling the handle, there is a hot seat  
11 program going on, but I've got to be gaming to be  
12 eligible for that. That appears to be something that  
13 needs to be addressed, versus, you know, strict  
14 marketing where you've got a drum and -- I mean, there  
15 seems to be, to me, a difference between the two.

16 And what I'm hearing is Matthew thinks  
17 that if you're sitting in a slot machine and a hot seat  
18 promotion is going or something that maybe that's under  
19 the NIGC's authority, whereas a strict marketing  
20 activity may not be. So I'll leave this to Mike Hoenig.

21 MR. MCGHEE: I think it comes under the  
22 definition of two but not three elements. Because I  
23 think that was discussed, and that's where it came from,  
24 where it had to have two of these elements to make it a  
25 gaming type of activity.



1 MR. WEST: But if you read it, it says  
2 gaming promotion. A lot of people are just going to  
3 say, well, this is associated with gaming activities.

4 MR. FISHER: Okay. So Tom asked that we  
5 actually test this provision right here. I guess it's  
6 the whole -- is it the whole section or is it just this?

7 MR. MORGAN: The whole section.

8 MR. FISHER: 543.10. I'm just going to  
9 cover that. That's what it is, right?

10 MR. WILSON: And the question that I'm  
11 posing for a vote is should this even be in part of  
12 the --

13 MS. LASH: Federal standards.

14 MR. WILSON: Yes.

15 MR. FISHER: So if you agree and support  
16 including this provision in the recommendation and in  
17 NIGC's regulations, raise your hand.

18 MR. MCGHEE: If you support it being in  
19 it, you say?

20 MR. FISHER: In, yes, in the  
21 recommendation to NIGC and in NIGC's regulation.

22 MR. MCGHEE: That there should be mention  
23 of promotions?

24 MR. FISHER: Yes.

25 MR. MAGEE: (Inaudible.)

1 MR. FISHER: Okay. So do you want to say  
2 that before we vote?

3 MR. MAGEE: No, I thought that was part  
4 of the vote.

5 MR. FISHER: If you support including it,  
6 raise your hand, please.

7 Okay, we've got two hands up.

8 So, John, did you want to say --

9 MR. WILSON: Well, wait, before we say,  
10 we need to have the other side of the vote, because  
11 somebody may abstain. I don't know.

12 MR. CALLAGHAN: I guess it could carry if  
13 we all decided?

14 MR. FISHER: Correct, if you all abstain.

15 MR. CALLAGHAN: It ain't happening,  
16 Robert.

17 MR. FISHER: Yeah, I know. I got a  
18 little ahead of everybody. Sorry.

19 All right. So let's just try it and  
20 we'll do all three things. So we took the who supports  
21 it. If you do not support including this, raise your  
22 hand.

23 Okay. And if you abstain, raise your  
24 hand.

25 Okay. So we had two supported including

1 it, twelve did not support it, and one abstained.

2 Okay. So -- are you voting again, Dan?

3 MR. MCGHEE: Because I mean, it's a -- if  
4 I'm understanding, you want a consensus or whatever?

5 ASSOCIATE COMMISSIONER LITTLE: Yes.

6 MR. MCGHEE: But I'm willing to say I  
7 don't support it or not support so that it can move  
8 forward and you could have a recommendation to move  
9 forward. You know what I mean? Because I don't think  
10 two people in a group of twelve should hold up a  
11 recommendation.

12 MR. MAGEE: I would say I'm willing to go  
13 along with the majority of you on this, but I would like  
14 you to know my comments.

15 MR. MCGHEE: I'm not going with the  
16 majority, I'm just saying I don't have an opinion, a  
17 strong opinion one way or the other to hold up the  
18 recommendation.

19 MR. FISHER: So you would stand aside, in  
20 essence?

21 MR. MCGHEE: Yes, same on Jeff's page.

22 MR. FISHER: All right. Robin?

23 MS. LASH: I'm against it because we have  
24 to keep in mind that the NIGC is limited in its  
25 regulating authority. And that's -- the authority of

1 the NIGC is specified in 25 USC 2706(b)(1) through (4).  
2 And Promotions is not part of that. And I think that it  
3 should be left up to the gaming regulatory authority to  
4 follow their own gaming code. And the NIGC, in taking  
5 us in this direction, is -- in essence, could be  
6 causing, you know, TGRAs to violate their own gaming  
7 codes.

8 So I just -- I think most of the group is  
9 on the same page. I mean, that's specifically the  
10 problems with having this promotion section.

11 MR. FISHER: So let's go to Matthew and  
12 then Mia.

13 MR. MORGAN: My thought would be, you  
14 know, where I get hung on this is the authority. I  
15 would be willing to make a recommendation that says I  
16 recommend NIGC issue a bulletin to put something out  
17 there that says this is a good idea for your local TGRA  
18 to have that you need controls around these areas,  
19 because these areas are an area that can be abused, but  
20 I can't support it being in a regulation form.

21 MR. MCGHEE: So how did it end up in the  
22 regulation to begin with if nobody supports it?

23 MR. FISHER: So Mia and then Kathi.

24 MS. TAHDOOAHNIPPAH: I just want to make  
25 a note that the current definition in the working group

1 of gaming promotion states that to be a gaming promotion  
2 it has to be two but not all three of the elements,  
3 prize, chance and consideration, and which that covers  
4 non-gaming activity and may fall outside the  
5 jurisdiction of the NIGC. So I just wanted you to  
6 consider that.

7 MR. FISHER: Kathi?

8 MS. HAMEL: John, I wanted to answer your  
9 question. The TGWG did not work as a consensus. There  
10 were many people that had one opinion or another. But  
11 we did put everybody's -- we made an attempt to put  
12 everybody's opinion on paper. And there were folks in  
13 our group that were regulators that were concerned that  
14 if there weren't standards established by the Federal  
15 Government or through bulletins, that they felt that  
16 their gaming commissions didn't have the authority that  
17 they needed.

18 So that's how that came, that's how that  
19 came about, and that's why we see certain things that we  
20 may talk about today that we didn't necessarily agree  
21 with. But again, it was everybody's input to the  
22 recommendation. I think many of us believed this should  
23 have been a bulletin and not a regulation.

24 MR. MAGEE: I don't have that strong of  
25 an opinion about this. I could stand aside. If you

1 want to issue a bulletin on it, I'm fine with that, as  
2 well.

3 MR. MCGHEE: Revote.

4 MS. LASH: Test the bulletin theory.

5 MR. MCGHEE: Well, just revote and I'll  
6 stand aside and then you'll stand aside, and that will  
7 be it.

8 MR. FISHER: Do you want to do it --

9 ASSOCIATE COMMISSIONER LITTLE: I hear  
10 the recommendation that either this be placed -- a  
11 suggestion that we submit a bulletin.

12 MR. FISHER: Right. So we could test  
13 that recommendation, which would be not include this  
14 section and recommend to NIGC to issue a bulletin.

15 ASSOCIATE COMMISSIONER LITTLE: In lieu  
16 of.

17 MR. FISHER: Right, instead of, whatever.  
18 So it would be -- so everybody follow that? The  
19 recommendation would be remove this section and --

20 MS. HAMEL: And the definition.

21 MR. FISHER: -- the definition and  
22 recommend that NIGC issue a bulletin. So if you support  
23 that, raise your hand.

24 MR. CULLOO: Well, can we just make sure  
25 that the bulletin is clear and really tries to define

1 the difference between what's a marketing promotion and  
2 what's a gaming promotion and not just throw that same  
3 definition in there?

4 MR. MCGHEE: You can't control their  
5 bulletin, how it comes out.

6 MR. WHEATLEY: It's just a bulletin.

7 MR. MCGHEE: I stand aside.

8 MR. FISHER: I think we need to do it  
9 again. Because you want to clarify what the -- say  
10 anything about the bulletin, Leo?

11 MR. CULLOO: Well, they were just telling  
12 me I don't have that --

13 MR. FISHER: We can make a  
14 recommendation. It doesn't mean they're going to do it.

15 MR. CULLOO: I would just recommend that  
16 they define the difference between a gaming promotion  
17 and a marketing promotion in that bulletin.

18 MR. FISHER: Okay, hold on.

19 Okay, so let's try this again. So --

20 MS. TAHDOOAHNIPPAH: And I think we  
21 should be cautious about bulletins, because the bulletin  
22 could go the opposite way, too. We kind of know what  
23 we'd like for it to say now, but if it went a different  
24 direction --

25 MR. FISHER: So would you like to test

1       them separate rather than have them be combined?

2                       MS. TAHDOOAHNIPPAH:    Yes.

3                       MR. WILSON:    Didn't we already vote on  
4       one?

5                       MR. FISHER:    No, because Leo raised the  
6       question right before we voted.

7                       MR. WILSON:    But we did vote on it.

8                       MR. MCGHEE:    But we didn't have a  
9       consensus.

10                      MR. WILSON:    Does that matter?

11                      MR. MCGHEE:    It does matter in setting  
12       forth the recommendation.

13                      MR. CULLOO:    Do you need a consensus not  
14       to adopt something, too?

15                      (Simultaneous discussion.)

16                      MR. FISHER:    You're making a  
17       recommendation that they not include it, right?  So  
18       let's test this one at a time.

19                      So if you support the recommendation that  
20       this section not be included in the recommendation and  
21       in NIGC regulations, raise your hand.

22                      Okay.  If you abstain, raise your hand.

23                      Okay.  So we've got 13 yeses and two  
24       abstain.

25                      MR. MCGHEE:    Three.



1 MR. FISHER: Three. So that means --  
2 then that becomes a consensus recommendation of the TAC.

3 So then the second question is do you --  
4 if you support recommending to the NIGC that they issue  
5 a bulletin with or without Leo's inclusion of  
6 distinguishing between gaming promotions and marketing  
7 promotions, raise your hand.

8 MR. WHEATLEY: Do we include one?

9 MR. FISHER: Yeah, issue a bulletin that  
10 includes these respective definitions. So can you do it  
11 again so I can see?

12 So we've got two, three, four, five, six,  
13 seven, eight. Okay.

14 If you do not support issuing a bulletin,  
15 raise your hand. That's three.

16 And if you abstain, please raise your  
17 hand.

18 That's three.

19 So for those of you who did not support  
20 issuing a bulletin, did you want to say the reasons or  
21 is there a way to fix it?

22 MS. TAHDOOAHNIPPAH: It's just hard for  
23 me to -- we're here and we're working on, you know, the  
24 regulations and the guidelines and then get to the point  
25 where we can't decide on something so we want to

1 recommend a bulletin. And you know, bulletins almost  
 2 become regulation, whether they are or they're not.  
 3 Many tribes take them to be -- well --

4 MR. MCGHEE: They carry a lot of weight.

5 MS. TAHDOOAHNIPPAH: Exactly. I don't  
 6 think it's the best solution.

7 ASSOCIATE COMMISSIONER LITTLE: I'll  
 8 check with Mike Hoenig, but these guidance that we're  
 9 talking about, how would we issue those? We'd issue  
 10 those in bulletins, right?

11 MR. HOENIG: Yes. I mean, it could be  
 12 done through a bulletin or it could be done through  
 13 guidance that we just put out through a bulletin, which  
 14 bulletins are numbered, they go on the Web site.  
 15 They've kind of taken on their own format. But none of  
 16 those would have the force and effect of law or  
 17 regulation. They are not enforceable, they are  
 18 guidance, whether they're in bulletin form like all of  
 19 our bulletins or whether it's a separate guidance.

20 ASSOCIATE COMMISSIONER LITTLE: So in  
 21 essence, the guidance are basically a bulletin almost,  
 22 or they will be if that's the path you choose.

23 MR. MORGAN: It actually mentions the  
 24 word guidance, recognizes that word as your authority.  
 25 Bulletins have come up to practice.

1 MR. FISHER: So let's go to either  
2 Michele or Carleen, why you said no on the bulletin.

3 MS. CHINO: I don't think NIGC has any  
4 authority on the gaming promotions. Right now, I think  
5 we all kind of agree that they don't have any authority  
6 whatsoever right now, and it's left to the tribal gaming  
7 regulatory office.

8 Issuing a bulletin almost, just like Mia  
9 said, almost always comes back as a regulation in some  
10 form and fashion, at some point in time.

11 I think we've raised the issue already,  
12 or that this working group has raised the issue already  
13 that it's most likely in the back of Rest's head that  
14 it's going to be -- in some form or fashion become a  
15 regulation, at some point in time.

16 But I guess in preparation for it, just  
17 asking for guidance, if that's how we're going to put  
18 it, I'm pretty sure that the TGRA is responsible for  
19 putting some kind of regulation in place at your local  
20 level.

21 MR. FISHER: Michele?

22 MS. STACONA: Well, I just want to state  
23 for the record that I don't think, for the tribe I  
24 represent, not to give any type of or construe any -- I  
25 would just say any authority to NIGC which it currently

1 does not have.

2 So just to give even a slight foot in the  
3 door, I just don't to do that. So that's why I voted no  
4 to the bulletin.

5 MR. FISHER: Okay. So there is no  
6 consensus on the bulletin. So shall I get rid of it?  
7 Yeah? Is there any more to do with it?

8 MR. MCGHEE: Some want it, some don't, so  
9 what do you do about it?

10 MR. FISHER: We can note in here that  
11 some want it and some don't and the reasons why people  
12 want it and the reasons why people don't.

13 Okay. So do you want me to write that up  
14 on here? I don't know if you need to watch me write it.

15 MR. MORGAN: My only comment was that  
16 Dan, since he's taking this back and relaying it, if Dan  
17 needs something as a reminder of where the group was on  
18 this conversation.

19 ASSOCIATE COMMISSIONER LITTLE: It's in  
20 the transcript, I've got it in my notes.

21 I'll be honest with you, I think this is  
22 one of the best conversations we've had so far. Because  
23 ultimately, if we decide to move forward with this  
24 regulation, we have to make these decisions. That  
25 authority is vested in myself and the other

1 commissioners. And this discussion is really helpful,  
2 very, very helpful.

3 So even though there wasn't a consensus  
4 or recommendation or one way or the other on this, this  
5 is very, very helpful, and I do appreciate that.

6 MR. MCGHEE: It's at least one section  
7 you can be very careful on when you decide.

8 ASSOCIATE COMMISSIONER LITTLE: When we  
9 make a decision, I'll know which places to visit and  
10 don't visit. Just kidding.

11 MR. FISHER: All right. So is there any  
12 more we need to do on this one right now? Then I  
13 suggest we take a break.

14 So let's take a 15-minute break, and  
15 we'll start up again, by my clock, just a little after  
16 quarter of.

17 (Recess taken.)

18 MR. FISHER: Okay, let me try this again.  
19 Let's start. So we took care of the gaming promotions.  
20 So now where we would be on our agenda is pull tabs,  
21 543.8(i), pull tabs. So do you want to start with an  
22 overview of what TGWG produced or do you want to jump  
23 straight to your comment?

24 TGWG folks, what's your preference? Do  
25 you want to start with an overview or just jump to the

1 first NIGC comment?

2 MR. WILSON: Well, I've got a question,  
3 and it's the same question I had yesterday, that your  
4 comment on the TGWG proposal was that it appeared to be  
5 overly broad. But again, I'm wondering, was that  
6 comment based on before you saw the guidance document or  
7 does that comment still apply?

8 ASSOCIATE COMMISSIONER LITTLE: So it's  
9 the comment, the first sentence on page three?

10 MR. WILSON: The comment on page three,  
11 the second comment.

12 MR. FISHER: Effect of TGWG proposal,  
13 first sentence.

14 MR. WILSON: Because there is that  
15 general theme throughout all your comments that it  
16 appears to be overly broad.

17 MR. WEST: Yes, that's still in effect.

18 MR. MCGHEE: Even with the guidance  
19 documents it's broad is what you're staying?

20 MR. WEST: No, this relates to the  
21 standards.

22 MR. WILSON: Well, that's my question, is  
23 the -- the standard -- the comment is that the standard  
24 there is overly broad. But if we're going with the  
25 concept that the guidance document supplements the

1 standard, is that statement still correct?

2 MR. MCGHEE: Yeah, because I notice your  
3 comment is that there is no guidance for X or there is  
4 no guidance for so-and-so. So are you saying there is  
5 no guidance in the guidance documents for those specific  
6 points? That's basically what you're saying, because  
7 they keep saying there isn't enough guidance. Because  
8 there is guidance now for pull tab inventory, which says  
9 that it is -- lack of detail with regard to inventory,  
10 but (f) is a whole section of inventory.

11 MR. FISHER: So let's just take a minute  
12 to look through the document here.

13 Okay. So back to the NIGC.

14 MR. WEST: It's just a general comment.

15 MR. FISHER: So they're trying to take  
16 that comment seriously, right?

17 MR. WILSON: We were going to have a  
18 subject matter expert here on pull tabs. Did that --

19 MR. WHEATLEY: She wasn't able to make  
20 it, no.

21 MR. FISHER: Which Jeff did say  
22 yesterday, yes.

23 MR. WILSON: I mean, I'm good to move on  
24 with other comments you have in here. I just wanted to  
25 know that we don't need to address those, when you say

1 it's overly broad, if, in fact, the guidance documents  
2 sort of took care of that issue.

3 MR. WEST: I think they probably did, for  
4 the most part, but it's just kind of a general comment  
5 that's actually relative to a lot of the sections in  
6 these TGWG documents.

7 MR. MCGHEE: It seems like later, though,  
8 you did go back and look at the guidance, because some  
9 of the comments say now appears to be consistent with  
10 industry practice, which means you're okay.

11 So maybe initially that was your comment,  
12 and then when you got the guidance documents, you went  
13 through and looked at those, as well. And wherever it  
14 says appears to be consistent you're okay with.

15 So really we should look at the points  
16 where it says, you know, specifically something about  
17 it, which is only in risk assessment, like (e), risk  
18 assessment, you do have a comment there that it's  
19 unnecessarily vague even in the guidance documents.  
20 That's your first real comment, is on (e), risk  
21 assessments.

22 MR. WILSON: Actually, the first comment  
23 is statistical reports on page four.

24 MR. MCGHEE: Where it says supervision,  
25 like starting with guidance, supervision?



1 MR. WILSON: No, it says the proposed  
2 modifications do not have any standards related to  
3 statistical analysis standards, and therefore it exposes  
4 the operation.

5 So I guess the question there is --

6 MR. MCGHEE: I want to say that was made  
7 before they actually got the documents, because there is  
8 a section on statistical report.

9 MR. WILSON: There is? Okay.

10 MR. MCGHEE: But later they go into more  
11 detail of the actual. And the first one they say is  
12 supervision, but then they say that appears to be  
13 consistent, so they're okay. And they actually have a  
14 comment about that.

15 MR. WEST: The top of page four where it  
16 says there also does not appear to be guidance regarding  
17 the approval necessary to close or remove the deal from  
18 play where the entire deal isn't sold, can we start with  
19 that? I think that's probably the first --

20 MR. FISHER: Top of page four.

21 MR. MCGHEE: So you're talking about  
22 cancellation or removal?

23 MR. WEST: Yes.

24 MR. MCGHEE: Because there is a whole  
25 section of that in the guidance documents on page five.

1 MR. WEST: My question relates to removal  
2 of the deal before the entire deal is played out. Does  
3 the committee think there needs to be any guidance on  
4 that as far as approval or controls? And this can be  
5 paper or electronic.

6 MR. FISHER: Does everybody see what Rest  
7 is asking about?

8 MS. HAMEL: So in the guidance document,  
9 there is reference to cancellation and removal, and then  
10 controls should require that each deal (inaudible)  
11 removed and discontinued from play (inaudible), but it's  
12 not clear that it has to be analyzed and approved prior  
13 to removal? Is that the question, Rest?

14 MR. WEST: Well, generally you have to  
15 play the deal out. I mean, does it have to be some  
16 formal approval from the TGRA or --

17 MR. RAMOS: I think the point you're  
18 getting at is you put a deal out there and they play it  
19 halfway through and nobody has won the big jackpot and  
20 then you go and remove it.

21 MR. WHEATLEY: So does there need to be a  
22 minimum payout percentage or something?

23 MR. RAMOS: So you don't play through the  
24 entire set and you'll be removing it before the major  
25 winner actually is awarded, and should there be some

1 regulation that says you need approval, an authorized  
2 person.

3 MR. WEST: And it could happen  
4 electronically or with paper.

5 MR. RAMOS: Yeah, the paper one is  
6 easier, because that's what we use.

7 MR. WEST: It's easier to visualize.

8 MR. CULLOO: Well, one of the problems  
9 with pulling the deal is that if people come in and they  
10 see the flares and they hit the top awards right off at  
11 the beginning of the deal, they quit playing, it just  
12 sits there. So you have to be careful in using  
13 percentages or anything like that to determine that.

14 MS. HAMEL: Rest is questioning the  
15 authority to make that decision.

16 (Simultaneous discussion.)

17 MR. FISHER: So we've got a couple  
18 conversations going on. So where are we on this? I'm  
19 confused.

20 MR. MCGHEE: Well, I think the only thing  
21 is that he's saying should there be a control that would  
22 keep the operation from arbitrarily pulling a deal prior  
23 to the big hit because they just don't want to pay it  
24 out. It hasn't hit, it's been playing, so then let's  
25 just cancel out the deal. And it says I have to fill

1 out this, this and this, but nowhere does it say I have  
2 to explain myself and why I did it. I just decided to  
3 arbitrarily pull it without any kind of -- you know, who  
4 said that was okay? You know, no approval process to  
5 that, doing something like that and making sure it's not  
6 being done, like you said, arbitrarily or maliciously.  
7 So that's what's lacking.

8 MR. CALLAGHAN: I think it's a day issue,  
9 then, rather than a cancellation issue. It's a matter  
10 of how long you expose the deal to play. It's somewhat  
11 similar to short time to cancel TITO, it would be  
12 similar to what time frame that you cancel a deal. Does  
13 that make sense? Because for the very reasons that was  
14 articulated here, is that you may want to cancel it  
15 because it's no longer rich, everything has been hit,  
16 nobody is playing it, then why take up that space for  
17 that. But I think it would work on both ends, do we  
18 still have to keep it exposed for a period of time even  
19 though it's no longer rich.

20 MR. MCGHEE: So what we have to determine  
21 is should there be a guidance written saying -- you  
22 know, it says that you have to do something when you're  
23 going to cancel it. I mean, it says that you have to  
24 prevent fraud, but there isn't a best practice as to how  
25 you go about doing that when it's a deal that hasn't

1     been played out.

2                     So could the recommendation actually  
3     be -- because the problem is with the guidance document,  
4     not the regulation, so to speak, because it does talk  
5     about canceling deals, what to do. But the  
6     regulation -- I mean, the guidance document, do you  
7     think it should be in the reg somewhere or should it be  
8     in the guidance documents for that?

9                     MR. WEST: Well, I guess the first  
10    question is do the TGRA people in here think it's  
11    something that they need to have approval, a policy that  
12    the gaming operation has where we get to this certain  
13    point and we're going to pull the deal, whether it's  
14    paper or electronically? I mean, I don't know if that's  
15    an issue or it's just an operating policy. To me, I'm  
16    just -- I have seen this before, and it just came to my  
17    mind.

18                    MR. MCGHEE: I think that it would  
19    warrant mention, that being mentioned to mitigate  
20    that -- you're talking about a risk, and there is a risk  
21    that someone could pull the deal before it's even paid  
22    out.

23                    MR. WHEATLEY: Right.

24                    MR. MCGHEE: That's a risk. So if we  
25    want to mitigate that risk, it should be in here. Now,

1 it could vaguely say you have controls that may mitigate  
2 that risk.

3 MS. HAMEL: Daniel, what's the risk, if  
4 it's pulled earlier or pulled late?

5 MR. MCGHEE: The risk is that you're  
6 never allowing the actual big payout to happen because  
7 you keep pulling it before it happens.

8 MR. CALLAGHAN: Why don't we borrow a  
9 comment from the gaming soft world and say you have to  
10 have a minimum to hold the bet?

11 MR. WHEATLEY: Exactly.

12 MR. CULLOO: What does Washington say?

13 MR. WHEATLEY: Well, for what? For pull  
14 tabs?

15 MR. CULLOO: Yeah.

16 MR. WHEATLEY: I don't know. That's a  
17 WAC thing.

18 MR. CULLOO: I think most pull tabs, if  
19 I'm not mistaken, are set up with a house advantage,  
20 that 30 percent, and they can only pay out 70 to  
21 75 percent if you sold the whole bowl out.

22 MR. MORGAN: You know your payback when  
23 you buy it.

24 MR. WHEATLEY: That's granted that you  
25 sell the entire bowl.

1 MS. TAHDOOAHNIPPAH: We pull gaming  
2 machines before they hit their top prizes.

3 MR. WHEATLEY: Yeah, but you have to make  
4 sure that you have paid back a certain percentage.

5 MR. MCGHEE: But when you're playing pull  
6 tabs, you're playing it under the assumption that if I  
7 play it enough, eventually we're going to whittle it  
8 down to the big one. And if I go in there, if I'm  
9 manually selling it, I see this lady has a stack, right?  
10 Of pull tabs, and I know that the big one hasn't hit  
11 yet, I might want to decide I'm going to buy her whole  
12 stack, it's got to be in there somewhere. For the  
13 manual ones. And that's what you would do. So I bought  
14 that stack and I'm trying to whittle it down, and than  
15 all of a sudden I decide to quit playing it? I've just  
16 put a whole lot of money into a deal and it's never  
17 going to hit, you know. And that's not right, because  
18 I'm playing it on the premise that it's a pull tab and  
19 here is how pull tab games work.

20 MR. MORGAN: But, Daniel, on this  
21 designed to prevent unauthorized access, on the fraud,  
22 if the part of the rules or procedures you have says you  
23 can't and you do it, it would be fraud.

24 MR. MCGHEE: That's with the inventory.  
25 That's to protect your inventory of pull tabs, not

1 necessarily the pull tabs that are out on the -- I mean,  
2 I agree it could be somewhere like that.

3 MR. MORGAN: I'm going to check my  
4 knowledge man.

5 MR. CULLOO: You absolutely need controls  
6 to prevent staff from pulling a bowl off and buying it  
7 up themselves, because that has happened, where you get  
8 a pull tab manager that will pull the bowl in  
9 confederation with somewhere else, because you can  
10 reserve bowls in a lot of places.

11 MR. MCGHEE: The question is is  
12 inventory -- does the inventory include what's out on  
13 the floor in the machine versus what's in your closet  
14 back here still? If that's all your inventory, then,  
15 yeah, controls are in place to keep fraud from  
16 happening. It says controls should be in place. But  
17 then in the guidance document, it doesn't talk about if  
18 you decide to cancel that, you know, the rules. So it  
19 could be covered in there. But if it is, then the  
20 guidance document, to me, would need to be explained a  
21 little further in that instance.

22 MR. FISHER: A little more guidance in  
23 the guidance document.

24 MR. MCGHEE: If we can agree that the  
25 general risk of doing that is covered in pull tab



1 inventory, if you consider that to be inventory. And I  
2 don't know if you all consider it inventory. Once it's  
3 put on the floor, is it called inventory?

4 MR. WEST: Even in the machine, when they  
5 recopy the deal over electronically, if that's inventory  
6 when it's in that waiting to go out to the player  
7 terminals, is that inventory? That's a good point.

8 MR. MCGHEE: Because when we had pull  
9 tabs, I always looked at inventory as what was left in  
10 the closet and what came back into the closet, so to  
11 speak, at the end of the night. So what was out there  
12 floating was kind of active until it came back.

13 MR. WEST: Like bingo paper, same thing.

14 MR. FISHER: So the question is whether  
15 people recognize that that's something that should be  
16 included in the guidance and, if so, what to say, or  
17 something else?

18 MR. MCGHEE: I think -- I mean, what I'm  
19 reading as Rest's concern is that kind of activity, if  
20 doing that could happen. And I don't know that we've  
21 actually addressed it.

22 MR. FISHER: In the guidance?

23 MR. MCGHEE: In the guidance or the reg  
24 for sure.

25 MR. FISHER: Okay. So --

1 MR. MCGHEE: So the question is, you  
2 know, what do you think should happen? Should it be as  
3 simple as okay, if they do decide to do that, then you  
4 have to write a report and that report is submitted to  
5 accounting as to why they cut the deal, why they did it.  
6 And then, you know, what happens after that, you know,  
7 should it be sent to TGRA, should it be sent to whoever.  
8 But at the very least, it should include that if you do  
9 that you have to generate this report or summary  
10 explaining why.

11 MS. TAHDOOAHNIPPAH: I think it does  
12 state that, actually.

13 MR. FISHER: So is there more for us to  
14 discuss here, or do you want to see if somebody wants to  
15 make a proposal to the group or we need a small group?

16 MR. MCGHEE: I have a proposal.

17 MR. FISHER: Wait one second while we get  
18 everybody -- some people are still back checking the  
19 documents. So let's just hold it one second, if we  
20 could.

21 MS. TAHDOOAHNIPPAH: It says that on page  
22 five at the bottom, (iii), that a summary report be  
23 completed explaining eliminating the deal from  
24 inventory.

25 MR. WHEATLEY: But it doesn't ever talk

1 about whether a minimum payback percentage has been met.

2 MS. TAHDOOAHNIPPAH: I don't think that  
3 that should be --

4 MR. WHEATLEY: What if the major top  
5 prize is still in the bowl, so you've only paid back,  
6 say, 20 percent, your whole percentage is 80 percent and  
7 you remove that from the floor, somebody has invested --  
8 a customer has invested thousands of dollars trying to  
9 hit that, whether it's a \$599 prize, typically, that's  
10 displayed on the board, you just pull it so that the  
11 operation has a 80 percent profit on a particular deal,  
12 I don't know that that's fair to the guest.

13 MR. MCGHEE: You know, your guests have  
14 put in this money to build up progressive, and if you  
15 decide to pull progressive off the floor, you've got to  
16 do something with it. It's the same concept with pull  
17 tabs, because people invested and did this --

18 MR. CULLOO: It's kind of hard to  
19 distribute a pull tab prize in some other format other  
20 than someone to pick the winner.

21 MR. MCGHEE: Not to redistribute it, but  
22 it's the same concept of -- to remove and not to have  
23 some real explanation would be the same concept to  
24 remove a progressive pool without doing something with  
25 it.

1 MR. CULLOO: And it's not always cash,  
2 it's a prize in a lot of cases, too.

3 MS. TAHDOOAHNIPPAH: On page eleven, it  
4 talks about procedures for pulling (inaudible) that's  
5 not claimed or won.

6 MR. MCGHEE: Tell me where you're looking  
7 at.

8 MS. TAHDOOAHNIPPAH: Page eleven.

9 MR. MCGHEE: What number?

10 MR. FISHER: Five and six, I guess,  
11 right, four, five and six?

12 MR. MCGHEE: A progressive would be  
13 probably in a pull tab machine, you know, where  
14 everybody who buys the pull tab goes to  
15 some (inaudible).

16 MR. FISHER: You know, Daniel, you said  
17 you had a suggestion to make.

18 MR. MCGHEE: The suggestion before was to  
19 determine if the group was in agreement at least that  
20 this is a risk that needs to be addressed so we don't  
21 have to spend any more time on it.

22 MR. FISHER: All right. So do you want  
23 to test that?

24 MR. MCGHEE: Yes.

25 MR. FISHER: Okay, everybody. So Daniel

1 would like to test whether this is a risk that we need  
2 to be addressing, either in the regulation or the  
3 guidance, whichever.

4 MR. WILSON: Restate what the risk is.

5 MR. MCGHEE: The risk is removing a deal  
6 prematurely, you know, when you remove it prematurely  
7 before it's sold out from the floor, and what those --  
8 if there is a rule or if there is some kind of --  
9 something that states you can or you can't or whatever.  
10 There is nothing in there that addresses either a  
11 procedure, a guidance or what when that happens.

12 So that the risk is could someone remove  
13 a deal from the floor prior to the big payout being paid  
14 or anything else if the customers have invested trying  
15 to buy it down and all the sudden it's gone. So that's  
16 the risk to prevent.

17 MR. WILSON: That's a risk, but that's a  
18 part of the game. And another part of the game --

19 MR. MCGHEE: It's not a part of the game,  
20 because ideally it's supposed to be sold out.

21 MR. WILSON: Let me finish. What I'm  
22 saying about that is that there is all kinds of -- there  
23 is a number of different reasons why you may make a  
24 decision to do something like that. So is the risk --  
25 in my mind, is the risk the decision or is the risk that

1 proceeds, if that happens, are not benefiting to the  
2 playing public.

3 So in other words, you know, you use the  
4 example of a progressive. So in our state, we can pull  
5 down a progressive and we can either move that to  
6 another progressive or we can dispose of that by virtue  
7 of some other method that accrues to the benefit of the  
8 gaming public, not necessarily directly to the thing.  
9 And you've got people that have been obviously playing  
10 those machines. But what happens oftentimes is people  
11 stop playing a machine because they just feel like it's  
12 never going to hit.

13 Well, we don't want that sitting on the  
14 floor just doing nothing, but we recognize that there is  
15 a pool of money there that is player --

16 MR. MCGHEE: If there is a control to  
17 where you're not benefiting, so to speak, from just free  
18 money.

19 MR. WILSON: Yes. And so I guess the  
20 point I'm trying to make is that if the issue is the  
21 integrity of the game could be because a -- if a casino  
22 operation were to constantly take that game down so that  
23 there really never was a possibility for somebody to win  
24 the big prize, if you will, then that's what the focus  
25 should be on as to the -- you know, that's what you're

1 trying to address, is that there is some mechanism that  
2 benefits the playing public as opposed to a mechanism  
3 saying you can't -- you can't bring down -- because I  
4 don't know how --

5 MR. MCGHEE: I'm not saying you can't.  
6 I'm saying if you do, what is to happen? It's not a  
7 matter of can or can't, it's just a matter if you do  
8 decide to do it, you know, is there a mechanism in here  
9 for explaining the reason why and what happens. It's  
10 not a can't. Because I agree there is reasons you  
11 should and can, but I don't think it addresses --  
12 nowhere does it keep me from doing it for the wrong  
13 reasons versus the right reasons. I can do it for any  
14 reason.

15 MR. WILSON: So how would you define,  
16 then, what --

17 MR. MCGHEE: Well, the question is what I  
18 just said, before we figure out how, does everybody  
19 agree that it's a risk. If you don't agree that it's a  
20 risk, then we won't talk about it any more.

21 MR. FISHER: Is it something that needs  
22 to be addressed. That's what I hear Daniel addressing.  
23 So Jeff and then Matthew.

24 MR. WHEATLEY: I can kind of explain in  
25 our compact lottery machines, which are pull-tab based,

1 how it's handled in Washington state.

2 The state requires that there is a  
3 minimum payback percentage that occurs with those games  
4 and that you have to meet that before you pull that game  
5 off the floor. If an operator decides to go pull that  
6 game off the floor, they have to provide a report and  
7 give it to the Tribal Gaming Regulatory Authority to  
8 confirm that they met that minimum payback percentage  
9 here.

10 And that's what we're talking about here,  
11 is do we need to establish a minimum payback percentage  
12 on a physical pull tab game, where, prior to pulling  
13 that off, the Tribal Gaming Regulatory Authority has  
14 to -- has to verify that the minimum payback has been  
15 met so that the general public isn't necessarily cheated  
16 out of winning those prizes.

17 MR. FISHER: Matthew?

18 MR. MORGAN: I think I agree in concept  
19 but maybe not in specifics.

20 From my understanding, you know, you  
21 would like it if the public doesn't feel cheated. You  
22 used that term.

23 As long as I have rules of how this game  
24 works, I have published those rules to the public, they  
25 have the ability to understand prior to entering that



1 game what the rules are controlling that game, that's  
2 really all you're required to do with any game. If you  
3 decide to enter into the risk on those rules, you as an  
4 individual decide to participate in the game.

5 It's not really a minimum of a threshold  
6 level, it's do you have rules, have those rules been  
7 communicated to the public. And they have the choice to  
8 either participate or not participate. In my mind,  
9 that's more of the question than actually setting a  
10 percentage, because just like on any payback on any  
11 game, you know, a lot of this your market will decide.  
12 You know, that's what I keep coming back to. If you're  
13 continually pulling decks before they're winning, the  
14 public is going to stop playing that game because  
15 they're going to have a perception that you're not going  
16 to win. Then it's a public relations issue.

17 But if your rules say yes, you can pull  
18 and you can pull it under these circumstances as long as  
19 the operation followed those rules, the public was aware  
20 of those rules, it should be allowable, in my mind. And  
21 I'm speaking generally.

22 MR. WHEATLEY: But I think with a  
23 physical pull tab game, it's very easy to manipulate  
24 that and not necessarily have the guests know that the  
25 prizes weren't won.

1 MR. FISHER: Leo?

2 MR. CULLOO: The other thing, too, is you  
3 can't set a minimum here, because you put your bowl out  
4 and they hit the top three awards right off the bat,  
5 that game is going to sit there for -- no one is going  
6 to buy it so you would be able to pull it.

7 Where I've seen fraud, where I've seen it  
8 occur is where a pull tab employee pulls a bowl or  
9 reserves a bowl and they work in confederation with  
10 someone else that buys the bowl down when it gets toward  
11 the end for that top award. So that's where your risk  
12 is.

13 MR. MCGHEE: That's in your inventory,  
14 because it would take it out of inventory, right?

15 MR. CULLOO: No, because I think every  
16 place I've been, they have rules posted how to reserve a  
17 bowl. If you've got X amount of dollars in it, you'll  
18 see a sign on it, bowl is reserved, and they're waiting  
19 for that customer to come back in and play down the  
20 bowl. And they'll reserve them for 24 hours or 48  
21 hours, in some places. Every place is different on  
22 that.

23 MR. FISHER: Okay. So we're back to the  
24 question of whether this is something that should be  
25 addressed in some way, either in the regulation or in

1 the guidance.

2 MR. MCGHEE: Yeah, I think even if you  
3 put it there and said controls should be in place to  
4 prevent blah-blah-blah, canceling a deal or doing  
5 whatever, removing a deal. It's not in the reg. And  
6 then your best practices could be percentages met,  
7 blah-blah-blah, here is one way to determine that, you  
8 know. You could explain that's one way to do it.

9 I just want to say you have to have  
10 protocols in place.

11 MR. WHEATLEY: I can try to get our  
12 subject matter expert on the phone. She said she might  
13 be available by phone, if that would be helpful to  
14 anybody.

15 MR. WILSON: I would say that I don't  
16 know enough about the game to -- for me to offer much in  
17 terms of the environment and the risks.

18 MR. MCGHEE: Well, the concept is very  
19 general, meaning I don't know what the expert may or may  
20 not do, other than be able to say, yeah, that could  
21 happen, I mean, as far as being an expert in that field.

22 I think you have to understand the  
23 concept of what a pull tab is, meaning here is a deck of  
24 cards and I'm going to say there is a \$5 winner and a  
25 \$100 winner and a \$10 winner in there, but we don't know

1 where it's at. So you start buying the cards off and  
2 maybe you're down to the last one. I'm buying the cards  
3 and I got down to half the deck and I still haven't hit  
4 it, and then you decide to take the deck away. Whoa, I  
5 just spent \$50 trying to get to that and now you took it  
6 away. What's your reasoning for that? You didn't want  
7 me to win?

8 You know what I mean? That's the risk  
9 that we're dealing with.

10 MR. WILSON: So if a -- I mean, I'm  
11 looking at it if a customer brought up that complaint  
12 from a takeaway perspective, what I would be looking for  
13 then in the guidance or in the standards or something, I  
14 need something to hang my hat on to say casino, follow  
15 the procedure for whatever. And therefore, while I  
16 understand it appears that this is the case, in reality  
17 it's not and here is why.

18 The control, methodology, whatever happens,  
19 there needs to be some way to explain an action to be  
20 able to satisfy a customer's inquiry as to, hey, I feel  
21 like I've been cheated, or we bought this game down and  
22 I've been sitting here, you know, for hours and it just  
23 isn't right or something.

24 MR. MCGHEE: If it's a deal, a physical  
25 deal, I can come in the next night and look at the thing

1 and say, hey, it's gone or whatever, but a physical deal  
2 I may not. I'm going to assume someone may have won it.  
3 I have no way of knowing.

4 MR. WILSON: It may not have been the  
5 case.

6 MR. WHEATLEY: Exactly.

7 MR. MORGAN: I have a question that may  
8 be broader.

9 Going back, you know, electronic pull  
10 tabs are one of the first test cases that you come into  
11 for Class II that kind of made that legal. That's where  
12 my concern really is, is making sure that we don't  
13 somehow violate the statute or any of that case law that  
14 is out there, which I don't think this does. So I'm  
15 looking at Jeff to explain it. Because it's not lining  
16 up in my head yet doesn't mean that it needs to, to be  
17 quite honest with you.

18 But I read through what was marked out on  
19 the July 10th draft, and I don't really see how that's  
20 addressed before. So my question kind of goes to the  
21 NIGC, is that a concern right now? And if it's a  
22 concern, how is it addressed? Because it's not  
23 something that the Tribal Gaming Work Group deleted. It  
24 seems like this is a concern that wasn't addressed. So  
25 how do you deal with that now, I guess is my question,

1 for those type of issues on removing deals. Because I  
2 don't see it addressed in the proposed. So I'm guessing  
3 it probably wasn't in the 2008 version. But it's a  
4 concern, so how do you deal with it?

5 MR. WEST: I don't know. That's why I  
6 was hoping someone -- because I know in Washington  
7 state, or I felt like in Washington state there was some  
8 compact. I don't know if maybe somebody worked in  
9 another operation where there was a procedure or  
10 something for getting approval or the standard procedure  
11 that the operation had for removing deals from the  
12 floor. I don't know how it's -- I've never seen any  
13 kind of rules and regs on it. I just --

14 MR. CALLAGHAN: Rest, I'm looking at my  
15 MICS checklist. 542.8(g)(1)(i) -- actually (g),  
16 standards for statistical reports. And what we follow  
17 is the last two state is the pull tabs' statistical  
18 information provided to the TGRA upon request, and then  
19 the final one, are significant variations, plus or minus  
20 three percent, investigated. So we've got our own  
21 standard that we look at from that perspective.

22 One of the challenges we're having right  
23 now is we're using machines, we're using like a  
24 cigarette-type machine. And it almost sets us up for  
25 professional inventory. We're not going to do it, but

1 you're feeding tubes. You're always going to want to  
2 keep the tubes fed. How does that affect your  
3 statistical sampling (inaudible).

4 But our standard is, we're plus or minus  
5 three percent. And we've got the authority -- again,  
6 it's one of these things where we have the authority  
7 rather than the NIGC dictating a theoretical hold  
8 percent.

9 MR. WEST: I don't think we're even  
10 contemplating that. I just wanted to bring it up for  
11 discussion and see if there was some practical guidance  
12 that could be developed.

13 MR. FISHER: Okay. So Christina has her  
14 card up. And then after we hear from Christina, then  
15 I'm going to check on public comment, because we're at  
16 that time to check on public comment.

17 MS. THOMAS: Just kind of in line with  
18 what Brian had said, for our properties, we actually  
19 added language underneath our pull tabs regulation that  
20 actually kind of details out the disposal or destruction  
21 of pull tabs, with the requirement that our TGRA has to  
22 approve it. When it's submitted to us to review to  
23 dispose of pull tabs, whether it's pulling a deal, they  
24 actually have to give us a brief written explanation of  
25 the method of destruction, why they're doing it,

1 timelines for it, and then who is actually going to be  
2 involved when that takes place. So we've actually  
3 expounded on what the MICS had in place further for the  
4 controls that we actually have in place for our  
5 property.

6 MR. CALLAGHAN: And it's funny that you  
7 mention that, is we're actually looking at the timing.  
8 What you just mentioned that you're adding on that, we  
9 just had a meeting on that very issue, how long do you  
10 expose it, what that time is. So we're kind of  
11 self-regulating it.

12 MR. MCGHEE: So do you think it would be  
13 okay to not have something in your regulations about  
14 that?

15 MS. THOMAS: I think we addressed that we  
16 felt there was a risk there, so we established controls  
17 that we felt had to be in place for the property.

18 MR. MCGHEE: That's my point, because  
19 what you want, if you think a property or a tribe or  
20 whatever should have something in place for this,  
21 however you want to do it, then it would need to be in  
22 here, because then the property could choose just to not  
23 have something in place because it's not mandated that I  
24 do.

25 So is it important enough that it should



1 be in place at a tribe and it should be in here versus  
2 it being an option. And that's the question. And if  
3 most people have something put down in there because  
4 they realized it was important, you know, on how to  
5 handle it, it should be in here.

6 MR. FISHER: So let's pause for a moment  
7 because as a time check we're at the point on our  
8 written agenda where we were scheduled for public  
9 comment.

10 So is there anybody in the audience that  
11 wishes to provide public comment directly to the TAC, at  
12 this point?

13 Okay, so nobody stepped forward. So  
14 let's go back to our discussions about pull tabs. So  
15 people have identified some of the risks. Christina  
16 talked about how you've handled it in your own way. And  
17 so the question is whether there needs to be -- whether  
18 you want to recommend something either in regulation or  
19 in guidance that addresses the risks that have been  
20 mentioned.

21 I'm just trying to get some feedback,  
22 because we've kind of gone back and forth about whether  
23 there is a risk or there isn't a risk and how you would  
24 do it.

25 Kathi?

1 MS. HAMEL: I don't think it's any  
2 different than if you offer a themed bingo electronic  
3 device and if it doesn't perform to what your customers  
4 want, you don't write a regulation that says you can't  
5 take it off the floor.

6 MR. MCGHEE: It's not a regulation about  
7 that you can't, it's just if you're going to, you need  
8 to --

9 MS. THOMAS: I think the question is the  
10 approval process.

11 MS. HAMEL: It doesn't require a  
12 regulation. There is a process for removing it, but it  
13 doesn't require a regulation.

14 MR. MCGHEE: I think it's the concept of  
15 the game is different, though.

16 MR. WHEATLEY: Wouldn't it be almost like  
17 pulling a bingo game before all the balls have been  
18 called? You wouldn't allow that.

19 MR. MCGHEE: Or if you did, you would  
20 have someone explaining. So it's a concept of pull tabs  
21 that we have to worry about.

22 MR. RAMOS: I think, too, we're in a  
23 situation where, look, for all the reasons that you  
24 described for protection of the public, right? That you  
25 don't want operators pulling the deal before the max

1 awards have been hit. But conversely, you want  
2 operators to have the flexibility to pull deals after  
3 those things have been hit so they're not sitting around  
4 stagnant.

5 MR. MCGHEE: I don't disagree with being  
6 able to do it, just a control in place that you can't do  
7 it for the wrong reason.

8 MR. WHEATLEY: To protect the integrity  
9 of the game, there has to be something there.

10 MR. CULLOO: Then you have to set a  
11 percent, you have to.

12 MR. WHEATLEY: I don't think that's  
13 uncommon.

14 MR. WILSON: I mean, I think that's the  
15 only way you can apply it across the board, is you would  
16 have to have a minimum. If the issue is the integrity  
17 of the game, then you've got to have a minimum to be  
18 able to prove that the integrity of the game was not  
19 violated by removing it, right?

20 MS. HAMEL: Let's say it's not meant to  
21 cheat the guest and it's not meant to be fraudulent,  
22 nobody wants to play it, why do you have to have a  
23 minimum to keep it on display if nobody cares about  
24 playing it? Maybe nobody likes the color purple.

25 MR. WHEATLEY: On a pull tab game,

1 because you have flare that lists what the top prizes  
2 are and they haven't been crossed off, people are going  
3 to play it. As long as those top prizes are still  
4 there, they're going to play it. What we're trying to  
5 protect against is an operator pulling it before those  
6 prizes are taken, is the risk.

7 MR. MCGHEE: And it could be manual  
8 stacks, not necessarily a machine.

9 MR. CALLAGHAN: We actually pulled a game  
10 because we found out it was politically incorrect. I  
11 can't remember what it was styled on the thing, but it  
12 came back -- you know, it was one of those things, you  
13 load it in a tube, and you finally came back and read  
14 what it said. Then it was shortly after it was exposed,  
15 I can't recall the statistics, but it was pulled. As  
16 you said, the color purple.

17 MR. MCGHEE: We're not making a rule that  
18 says you can't, you would just have to say here is why  
19 we did it and here is what we propose to do with the  
20 deal and blah-blah-blah.

21 MR. CALLAGHAN: Going back to my MICS  
22 checklist, we're looking at a significant variance, what  
23 we're calling plus or minus three percent.

24 MR. MCGHEE: I'm just saying a control  
25 should be in place to keep a deal from being taken

1 without good reason, something like that. And I'm not  
2 saying that is it. Don't shake your head.

3 MR. MORGAN: Smokin' Dan.

4 MR. MCGHEE: And then your guidance  
5 documents should say whether it should be three percent  
6 plus or minus, or a minimum payback. I want the  
7 regulation very vague, you need a control there, and the  
8 guidance should say it. I don't know how to word the  
9 control, but that's my recommendation. I think the  
10 control should be there to state that you have a control  
11 in place, and then let the TGRA decide what that control  
12 is.

13 MR. MORGAN: I can get on board with what  
14 Brian -- you're saying, because you identified what your  
15 theoretical is and you know your variance from there,  
16 because that's the rules of the game.

17 Just to pick an arbitrary percentage and  
18 place it somewhere worries me a little bit, because that  
19 takes away the option of the operator. Maybe you want a  
20 70 percent or maybe your payback is 80 percent. As long  
21 as you told the TGRA the game operates as I told you it  
22 operates, that's your --

23 MR. CULLOO: Remember, too, in  
24 electronic, it's a little different. You have a  
25 computer system that gives you those percentages. In

1 paper, you're weighing the bowls. And that's not as --  
2 I don't care how accurate your scale is, it may not be,  
3 as you say, three percent. Using a scale I wouldn't  
4 trust that, that I'm within that using a scale.

5 MR. CALLAGHAN: That's an interesting  
6 point, very, very interesting point. Yeah, you're  
7 right.

8 MR. FISHER: Tom?

9 MR. WILSON: So going back to the  
10 standard, I mean, what we're really kind of talking  
11 about, then, is not the fraud aspect, misappropriation,  
12 whatever, we're talking about an abuse of the game that  
13 the operator would be doing that's really not accruing  
14 to the benefit of the playing public.

15 So if you put in the standard -- you  
16 know, right now it says designed to prevent unauthorized  
17 access, misappropriation, forgery, theft or fraud. If  
18 we put in there also abuse, then one of the things that  
19 could be abused is that issue, if you didn't want to get  
20 down to having a statistical number that you're trying  
21 to apply to.

22 MR. MCGHEE: How about if you -- I mean,  
23 I agree with what you're saying, it's just where it  
24 fits. Because the discussion we had earlier was if  
25 inventory is considered deals out on the floor, also,

1 then it's covered. You know what I mean? If it's not  
2 considered to be what's out on the floor as inventory,  
3 then it's not covered.

4 And that may be -- if that's a question  
5 here, it's going to be a question at the site. So maybe  
6 if we just said -- your other little underlined part,  
7 just say pull tab play and then you have the same  
8 wording there, meaning pull tab play must be controlled  
9 in a manner designed to prevent blah-blah-blah, and it  
10 separates the fact that one is in inventory and one is  
11 what's being played.

12 So you're just adding another section  
13 that duplicates that one, but you're calling it pull tab  
14 play or game play versus pull tab inventory, because  
15 there are some sections that just talk about the game.  
16 It talks about all the stuff surrounding the game but  
17 not the game.

18 So that could more or less do it, because  
19 the wording is good, it's just under inventory, which  
20 makes it a little bit ambiguous as to whether or not  
21 you're talking about what's out there on the floor.

22 MR. WILSON: Is what's on the floor  
23 considered part of inventory?

24 MR. WHEATLEY: I don't know.

25 MS. THOMAS: I would define that it is.

1 MR. WILSON: It is, right?

2 MR. MCGHEE: She would, he don't know,  
3 Rest says good question. So you're not going to know.

4 MR. CULLOO: Some will do not necessarily  
5 a daily inventory of what they have, they will go  
6 through once a month and weigh the bowls that they have  
7 on the floor, and that's how they come up with inventory  
8 in addition to what's in their store. Everyone does it  
9 differently. Some will do it weekly, some do it  
10 monthly. But at some point, they have to weigh those  
11 bowls on the floor to get an accurate inventory.

12 MR. WILSON: So what is on the floor is  
13 part of inventory?

14 MR. CULLOO: Absolutely.

15 MR. WILSON: So therefore, inventory  
16 controls also apply to what's on the floor?

17 MR. CULLOO: Should.

18 MR. WILSON: So I guess I'm answering  
19 Daniel's question.

20 MR. MCGHEE: You are.

21 So if it's confusing here, it's going to  
22 be confusing when you put it out there in a reg, and  
23 people are going to say what does that mean? The  
24 inventory, I don't think it's clear. So you need to be  
25 more clear.



1 MR. WILSON: Well, and I suppose at the  
2 end of the day, not everything can be specific. I mean,  
3 this might be one of those things that you can't  
4 necessarily say -- as you've identified, the problem  
5 with the words are that -- I forget the word that you  
6 used, but was -- what it was you used a while ago when  
7 you said it needs to say that you have to do something.  
8 And it's like, well, if we're having a hard time  
9 defining that, then I would argue that it may be  
10 difficult to put that in the standard anyhow, from that  
11 standpoint, but that it's this concept that really we're  
12 discussing, is that there is a concept that there needs  
13 to be an awareness that this game should not be taken  
14 down until all of the prizes or the major prizes or  
15 something have hit, because we're saying that that's, in  
16 our mind, what makes the game fair.

17 MR. MCGHEE: I want to be clear. I'm not  
18 saying you can't take the game down before the main  
19 prizes hit. I'm not saying you can't. It's just if you  
20 do, do it within a procedure. Something has got to  
21 happen if you're going to do it.

22 MR. WILSON: A procedure, but does the  
23 procedure imply that you have to have a -- that there is  
24 a set of reasons that allow you to take that down, but  
25 there is yet another set of reasons that would be

1 considered inappropriate?

2 MR. MCGHEE: Yes.

3 MR. WILSON: And that's where we get into  
4 is that something, then, that is decided from tribe to  
5 tribe or is it an integrity of gaming issue that,  
6 universally, there are certain reasons why you don't  
7 take down this game because of X, Y or Z?

8 MR. FISHER: So in other words --

9 MR. MCGHEE: The pull tab concept is the  
10 same everywhere.

11 MR. FISHER: So you're asking the  
12 question, Tom, is it a standard or is it a practice that  
13 you're getting at?

14 MR. WILSON: Well, yes, because if there  
15 is an inherent risk, then that's what we've got to  
16 address.

17 I'm just looking at it from a regulatory  
18 standpoint. I have this document, let's say, that comes  
19 across and says that, you know, we're pulling down this  
20 game. Now, am I as a regulator being asked to determine  
21 is the reason for pulling it down legitimate? And I  
22 don't know that I can determine that other than by  
23 saying that, well, has a percentage been met or has, you  
24 know, something quantifiable been met as the standard  
25 for me to approve that yes, you can bring this game

1 down.

2           And my concern is that in this particular  
3 case, if there is not some definitive something, and  
4 that could be different from location to location, it's  
5 going to be very difficult -- it would be difficult for  
6 me to just say, well, I like that reason or I don't like  
7 that reason.

8           MR. MCGHEE: Okay. So you would say  
9 controls should be in place for the game that prevent  
10 blank, blank, blank, blank? Because if you say that,  
11 then under TGRA you decide how you're going to go about  
12 doing that.

13           MR. WILSON: If the wording is  
14 appropriate, no, I'm not opposed to. I guess what I'm  
15 questioning is can we get there through regulation? I  
16 don't know.

17           I mean, obviously, in Washington they  
18 have addressed this issue by coming up with a  
19 theoretical percentage, that that has happened and that  
20 you cannot bring that game down unless you can prove  
21 that you have met that payout, correct?

22           MR. WHEATLEY: From what it sounds like,  
23 that is the general best practice from an operator, is  
24 that they try to ensure that there has been -- typical  
25 hold percentage is like 25 percent on the pull tab. So

1 the house keeps 25 and 75 percent is awarded back to the  
2 player. And they try to maintain that.

3 But there can be certain instances, like  
4 Kathi had mentioned, where a game does not get played  
5 because maybe the prizes aren't rich enough or there is  
6 other -- if you have a large pull tab operation, maybe  
7 there is 30, 40 different bins of different games, and  
8 those other games are just so much more popular that a  
9 game can sit there two to three, four days. And an  
10 operator chooses, at that time, to pull it down because  
11 it's just not getting any play.

12 So there are instances where an operator  
13 does want to pull it maybe before a minimum payout  
14 percentage has occurred.

15 MR. MCGHEE: Do they have a procedure  
16 when they want to do that or they just decide --

17 MR. WHEATLEY: They just decide based on  
18 the amount of play.

19 How do we address that in whether it's a  
20 regulation or a guidance? It's just simply maybe  
21 explain the reason why it's been pulled down and given  
22 some type of report to explain it, similar to how you  
23 have to explain any type of variance, three percent plus  
24 or minus, why that occurred.

25 MR. MCGHEE: I think it should be

1 identified is it an inherent risk. Everybody has  
2 created a policy on it, which means there is a risk.

3 MR. WHEATLEY: It is a risk at smaller  
4 places, the information that I'm getting, that yeah, it  
5 definitely is a risk, there are operators that do do  
6 that.

7 MR. WILSON: So is the concept, then,  
8 that the mere reporting requirement of having to report  
9 to the TGRA a reason, that is the deterrent piece, not  
10 so much what the reason is as the analysis by the TGRA,  
11 but the mere fact that the operator has to report a  
12 reason, whatever that is, that's what the control is,  
13 not the control is that plus it can only be certain  
14 reasons. Because where we're getting hung up on is,  
15 well, what are all the reasons that it could or couldn't  
16 be, but the control is the reporting mechanism is in  
17 place that you have to report it.

18 MR. WHEATLEY: I would think that just  
19 the fact that a report needs to be issued to the  
20 regulatory authority. It can be the regulatory  
21 authority's authority to determine whether that was  
22 justified or not, or simply that the reg just say it  
23 needs to be reported.

24 MR. CULLOO: In Washington state, for  
25 non-tribal entities, card rooms and bars and taverns

1 that sell pull tabs, they're audited by the state. So  
2 there are forms they have to utilize whenever they pull  
3 a game off the floor, whether it's a reasonability test  
4 on the hold percentage or whether, again, it's a game --  
5 you decided to pull a dollar pull tab game up, nobody  
6 wants to go that rich and when it doesn't sell you pull  
7 it. Also, what you have to do is you maintain the bag,  
8 whatever was left, stapled with the flare, and that's  
9 their checklist to come in and make sure that the flare  
10 is always maintained for a period of time so that they  
11 can audit it and they can say yes, you did pull it, we  
12 weighed it, and it is what you say it is. But there is  
13 a form that they have to maintain on every game and the  
14 reason you pulled it.

15 MR. WILSON: So again, this concept that  
16 the control, again, from a federal level, the control  
17 being advocated is that the gaming facility operator has  
18 to report, but that's the extent of it. What happens  
19 beyond that is left up to each entity. Yes?

20 MR. MCGHEE: Yes. Because if I can  
21 report, then if the TGRA said why did you do this, they  
22 can look into it and make sure you're not doing anything  
23 wrong.

24 MR. WILSON: So the question, then, is if  
25 the current standard does not require reporting of, then

1 that's the change that needs to be in there?

2 MR. MCGHEE: Yes, a mechanism for what  
3 you just said.

4 MR. FISHER: All right. So I've been  
5 playing with different ways of hearing how people have  
6 said this. So what's up on the screen are some of the  
7 changes to the inventory section people have said, and  
8 then at one point Daniel suggested a separate section on  
9 game play. So if you're going to put something in the  
10 regulation, this presents an option for how to do it.  
11 Obviously, there could be others.

12 So given it's just a few minutes before  
13 we're supposed to break for lunch, so we could either --  
14 we could work this a little bit more in the full group,  
15 we could ask Daniel and Tom and anybody else who is  
16 interested to work it over lunch a little bit. So what  
17 do you want to do? Or Dan and Tom and Jeff.

18 MR. WILSON: I'm okay to break for lunch.  
19 I think we're very close to what we're trying to say.

20 MR. FISHER: You are, right.

21 MR. WILSON: I guess I'm less concerned  
22 about where it goes than I am the concept that we agree  
23 that when you're taking down a game that it is reported.

24 MR. MCGHEE: So why don't we just make  
25 that our recommendation, that it needs to be addressed.

1 The recommendation is to address in the reg that, that  
2 concern.

3 MR. WILSON: Yes. And I think we could  
4 probably vote on that before lunch.

5 MR. FISHER: I don't know if that does it  
6 or not. I'm getting there. Hold on one second.

7 MR. WILSON: It should be that the  
8 standard should address.

9 MR. FISHER: Okay. Do we need anything  
10 after that, or is that enough?

11 MS. HAMEL: I think it should be in the  
12 guidance document, not the standard.

13 MS. TAHDOOAHNIPPAH: I do, too.

14 MR. FISHER: Okay.

15 MR. MCGHEE: We're back where we were.

16 MR. FISHER: What did you say, Daniel?

17 MR. WILSON: We're exactly back to the  
18 beginning.

19 MR. FISHER: No, at the beginning was is  
20 this a risk that needs to be addressed. So we've  
21 accomplished identifying that it is something that needs  
22 to be addressed and that the way to address it is  
23 reporting, it's not a minimum percentage or any of the  
24 other ideas that came out.

25 So we have made -- we've gotten that far.



1 And now the question is where does it get reflected. Is  
2 it incorporated in the standard, in the reg, or is it in  
3 guidance? And so we could just pause on that question  
4 for now, take our lunch break, and pick up right there  
5 when we come back. And then anybody that wants to talk  
6 about it over lunch is welcome to do that.

7 All right. So by my clock it's -- we're  
8 at our lunch break, so we'll start up again at 1:00.

9 (TAC meeting recessed at 12:00 noon  
10 to be resumed at 1:00 p.m.)

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AFTERNOON SESSION

1:18 P.M.

--oOo--

MR. FISHER: Okay, folks. We're going to start.

So where we broke for lunch was at the point where we were discussing whether this question about reporting the reasons for removing or ending a pull tab game would be in the -- contained in the standard, in the regulation, or as a part of the guidance.

So anybody figure this out while we were on a lunch break?

Michele?

MS. STACONA: I just have a question for the NIGC to answer. Is this like a problem in Indian country?

MR. WEST: We're talking about the removal of games?

MS. STACONA: Yeah, or why you're making this statement on here about, you know, before the deal is done and all that, because is it going on right now?

MR. WEST: I think some of the committee members have talked about issues with removal early and

1 the fact that once they remove -- maybe the main risk  
2 is, you know, with the pull tabs, once they're removed,  
3 the boys stealing them and giving them to their friends  
4 and cash them in or whatever. I think there were, if I  
5 remember correctly, there were some committee members  
6 that indicated there were some abuses that they were  
7 aware of.

8 MS. STACONA: I guess I'm trying to find  
9 out if it's an issue and you're bringing it up, how come  
10 you didn't write a standard for it in 2010 or when you  
11 had the opportunity? Why wasn't it addressed then?

12 ASSOCIATE COMMISSIONER LITTLE: I don't  
13 think we can -- I mean, we weren't involved then. I  
14 don't know. I can't speculate on what they were  
15 thinking.

16 But it is an issue. It sounds like some  
17 folks around the table have discussed pretty good  
18 opinions on it. Like I say, you know, this is a good  
19 discussion. It helps me understand the issues, and it's  
20 actually good for the overall effort here.

21 MR. FISHER: Okay, Daniel. What are you  
22 thinking about regulation or guidance? Because I think  
23 if you did guidance, you would probably get an okay  
24 around the table.

25 MR. MCGHEE: So it's on me?

1 MR. FISHER: It's not all on you.

2 MR. MCGHEE: Okay. If I speak from  
 3 Poarch Creek's point of view, if it doesn't end up in  
 4 this, it's going to end up in my standards, either way,  
 5 if I don't get push-back from my commission stating that  
 6 they won't let me write it in my standard. So I'm not  
 7 going to hold the group up if that's the only problem.

8 I think I've gotten the gist of what the  
 9 issue is, and they can decide whether there is a  
 10 recommendation or not. I think they understand the  
 11 concepts, so I'm good.

12 ASSOCIATE COMMISSIONER LITTLE: What are  
 13 you good with?

14 MR. MCGHEE: I'm good with the fact that  
 15 it's out there on the table for you to know it's an  
 16 issue. So I'm going to put it in mine either way,  
 17 because I don't really know what every -- we never  
 18 really did a feel on how many people think that it -- we  
 19 never did a test to see who thinks it should be in or  
 20 not. So I don't really know where the group is with the  
 21 issue. And if it's a minority issue, then it's not that  
 22 important enough for me to sit here and talk about. I  
 23 just don't know if it really is. We never tested that.

24 MR. FISHER: How should we test it?

25 MR. MCGHEE: The test is should there be

1 something in the -- I want to know should there be  
2 something in the regulation addressing the concern of  
3 deals being removed from the floor prematurely, or  
4 whatever you want to say, should there be something in  
5 there.

6 MS. LASH: Reporting, right?

7 MR. MCGHEE: Yes, reporting, at least  
8 stating it's been removed from the thing and here is  
9 why.

10 MR. FISHER: Okay. Why don't we test  
11 what's up on the screen, test that. Can you read that?  
12 I'll make it bigger.

13 MR. RAMOS: This is in the reg, not the  
14 guidance document?

15 MR. FISHER: Yes.

16 So let's test that. So if you support  
17 this change in the TGWG version of 543.8, raise your  
18 hand, raise as many hands as you have.

19 ASSOCIATE COMMISSIONER LITTLE: Let the  
20 record reflect that only Dan raised his hand.

21 MR. FISHER: If you oppose putting it in  
22 the regulation, raise your hand.

23 Twelve.

24 If you abstain, raise your hand.

25 Two abstains.

1 MR. GARVIN: I oppose it being in the  
2 regulation. I guess I -- I assume it's in here in the  
3 guidance document with that sentence that says control  
4 should require that each deal of pull tabs removed and  
5 discontinued from play, that there is a summary report  
6 completed explaining that deal being removed from  
7 sellable inventory. That covers that.

8 But for me, going back to the regulation,  
9 it still doesn't say, in my opinion, that you can't do  
10 that. And that's why I liked the earlier suggestion of  
11 adding abuse in there, so at least we can make that  
12 determination at our level, that what you've done here,  
13 which will be repeatedly done here, constitutes abuse,  
14 because otherwise we don't have anything saying you  
15 can't do that. We have a thing saying you have to  
16 report it.

17 MR. MCGHEE: My only concern was it  
18 falling in the inventory section and that being clear  
19 that that was considered inventory. If most people  
20 consider that to be inventory if it's out on the floor,  
21 then I'm good. But it should state whether or not  
22 people who use pull tabs consider that to be inventory  
23 if it's on the floor. If that's the general consensus  
24 from people who do pull tabs, then I'm good with it.

25 But I just didn't that from the group,

1 that it was clear that inventory included those kind of  
2 things. I don't know -- I mean, I know Jeff and Leo  
3 deal with them electronically. Do you consider the  
4 inventory in the machine --

5 MR. CULLOO: Well, when I ran a card  
6 room, yeah, we did consider paper, pull tabs as part of  
7 the inventory, including the ones on the floor in the  
8 bowls.

9 MR. MCGHEE: So I would just interpret it  
10 that way.

11 MR. WILSON: Under GAAP, it would have to  
12 be part of inventory.

13 MR. MCGHEE: Would it?

14 MR. WILSON: Yes. So I don't think that,  
15 at least in my mind --

16 MR. MCGHEE: As long as there is  
17 something to say that inventory, by definition, includes  
18 that, instead of taking an interpretation of anybody.

19 MR. CULLOO: It wouldn't be any different  
20 than playing cards, dice, any gaming instrument.

21 MR. FISHER: Steve, would you like to  
22 test this adding that or "abuse" in there?

23 MR. GARVIN: Yes.

24 MR. FISHER: So if you support this  
25 change to 543.8(e), adding the word "abuse" in there as

1 up on the screen, raise your hand.

2 That got everybody except two.

3 So if you oppose it, raise your hand.

4 And if you abstain, then raise your hand.

5 That got two. So there is another  
6 consensus right there.

7 Well, maybe going to lunch helped us work  
8 through that. Maybe not.

9 Okay. The next -- we're ready to move on  
10 to the next comment, right?

11 MR. WEST: So is the recommendation that  
12 something go in the guidance?

13 MR. FISHER: The recommendation is that  
14 the standard in the regulation be changed to include the  
15 word "abuse," and then people are, if I'm understanding  
16 correctly, some people read the guidance to already  
17 include it, the ability to address it. So we didn't  
18 propose any changes to the guidance.

19 All right. So where is our next comment  
20 in here? Is it under --

21 ASSOCIATE COMMISSIONER LITTLE: I think  
22 we talked about this. And I think what we wanted to  
23 talk about next was the guidance on the risk assessment  
24 on page five. And I will let Rest explain this a little  
25 bit farther, about using internal audits versus -- for a



1 revenue audit function.

2 MR. WEST: Well, I'll probably take a  
3 step back. And maybe internal auditors, maybe there is  
4 a more general term for who should be performing this  
5 risk assessment. In some operations and entities that  
6 I've worked with, internal auditors may not be the ones  
7 that have the necessary expertise to perform risk  
8 assessment. So I'll kind of take a step back from the  
9 specific terminology of internal auditors performing the  
10 risk assessments. Sometimes they don't have the  
11 necessary experience to take a good look and determine  
12 what the risks are.

13 The second to the last sentence says just  
14 a general comment on an independent organizational  
15 component responsible for pull tab operations. It's  
16 kind of ambiguous, but I don't have any further  
17 suggestion for changing that as far as the guidance.

18 MR. MCGHEE: Is your thought that because  
19 risk assessment is generally associated with some  
20 specialized task by a specialized person that it should  
21 be more just maybe say periodic program reviews may be  
22 used instead of using the word risk assessment? Because  
23 it says up here anybody who is independent of the  
24 organizational component can perform this risk  
25 assessment. And instead of saying risk assessment, that

1 it would just be periodic program reviews may be used  
2 and then that ties into program reviews, taking out the  
3 risk assessment part of it. Is that what you're  
4 thinking?

5 MR. WEST: Because this risk assessment,  
6 it's just kind of general guidance in most of the  
7 sections. And I probably wouldn't want to change it up.  
8 Isn't this section (e) in most of the sections?

9 MR. FISHER: Most of the guidance  
10 sections?

11 MR. WEST: Yes.

12 MR. MCGHEE: It's a general statement in  
13 all of them that you should do that, a general practice.

14 MR. WEST: So I don't have any overly,  
15 you know, important reasons to do any changes to it, we  
16 just made comments about the paragraph.

17 MR. RAMOS: Rest, who was your first  
18 comment about, who would perform the risk assessment?

19 MR. WEST: I think that's probably when  
20 we wrote up this comment that maybe internal auditors  
21 are not the appropriate people to determine the risk  
22 assessment.

23 MR. RAMOS: Who is the appropriate  
24 person?

25 MR. WEST: Well, I think it depends on

1 the operation, who has the experience. I mean, it could  
2 be the general manager, it could be the head of the  
3 TGRA, it could be your external auditor. Maybe you  
4 brought an external auditor in or maybe even, not a  
5 contractor, but a consultant in to look at the risk in  
6 your operation.

7 MR. RAMOS: And the reason being because  
8 you feel like the -- kind of a general statement that  
9 the internal auditing function or the internal auditing  
10 people for the TGRAs really don't have the ability to do  
11 that or it's beyond their job scope?

12 MR. WEST: I'm not saying -- I'm saying  
13 they could, but I'm saying in all cases I don't think  
14 they would be the primary ones to evaluate the risk. It  
15 depends on their knowledge and experience. You could  
16 have someone who is purely capable of doing this and  
17 would be the best person to do it, but I don't think you  
18 can apply that to all situations.

19 MR. RAMOS: I think that's fair enough.  
20 I say that because I look at our position in California,  
21 and I mentioned this the other day, about the IRS risk  
22 assessments and risk assessment criteria. And I really  
23 see that, for the most part, TGRAs are picking up those  
24 responsibilities. And to a large degree, there is this  
25 whole push to train internal auditors to be able to do

1 some other risk assessment stuff.

2 So I just want to kind of throw that out  
3 there.

4 MR. WEST: I mean, take an IT risk  
5 assessment. You usually want to bring in someone from  
6 outside to do a risk assessment, vulnerability testing  
7 and what have you, in IT. So it depends on what you  
8 want to assess and the level of expertise in house.

9 MR. RAMOS: But for pull tabs, it's  
10 inventory really. I mean, what else as far as technical  
11 stuff?

12 MR. WEST: Well, electronic pull tabs are  
13 pretty complex.

14 MR. RAMOS: Okay. I keep forgetting  
15 about those.

16 MR. MCGHEE: What I'm reading, they're  
17 not saying you can't have a professional or you can't  
18 have somebody who knows, they're not telling you that,  
19 they're just saying whoever it is may not be the person  
20 who is over that.

21 MR. WEST: Sure.

22 MR. MORGAN: Both those terms, agent,  
23 independent, both those terms are defined, as well. It  
24 kind of gives you some point of reference of what those  
25 terms are meaning in this document.

1 MR. FISHER: So is there anything more on  
2 the risk assessment provision? And that I guess applies  
3 across the board, right? Because we determined that  
4 that section appears in every part of the -- it's in the  
5 guidance for every section.

6 All right. So what's next on here?

7 ASSOCIATE COMMISSIONER LITTLE: If you  
8 skip to page seven, we'll talk about the guidance for  
9 cancellation or removal.

10 I think we're just a little bit unclear.  
11 Maybe we can ask someone from the Tribal Gaming Working  
12 Group to maybe explain the procedures or how this is  
13 envisioned.

14 MR. WILSON: I'm sorry, what piece are we  
15 on?

16 ASSOCIATE COMMISSIONER LITTLE: Page  
17 seven, the guidance for cancellation --

18 MR. MCGHEE: It actually starts on page  
19 six.

20 ASSOCIATE COMMISSIONER LITTLE: Right,  
21 exactly. It starts at the bottom of page six, and then  
22 our comments are about a little short of halfway down on  
23 seven. And it talks about the procedures for when pull  
24 tabs are damaged during shipping and how they are put  
25 into play.

1 I mean, is this a common practice? Has  
2 this happened? Has it ever? I mean, I'm assuming it's  
3 not that common.

4 MR. WEST: I think we just wanted to  
5 throw it out to the committee and see if this is  
6 everything that -- it's all encompassing for their --  
7 the controls and the guidance provided for use and  
8 damaged pull tabs and winning pull tabs.

9 MR. FISHER: Well, is there any feedback  
10 or anything anybody wants to say about this part?

11 No? I'm hearing nothing. You want to  
12 move to the next one or do people need a few minutes to  
13 read this one?

14 ASSOCIATE COMMISSIONER LITTLE: Yeah,  
15 maybe.

16 MR. FISHER: Let's just take a minute or  
17 two to read it.

18 So where we are is on page seven here,  
19 right?

20 MR. WEST: So is the question is the  
21 guidance clear enough for everybody or is it too much  
22 guidance or should things be added? Because I have  
23 experience with damaged pull tabs and I have very little  
24 experience with -- I've never been in -- I've only been  
25 in one operation that actually sold pull tabs, and they

1 were from a machine, one of these cigarette machines.

2 MR. FISHER: Kathi?

3 MS. HAMEL: And I believe that was the  
4 example when the TGWG met for information from people  
5 who had more knowledge of pull tabs, is that the  
6 machines can jam and crinkle the pull tab itself. And  
7 it was important that it not be opened, that it just be  
8 handled separately, because if it was the winning one,  
9 you don't want to -- you want the agents to know exactly  
10 what it is. That was the example. And the reason that  
11 you surrender a damaged winning is because there would  
12 have to be payment for damaged -- potentially somebody  
13 damaged their pull tab.

14 So the reason that the standard was -- or  
15 the -- not the standard, that the guidance had two  
16 different conditions was because one required paying on  
17 that pull tab and the other one was to get it out of  
18 circulation.

19 MR. WILSON: The statement in the NIGC  
20 comment, the last sentence was in these situations the  
21 payment would affect the theoretical hold of the deal.  
22 Is that a true statement?

23 MR. WEST: I guess the question is how is  
24 it handled as far as the reporting, whether it's in the  
25 statistical reporting, is it actually reported, or is it

1 just canceled and removed.

2 MS. HAMEL: I believe it's handled the  
3 same way as in the other pull tab, that it's just not  
4 sold, it's dispensed and not sold. So there is no sale  
5 for it and there is no win for it. So the same -- so  
6 there is no revenue or prizes for it. But a winning  
7 would be part of your overall sale and prizes.

8 MR. WEST: I mean, I'm okay with that,  
9 because it's going through the cage, and the cage will  
10 send it to accounting, and it should get into the  
11 analysis through that procedure. And the revenue audits  
12 gets the --

13 MR. CULLOO: It does bring up the point,  
14 though, if you run it through complete and the top award  
15 is never found, some might wonder where the hell did it  
16 go, and you can't tell them, because you have a damaged  
17 one and it might have been in there and it wasn't opened  
18 and looked, and something else nefarious could have  
19 happened.

20 So that's the only problem with that, is  
21 not -- I mean, normally when you get damaged, you would  
22 cancel the whole game and make the vendor give you a new  
23 bowl to protect the integrity of the game. But if it's  
24 a machine dispensed, then it's --

25 MR. FISHER: Okay. So is the conclusion



1 that there is nothing more that needs to be done to  
2 this?

3 MR. MCGHEE: I think you just track that  
4 you did it. If you did it, it tells you to track it so  
5 there is a record.

6 MR. FISHER: Kathi?

7 MS. HAMEL: I have a question, having  
8 never worked directly with pull tabs. But isn't there a  
9 potential that a patron could purchase a pull tab and  
10 it's a winning pull tab and never redeem it?

11 MR. WHEATLEY: Possible.

12 MS. HAMEL: And it could potentially be  
13 the grand prize, right?

14 MR. CULLOO: Sure.

15 MR. WHEATLEY: Sure.

16 MR. WILSON: What are you saying?

17 MS. HAMEL: Well, the fact that that pull  
18 tab is damaged and not open to determine whether it's  
19 the top prize or not is not any different than if a  
20 customer purchased a pull tab and never redeemed it to  
21 the outcome and the theoretical of the game.

22 MR. WILSON: Well, that's why I was  
23 asking the question does this really impact the  
24 theoretical or not? I mean, to me --

25 MR. CULLOO: It wouldn't impact the

1 theoretical at all, no.

2 (Simultaneous discussion.)

3 MR. WILSON: I'm just trying to clear the  
4 comment that NIGC had, that these scenarios would affect  
5 the theoretical hold. I'm just trying to establish is  
6 that a true statement or not?

7 MR. WEST: That's correct.

8 MR. WILSON: That's not a true statement?

9 MR. WEST: No, it's not.

10 MS. HAMEL: The theoretical of the game  
11 is the theoretical.

12 MR. WEST: It never changes. It would be  
13 the actual hold.

14 MR. FISHER: Everybody cross that out and  
15 write actual.

16 MR. WHEATLEY: Did he want that on the  
17 record or what?

18 MR. FISHER: Well, have we done enough on  
19 this.

20 Okay, what's your next comment? We're on  
21 seven now, top of page eight. Is that the next one?

22 ASSOCIATE COMMISSIONER LITTLE: Yeah,  
23 actually, bottom of page eight on reconciliation.

24 MR. WEST: Actually, top of page eight.

25 MR. MCGHEE: The top of page eight says

1 it appears to be consistent with industry standards,  
2 right? So that's good. And the next one says it  
3 appears to be consistent with industry standards, so  
4 that's good.

5 MR. WEST: Top of page eight.

6 MS. HAMEL: The top of page eight?

7 MR. WEST: Yes.

8 MS. HAMEL: It's the same bad grammar.  
9 It's not a matter of not doing a log, it's where is the  
10 location of that log, as we had in cards. Sorry.

11 MR. WEST: So it's where you maintain it.

12 MR. WILSON: Where they're controlled.  
13 There is no dispute that logs are required.

14 MS. HAMEL: Yes, it's the location.

15 MR. FISHER: Is it the same number?  
16 Maybe that's a universal suggestion.

17 MS. HAMEL: Yes. And I'm sure it's  
18 probably in bingo, too.

19 MR. FISHER: Well, we haven't talked  
20 about the bingo guidance yet. So do you want to make  
21 that clarification about this same clarification?

22 MS. HAMEL: Yes.

23 MR. FISHER: What's the number in the  
24 guidance?

25 MR. WEST: A(5)(ii).

1 MR. FISHER: So we have that down as  
2 something that the committee reached consensus on with  
3 respect to card games. And so it's -- do we need to  
4 test the consensus again to put it in here or can we  
5 carry it over?

6 MS. HAMEL: Well, it's in the guidance,  
7 right?

8 MR. FISHER: Right. So you could just  
9 say it this way, right?

10 Okay. So do we need to take a formal  
11 vote on this, or because it's a carryover from something  
12 we already agreed on, we are just applying it to the  
13 same -- it's the same principle, different section.

14 Okay, anybody want to call for a vote?  
15 Do so right now, otherwise --

16 ASSOCIATE COMMISSIONER LITTLE: I think  
17 it's just (ii).

18 MR. FISHER: Okay. What is next on here?

19 ASSOCIATE COMMISSIONER LITTLE: We want  
20 to talk about inventory reconciliation, which I guess  
21 starts at the bottom of page eight and our comments are  
22 at the top of page nine.

23 MR. MCGHEE: I was looking at that. Help  
24 me find it. Is it 543.19?

25 MR. FISHER: 19 is the accounting

1 section, right?

2 MR. WEST: My comment, I think in the  
3 guidance documents it should say monthly, month end. I  
4 mean, you can do an inventory more often than that, but  
5 I think general best practices, a month-end inventory  
6 should be taken to tie into your monthly financials.

7 MR. WILSON: So the accounting on 543.19,  
8 where it says that you must do this inventory  
9 reconciliation in accordance with 543.19, on page ten of  
10 that document --

11 MR. FISHER: Of which document?

12 MR. WILSON: 543.19, page ten, number  
13 four, it says monthly audits, the following audits  
14 should be performed not less than monthly, reconcile  
15 inventory records to the amount of revenue  
16 recognized, verify inventory balances and review reports  
17 at specified intervals, dah, dah, dah, dah.

18 So it looks like in the accounting and  
19 auditing controls, it is acknowledging that monthly --  
20 part of a monthly audit is the reconciliation of  
21 inventories.

22 MR. MCGHEE: Specify intervals should be  
23 in accordance with 543.19, which is monthly.

24 MR. WEST: But monthly could mean every  
25 month on the 15th of the month.

1 MR. MCGHEE: Whatever it says on 19.

2 ASSOCIATE COMMISSIONER LITTLE: It just  
3 says not less than monthly.

4 MR. FISHER: So what's the issue, Rest?

5 MR. WEST: It's not in sync with your  
6 financials. You're recording your revenue on a monthly  
7 basis, and if you have adjustments from your  
8 inventory -- it's just general best practice that, being  
9 a paper inventory, pull tab inventory, various and  
10 sundry inventories are done at the end of the month.  
11 Just like saying inventory your food and beverage at the  
12 end of the month, but then you've got, you know, revenue  
13 recorded on a monthly basis.

14 MR. FISHER: I got it. So it's a timing  
15 question about syncing up with the financials?

16 MR. WEST: Yes.

17 MR. WILSON: I don't disagree with what's  
18 being said, but I think the GAAP -- I mean, it should  
19 be -- in revenue accounting, part of your month-end  
20 close process has to include the reconciliation of  
21 inventory balances in order to close the books.

22 So I'm not sure that -- I'm not sure that  
23 doesn't happen anyhow or if -- if you're keeping your  
24 financials in accordance with GAAP, then, by definition,  
25 you would be reconciling those inventories on a

1 month-end schedule, I would think.

2 Now, whether people actually do that or  
3 not I don't know, but that's -- that's what would be  
4 inherent from a GAAP standpoint.

5 MR. WEST: So then they would need to do  
6 it twice? Would somebody be doing inventory twice a  
7 month?

8 MR. WILSON: No, I'm just saying that  
9 there is probably a disconnect in that the wording here  
10 is saying that it needs to be done monthly. What you're  
11 saying, though, is that depending when it's done in the  
12 month can have an outcome on your period close. But  
13 what I'm saying is that you wouldn't, under GAAP, do an  
14 inventory at the 15th of the month, you would do it at  
15 the end of the month to coincide with your close.

16 MR. WEST: Right.

17 MR. WILSON: So if this -- if the issue  
18 is that, in reality, the monthly inventories should be  
19 done to coincide with your financial closing, then  
20 that -- it's more appropriate to say that than to say  
21 just it should be done monthly, although I think the  
22 GAAP addresses that, but it may not be evident on its  
23 face.

24 MR. WEST: So what is your suggestion?

25 MR. WILSON: Well, I think if we talk

1 about that the financials, and we've said this  
2 throughout various documents, need to be in accordance  
3 with GAAP, I think it's inherent that it's already  
4 there, because that inventory process has to take place.

5 So if the risk is that somebody would  
6 conduct an inventory, let's say, on the 15th but that  
7 truly isn't reflective of the financial statement -- and  
8 that's really what we're getting up to. The point of  
9 that inventory is to reflect accurately in the financial  
10 statements. That's going to happen at month end. If it  
11 wasn't happening then, an audit should reveal that. To  
12 be in accordance with GAAP, this inventory process has  
13 to take place as part of your month-end close.

14 MR. FISHER: So does that mean you want  
15 to propose a change to the guidance or --

16 MR. WILSON: Well, I don't know. I mean,  
17 from my perspective, I don't think a change is  
18 necessary, but I have an understanding of GAAP. So to  
19 me, I know that if I were conducting these inventories  
20 or if I were a CFO at a casino, I'm going to include  
21 that process as part of my monthly close.

22 Now, there could be, though, other  
23 reasons to conduct inventories more frequently that  
24 don't have to do with the financial close but have to do  
25 with other risks or considerations that you have in your



1 operation. But the inventory that counts should be the  
2 one that's done at month end for the period at close.

3 So you merely have a -- in here, this  
4 control is talking about inventory as a control  
5 mechanism to ensure that you can account and reconcile  
6 your inventory. It is not, necessarily, speaking to the  
7 reason you inventory for financial reporting purposes.

8 But again, I think that that is already  
9 covered in GAAP. I don't know that it has to be said  
10 here, given the context of what I believe the reason  
11 that it's even saying that you must inventory and  
12 reconcile. This would be more looking at, you know,  
13 discovering fraud or things of that nature in the  
14 inventory. And you may want to do that weekly because  
15 you had some problem that you were doing. But that  
16 inventory is not going to be the inventory figure that  
17 is used for purposes of your financial statement  
18 reporting.

19 MR. WEST: Wouldn't it provide better  
20 guidance to the smaller gaming operations I'm advocating  
21 to say at specified intervals and at month end?

22 MR. WILSON: Well, I mean clearly, if --  
23 you know, again, I'm just speaking off the cuff because  
24 I don't know, but the month-end component, if they do it  
25 for month end but don't know why they're doing it for

1 month end, and if that's being done at month end but  
2 nothing is being reconciled up to the financial  
3 statements, then it really doesn't matter. Yes, they  
4 did it at month end but it didn't flow through the  
5 financial statements.

6           So my concern would be that the -- you  
7 know, there is two risks here. There is the risk that  
8 financial statements are incorrect because this  
9 inventory wasn't done or you can't substantiate the  
10 inventory was done, but the -- if you're prescribing  
11 that the public accounting firm or whoever is verifying  
12 that the financial records are being done in accordance  
13 with GAAP, then one of the things that they're verifying  
14 is that inventories are happening at the prescribed  
15 basis according to GAAP in order to conclude on the  
16 financial statements.

17           I mean, I don't think it hurts to say  
18 that, but I just am saying that there is two distinct  
19 issues here with inventory reconciliation. One of them  
20 is potentially to help uncover fraud or things of that  
21 nature, but the other thing is clearly the accounting  
22 mechanism for accounting for inventory and ensuring that  
23 those transactions flow up to the financial statements.

24           I don't know if this guidance document  
25 was really specific to both of those components, the

1 accounting component, or if it's focusing more on maybe  
2 the fraud component, that that's what the concern was  
3 here focusing on that. I suspect it's the latter.

4 MR. WEST: I just don't see why you  
5 wouldn't recommend doing both, but that's -- month end  
6 is when you're going to really see if your inventory --  
7 obviously, it's the best time to reconcile your  
8 inventory. But sometimes you get your books open at the  
9 end of the month to make sure you've got all your pull  
10 tab purchases in. So unless you have another means to  
11 do that, then I just think it's logical that it's month  
12 end. And you do your internal control function and your  
13 financial statement function at the same time. And  
14 that's generally how it's done in the industry.

15 And we may get into this situation, too,  
16 where we're talking about this federal reporting for  
17 pull tabs or bingo or whatever, it might say -- I don't  
18 know if any of this says that, but, you know, at least  
19 monthly, statistical analysis reports should be  
20 generated and reviewed and what have you.

21 You know, logically at month end is the  
22 time to do that, because it will -- those should tie  
23 into your financial statements.

24 MR. WILSON: Well, maybe a better  
25 question is does anybody know if their facilities

1 conduct inventories of this nature at any time, or does  
2 everybody conduct a month-end inventory regardless of  
3 what other inventories may have occurred?

4 ASSOCIATE COMMISSIONER LITTLE: No one  
5 does inventory?

6 MR. WHEATLEY: We always conduct a  
7 month-end inventory.

8 MS. THOMAS: Month-end inventory.

9 MS. TAHDOOAHNIPPAH: But you just do it  
10 monthly?

11 MR. WHEATLEY: I'm sure there is  
12 spot-checks in between then and there, but the main  
13 inventory is monthly for financials.

14 MR. CULLOO: Some inventories you  
15 reconcile daily, like cards and that kind of stuff. But  
16 for the most part, it's the monthly.

17 MR. FISHER: So are we -- you know, we've  
18 kind of gone back and forth that it's covered but it's  
19 not explicitly stated. Do you want to make a  
20 clarification that something should be explicitly stated  
21 about the time period?

22 MR. WILSON: Well, perhaps the best  
23 practices suggest that those inventories should be  
24 conducted in conjunction with the monthly financial  
25 close, or whatever financial close period it pertains

1 to.

2 ASSOCIATE COMMISSIONER LITTLE: I think  
3 it's helpful to just keep in mind that the challenge we  
4 face is creating a regulation that encompasses the  
5 entire industry, which is so diverse and has different  
6 levels of sophistication. So as clear as you can make  
7 it, I think it's better.

8 MR. FISHER: Okay. So that's what I  
9 heard. Can you read that? Is there enthusiasm for  
10 testing this?

11 MR. WHEATLEY: You might just want to add  
12 a (g).

13 MR. FISHER: Add a (g)?

14 MR. WHEATLEY: (g)(4), it's in the  
15 section (g)(4). No.

16 MS. TAHDOOAHNIPPAH: Isn't it in the  
17 guidance documents?

18 MR. WHEATLEY: Well --

19 MR. FISHER: (g) is all the audit stuff.  
20 (g), it's (g).

21 MR. WILSON: That's a consistent  
22 statement throughout this.

23 MR. FISHER: So it doesn't -- it's kind  
24 of a general -- it's a general recommendation, not  
25 necessarily with respect to pull tabs.

1 MS. HAMEL: It needs to be in accounting.

2 MR. FISHER: Yeah, the accounting  
3 section.

4 MR. WHEATLEY: Which is what that is,  
5 right?

6 MR. FISHER: No, this is in pull tabs.

7 MR. WHEATLEY: But you're citing 543.19,  
8 which is the accounting section (g).

9 MR. FISHER: I can move both of those to  
10 the accounting section (g). Sorry, I got ahead of  
11 myself.

12 All right. So shall we test this, making  
13 this a general recommendation in terms of clarifying in  
14 the accounting guidance? So are we ready or do you need  
15 a minute? It's page ten in the accounting guidance.

16 Okay, let's try it out. So if you  
17 support this clarification in the accounting guidance,  
18 raise your hand.

19 Okay, that got everybody. I'm going to  
20 pick it up from here and move it to the --

21 MS. HAMEL: Matthew has something to  
22 bring up.

23 MR. FISHER: Wow, that put Matthew on the  
24 spot.

25 MR. MORGAN: If you're looking at your

1 comparison document, the comment right after four, if  
2 you look, it's listed as bingo card sale voids in  
3 the pull tab document. And the NIGC comment appears to  
4 be consistent with industry practices, which may be  
5 true, but it probably could be in the pull tab section  
6 there. It looks to me that we have a problem with the  
7 guidance document there.

8 MS. HAMEL: We have a typo in the  
9 guidance document.

10 MR. MORGAN: The guidance document says  
11 (g), pull tab sales.

12 MS. TAHDOOAHNIPPAH: It refers to bingo.

13 MR. FISHER: Mia was ready to jump all  
14 over that.

15 MR. MORGAN: And at four, suddenly we  
16 jump back to bingo cards. And I'm not for sure why.

17 MR. WEST: You won the prize. We were  
18 waiting to see who was awake enough to see that.

19 MR. MORGAN: In your comments you just  
20 said consistent with industry standards.

21 MR. WEST: Which is a true statement.

22 MR. MORGAN: It is a true statement.

23 MR. MCGHEE: Who wins the prize, Kathi or  
24 Matthew?

25 MR. WEST: Whoever submitted them. No,

1 Matthew does. He pointed it out.

2 ASSOCIATE COMMISSIONER LITTLE: Ready to  
3 go on to the next one?

4 MR. FISHER: Yes.

5 ASSOCIATE COMMISSIONER LITTLE: The next  
6 item that we want to discuss is -- it starts at the very  
7 bottom of page ten, it says physical reports, but the  
8 comment is on page eleven. And basically, the comment  
9 was theoretical versus actual hold percentages and  
10 whether or not this comparison was being done.

11 Is this an issue that you think should be  
12 done or is -- I know we talked about theoretical hold or  
13 is it actual hold here in different sections here.

14 MR. FISHER: Any response? People still  
15 looking? Yes, okay.

16 MR. WHEATLEY: I think it's another  
17 avenue to report as to why you may have removed a game  
18 early. It's probably going to show up on that. If you  
19 do that analysis of the theoretical versus the actual  
20 hold, you're probably going to see a variance in that  
21 case. So it would be another instance, another check.

22 MS. HAMEL: I just have a question,  
23 because I don't -- if the deal can't -- does not play  
24 out to the end of its cycle, comparing the actual  
25 against the theoretical has no value if you don't know



1 what the unplayed values are. So what does that  
 2 analysis tell you if that deal is not played all the way  
 3 through?

4 MR. RAMOS: And for which reason is it  
 5 not played all the way through?

6 MR. WHEATLEY: It would require you to  
 7 report why it wasn't played all the way through.

8 MS. HAMEL: Right, you reported why.  
 9 Let's say because nobody is playing it. What value does  
 10 comparing the actual win of that deal against the  
 11 theoretical add?

12 MR. RAMOS: So are you pulling out the  
 13 whole deal or half of the deal because nobody is playing  
 14 it after -- is the case that after they've already won  
 15 the top award?

16 MS. HAMEL: Statistics --

17 MR. MCGHEE: (Inaudible).

18 MS. HAMEL: Pardon me?

19 MR. FISHER: I didn't hear what Daniel  
 20 said. I'm sorry.

21 MR. MCGHEE: I think if you're comparing  
 22 it, you're comparing it to see that it paid out as it  
 23 should have. If it didn't, that means somebody has  
 24 tampered with it.

25 MS. HAMEL: If the whole deal was

1 purchased. So if the whole deal was purchased, I could  
2 understand the statistical analysis of actual with  
3 theoretical. If it's not, I don't know what the  
4 statistical relevance is.

5 MR. WHEATLEY: And I don't think the -- I  
6 don't think it really clarifies whether that analysis is  
7 done to a game that's been fully purchased or one that's  
8 been pulled early, it just says that it will be done.  
9 So for all games. And I would imagine a minority of the  
10 games are going to be ones that are pulled early.

11 So for the most part --

12 MS. HAMEL: I don't know what the  
13 statistical relevance is.

14 MR. CULLOO: If you were to have -- like  
15 for instance in Washington state, they say the game has  
16 to have a minimum add of 60 percent. So if you're  
17 testing to a standard like that, it does have value,  
18 because you know how much you sold in tickets, what's  
19 left in the prize pool. And you really know what your  
20 actual is at any time, because you know what your actual  
21 is and if you have a minimum that you actually have to  
22 pay out, whether that's what you're comparing it  
23 against.

24 MS. HAMEL: Right, but that's not --  
25 that's different than comparing the theoretical against

1 the actual. That's comparing the actual against a  
2 regulation that says you have to have a minimum payment.  
3 That's a different analysis. I'm just talking about  
4 statistical relevance that if it's not completely sold,  
5 that theoretical isn't statistically relevant to an  
6 analysis.

7 MR. WILSON: A better term than  
8 statistically relevant is that it's not statistically  
9 valid.

10 MS. HAMEL: The hold isn't there.

11 MR. WILSON: Right.

12 MS. HAMEL: And the theoretical is based  
13 on the hold.

14 MR. WILSON: Yes.

15 ASSOCIATE COMMISSIONER LITTLE: Do I hear  
16 most of these games are not fully played?

17 MR. CULLOO: Most of them are not.

18 MR. WEST: Most of them are.

19 MR. CULLOO: Are not. It would be rare  
20 that one would be fully played.

21 MR. FISHER: You said are not, he said  
22 are.

23 MR. CULLOO: Are not.

24 MR. WHEATLEY: As soon as the flares are  
25 marked off, the game is taken out.

1 MR. WEST: This also covers electronic  
2 pull tabs.

3 MR. CULLOO: Oh, all right.  
4 (Simultaneous discussion.)

5 ASSOCIATE COMMISSIONER LITTLE: Does the  
6 group think there is a value in this? I mean, I hear  
7 some that it may not be all that relevant, some saying  
8 that it could be, there is an opportunity to identify  
9 fraud or --

10 MS. THOMAS: Statisticals, specifically  
11 how she's explaining it, because a statistical report  
12 isn't going to be valid against the -- until it's all  
13 done, because with the flare, like you were pointing  
14 out, if they're all marked off and we have 20 pull tabs  
15 left in that bowl, nobody is going to buy them. So  
16 they're going to be pulled and then they will be based  
17 on those numbers.

18 MR. FISHER: So you're already doing it.

19 MS. THOMAS: Yeah.

20 MR. FISHER: I guess the question would  
21 be whether the guidance is for those people that need  
22 recommending that it be done, for those that aren't  
23 necessarily doing it. Maybe everybody is.

24 MS. HAMEL: I think that in the guidance  
25 document we've said that there is an analysis and

1 somebody is looking at the sales against the win. I  
2 think -- I just don't know about comparing it to the  
3 theoretical.

4 MR. FISHER: I'm not hearing a lot of  
5 enthusiasm for it.

6 MR. WEST: Well, my point is not -- I  
7 agree statistical comparisons are not valid, but at the  
8 end of the month, say you run your statistics for your  
9 pull tab deals, your electronic pull tab games, and  
10 you've got one that's off by 20 percent, it also shows  
11 it's not completed, that would be -- but it also has  
12 some indicator to say it was pulled out of the server.

13 So wouldn't you want the person in  
14 revenue audit to identify the reason for that, that it  
15 was actually pulled off the floor on July 16th, 2011 and  
16 that would be the reason? I mean, you wouldn't get into  
17 any detail about why the statistical fluctuations are  
18 sky high, but as a control, you would know that that  
19 game was pulled off the floor and that's the reason.

20 I mean, I wholeheartedly agree that the  
21 statistical comparison is not even valid because the  
22 deal was not played out. But the reason for a  
23 statistical reporting may be other -- you know, may have  
24 other functions.

25 MS. HAMEL: I believe there has to be

1 statistical reporting, I just don't know the value of  
2 comparing it against theoretical in this case. So yes,  
3 it needs to be reviewed.

4 MR. WEST: I think somebody needs to be  
5 looking at what is run through the servers and if there  
6 is some big fluctuation. And the reason should be  
7 easily identifiable by revenue audit if they've been  
8 notified the game has been pulled out of the server.  
9 Maybe it was malfunctioning or something or maybe  
10 they -- maybe they closed the whole bank down and they  
11 took that deal off the floor.

12 I mean, that's something that I think  
13 operations or revenue audit people should know about.

14 MR. MCGHEE: That would be best practice,  
15 right, to do it, to point out best practices?

16 MR. WHEATLEY: So, Kathi, is your  
17 argument specifically that it's being evaluated against  
18 the theoretical? Is there a better measure for it to go  
19 against? We do that with keno, where we have a floating  
20 average of what our actual hold percentage is for twelve  
21 months. And then on a monthly basis, we evaluate what  
22 our current month hold percentage was against our last  
23 twelve months to see if there is any variance. I'm just  
24 throwing that out there.

25 MR. WEST: But how does that compare to

1 the pull tab deal? Because you've got lots of keno  
2 games being played, and I understand the holds can be  
3 different based on what numbers the players have picked.  
4 We're talking about the statistics for one deal.

5 MR. WHEATLEY: One particular game.

6 MR. WEST: Which has a theoretical hold  
7 that should be hit if all the pull tabs are selected.

8 MR. WHEATLEY: Right.

9 MR. WEST: And I think some operations  
10 probably run reports that show -- maybe it's under  
11 Washington state law, they can only run the closed  
12 games, or maybe that was -- I was thinking about one  
13 time they had that rule that you couldn't go in and look  
14 at the actual percentages until the actual deal was  
15 closed.

16 MR. WHEATLEY: I believe that's correct.

17 MR. FISHER: Still today?

18 MR. WHEATLEY: Yeah, you can't know the  
19 actual percentages of a live game.

20 MR. CULLOO: Because then you shut it  
21 down once you hit the minimum.

22 MR. WEST: Or you tell your buddies go  
23 play this game because the big ones haven't hit yet, so  
24 they go cash in the bank.

25 MR. CULLOO: But those games, they're

1 holding about 25 percent for the house. So you're going  
2 to look at them in operations and see why are all my  
3 games holding only 50 percent on my pull tabs? What's  
4 going on there?

5 So I mean, it's not a real formal  
6 analysis, it's just you know in your head that this is  
7 what it's supposed to be. And I know, based on  
8 experience with pull tabs, that that's not correct.

9 MR. WEST: So maybe it should just  
10 discuss the ones that you pulled off the floor or  
11 complete. I don't know, but they run through the entire  
12 deal. And if you get to the end of the deal and if  
13 there is a fluctuation, what if somebody has cheated you  
14 or there has been a malfunction in the game or  
15 something? I don't know.

16 MR. RAMOS: So what would that proposed  
17 language look like? I'm ready to vote on it. I think  
18 you've got a good point, but --

19 MR. FISHER: Right, but he's the only one  
20 pressing on it.

21 MR. WILSON: I think Kathi acknowledged  
22 that if we're limiting this to closed games, then that's  
23 okay, because you can actually do the analysis. So it  
24 seems to me the issue is that this guidance or issue  
25 that in order to do the analysis that NIGC would like to



1 see, that can only be done on closed games.

2 MR. WEST: Or maybe you do it like your  
3 slot analysis; you get to a certain threshold like on  
4 your PAR sheets, maybe if 75 percent of the deal has  
5 been played, at that time, you look and see where you  
6 are and see if there is any crazy fluctuations. I don't  
7 know. Because I think you said now that the sets are up  
8 to \$10 million or something?

9 MR. WHEATLEY: Well, I was talking video  
10 monitors. I doubt that the physical pull tabs --

11 MR. WEST: I think it could vary by  
12 operation. I don't know. It would be something with  
13 the operation you would want to determine.

14 MR. WILSON: In the accounting and  
15 auditing section, where it talks about monthly audits  
16 again and it says review reports at specified intervals  
17 for statistical fluctuations (inaudible) best practice  
18 suggests using a three percent threshold, does that  
19 address any of this issue or --

20 MS. HAMEL: Not to that.

21 MR. WEST: I think you would look at it  
22 like a PAR sheet. I mean, if you're at a low number of  
23 holds, your range of theoretical holds or actual holds  
24 could be, you know, all 15 points until you start  
25 getting in your -- toward the end of your cycle. You

1 should be approaching that theoretical hold on your PAR  
2 sheet. So whatever they have now. I think it's PAR  
3 sheets now.

4 MR. FISHER: So does that capture it,  
5 what's here, or should it say best practices?

6 ASSOCIATE COMMISSIONER LITTLE: By  
7 requiring that on only fully sold-out games, would that  
8 compel someone to not -- or an operator to not have a  
9 fully completed game, or if someone inside was doing  
10 something dishonest?

11 MR. CULLOO: One is statistical. The  
12 other reason is non-statistical that you might pull a  
13 game.

14 MR. WHEATLEY: I think that instance is  
15 only going to happen on an electronic game. I can't  
16 foresee it on a physical game. It's just nearly  
17 impossible to sell every single tab, I would think.

18 MS. HAMEL: And you're always doing the  
19 statistical analysis. My comment was that comparing it  
20 to the theoretical did not add value and you still have  
21 the statistical analysis, as this document indicates.

22 MR. FISHER: Okay. So are we making any  
23 clarification or suggesting any clarification as to  
24 what's in the guidance or to respond to what Rest has  
25 been asking about or talking about?

1 MR. CULLOO: Well, that doesn't really  
2 address the two forms of pull tab, electronic and paper,  
3 because you're not going to sell out paper. So that's  
4 not a correct statement.

5 MR. WHEATLEY: It just wouldn't apply.

6 ASSOCIATE COMMISSIONER LITTLE: That's  
7 true, it wouldn't apply.

8 MR. WEST: I think you would also want to  
9 maybe not do the analysis but review -- like run reports  
10 to show all games taken off the floor or deals taken off  
11 the floor, just know that there is a reason.

12 MS. TAHDOOAHNIPPAH: How long does it  
13 take for the deals to sell out? I mean, if it took six  
14 months, per se, and then you'd do an analysis after  
15 that? I mean, it's kind of a long period.

16 MR. WHEATLEY: I think it depends on the  
17 size of the game and the venue itself.

18 MR. WEST: Popularity.

19 MR. WHEATLEY: From what I was hearing is  
20 that if a game is on the floor for two to three days,  
21 that's too long. So they sell out that quick.

22 I don't think there is a large amount of  
23 tabs themselves. There might be 1,000, 2,000, maybe  
24 10,000 maximum tabs in a physical game. So they go  
25 through them I think pretty quick. It's the electronic

1 versions where you get the larger pool sizes, millions  
2 of them.

3 MS. HAMEL: I thought those electronic  
4 versions had systems that gave you the statistical  
5 comparison?

6 MR. WHEATLEY: I'm sure they do.

7 MS. HAMEL: So it comes with the system.

8 MR. FISHER: Okay. So are we making a  
9 recommendation on clarification or -- I can't tell.

10 ASSOCIATE COMMISSIONER LITTLE: It  
11 doesn't appear they want one.

12 Okay, so let's move on to the next one.  
13 Nobody wanted to say no.

14 ASSOCIATE COMMISSIONER LITTLE: Actually,  
15 the last question that we have, and it may just be a  
16 clarification here, there are other parts of the  
17 document there that I'm not sure if anybody else wants  
18 to comment on, but it is on just actually the next  
19 section on technological aids. And the question raised  
20 was in reference to the draw procedures. And I think  
21 our question is this was actually just moved to another  
22 section, right?

23 MS. HAMEL: (Nods head.)

24 MR. MCGHEE: The drop section handles  
25 it --

1 ASSOCIATE COMMISSIONER LITTLE: Okay.

2 MR. MCGHEE: -- if it involves a drop.

3 MR. FISHER: That's it for you on pull  
4 tabs?

5 ASSOCIATE COMMISSIONER LITTLE: Yes.  
6 There is a lot of other areas that we didn't touch upon.

7 MR. FISHER: And there is a lot of  
8 provisions in here that we didn't talk about. So how  
9 would you like to handle those?

10 So does anybody have anything else on  
11 pull tabs, since we've worked through all the NIGC  
12 comments?

13 ASSOCIATE COMMISSIONER LITTLE: Wait,  
14 we've got one more.

15 MR. FISHER: Well, we almost worked our  
16 way through the NIGC comments.

17 MR. WEST: Does anybody have any  
18 experience with progressive pull tab games and does  
19 anything need to be changed in the guidance in section  
20 (1), progressive pull tabs?

21 MR. MORGAN: My attorney does go back to  
22 when it was called Lucky Tab 2 back in the early 90s.  
23 That's why I asked questions from back before.

24 MR. WHEATLEY: I've never seen one.

25 MR. FISHER: Yes, Kathi?

1 MS. HAMEL: Do we need to make a formal  
2 recommendation about changing the void section to say  
3 pull tab or --

4 MR. FISHER: Changing the?

5 MS. HAMEL: In the guidance document from  
6 bingo to pull tabs.

7 MS. TAHDOOAHNIPPAH: Page eight.

8 MR. FISHER: Page eight of the guidance  
9 document.

10 MR. MORGAN: (g)(4).

11 MR. FISHER: Say the section again,  
12 Matthew?

13 MS. HAMEL: (g)(4).

14 MR. FISHER: So it should say pull tabs  
15 instead of bingo?

16 MS. HAMEL: Yes.

17 Okay, raise your hand if you're okay with  
18 that.

19 All right, that's good. We got that.

20 MR. MCGHEE: I have a question about the  
21 guidance documents. And we may have done it in other  
22 areas, I just haven't noticed, that sometimes in the  
23 guidance document it will say -- refer to 543.19, right?  
24 But then it will say and the guidance provided in the  
25 associated document.

1 Do you think that's appropriate to, in  
 2 this guidance document, to have them refer to the  
 3 guidance documents provided, or should you just refer  
 4 them to the standard? For instance, page -- it's more  
 5 just an opinion. Do you see where I'm talking about?

6 MR. FISHER: So, Daniel, did you want to  
 7 propose --

8 MR. MCGHEE: No. I was just asking  
 9 people's thoughts, if it's appropriate or inappropriate  
 10 to refer to --

11 MR. FISHER: I'm not getting any  
 12 feedback.

13 MR. WEST: Which page is that?

14 MR. MCGHEE: It's on page seven.

15 MR. FISHER: Towards the top under IV.

16 ASSOCIATE COMMISSIONER LITTLE: It's the  
 17 associated document, what is -- I'm trying to see what  
 18 you're referring to or --

19 MR. MCGHEE: No, it just makes a -- these  
 20 guidance documents, are they sort of the official  
 21 guidance documents? So I don't know if you should be  
 22 using them in that context. So just make note of that.

23 MR. FISHER: Okay. So before we move off  
 24 of pull tabs, let me just check, because there were  
 25 sections that we didn't talk about that didn't arise in

1 the NIGC comments. So do you want -- is there any  
2 discussion that we need to do on those and do you want  
3 to make a recommendation to basically recommend the TGWG  
4 version of those other sections, since we approved some  
5 sections but not all the sections?

6 MS. THOMAS: I think (h) under cash and  
7 cash equivalent controls should end with 543.14(e), like  
8 we did in card games, just for consistency.

9 MS. TAHDOOAHNIPPAH: What page?

10 MS. THOMAS: Eleven.

11 MR. FISHER: Oh, in the comparison  
12 document, is that what you're saying?

13 MS. THOMAS: No, I'm looking at the  
14 actual proposed 543.

15 MR. FISHER: Right, it's a change to the  
16 regulation. The very, very top, the last section is for  
17 pull tabs. So this is Tab A we're in, Tab A, page  
18 eleven, very, very top section. It's the same change we  
19 made --

20 MS. THOMAS: There was some confusion on  
21 what provision 543.14 referred to.

22 ASSOCIATE COMMISSIONER LITTLE: Oh, okay.

23 MR. FISHER: It's a consistency change.

24 All right. So do you want to do these  
25 one at a time, section by section in these, or do you



1 want to just do a consensus, test consensus for the rest  
2 of section 543.8 with these changes?

3 MR. WHEATLEY: Let's try it out.

4 MR. FISHER: So if you support the TGWG  
5 changes -- if you support the TGWG proposal in 543.8  
6 with the changes that we've made, raise your hand.

7 Okay, that got everybody. Perfect.

8 All right. Do you think we need a little  
9 break before we -- yeah, let's take a break.

10 (Recess taken.)

11 MR. FISHER: Okay, let's start up again.  
12 We're one shy. So we're moving on to 543.11. And for  
13 those of you who missed it, we're back on track with our  
14 agenda, actually, and it might be that we're able to get  
15 done early tonight, or not.

16 Okay. So same question with respect to  
17 each section. Do you want to start with a TGWG overview  
18 or do you want to just go straight to the NIGC comments?

19 ASSOCIATE COMMISSIONER LITTLE: I think  
20 the first kind of question we have is a bit of an  
21 explanation of these restricted, unrestricted accounts,  
22 and how that relates to the Bank Secrecy Act and our  
23 regulations. I don't know, do you want to talk about  
24 this a little bit more?

25 MR. HOENIG: Yeah, just briefly. I'm not

1 an expert on the Bank Secrecy Act, but in the bit of  
2 research I've done, there are verification requirements  
3 in the Bank Secrecy Act for certain transactions over  
4 \$10,000.

5 So I'm not sure what the unrestricted  
6 deposit accounts -- I'm sorry, is it the unrestricted  
7 deposit accounts? Exactly what that is, but any deposit  
8 or any transaction of over \$10,000 requires  
9 identification and verification of the individual and  
10 things like that.

11 So it doesn't look like the unrestricted  
12 accounts require any kind of identification. And so  
13 that could be a problem if somebody wanted to open an  
14 unrestricted funds account for \$11,000, for example.

15 MR. CALLAGHAN: We have to follow the  
16 FINCEN requirements, so CPRCs and all that. We start  
17 grouping it at \$3,000.

18 MS. HAMEL: There is \$10,001. There is  
19 no ID below that.

20 MR. HOENIG: I didn't hear what you said,  
21 Kathi.

22 MS. HAMEL: There is no ID below that.

23 MR. HOENIG: Below \$10,000, right.

24 MR. CULLOO: Well, the IRS used to, I  
25 don't know if they even have these, but the old

1 multimedia machines where your players club card is your  
2 account card.

3 MR. FISHER: Well, so --

4 MR. HOENIG: So I'm little confused  
5 again.

6 ASSOCIATE COMMISSIONER LITTLE: We need  
7 to understand. Can you give us some background? What  
8 was the nexus for creating these two different accounts,  
9 just overall, I mean, from someone who was on the Tribal  
10 Gaming Working Group?

11 MR. FISHER: Well, it says it appears to  
12 create two different accounts. Where are you reading it  
13 creates two different accounts?

14 ASSOCIATE COMMISSIONER LITTLE: Page two  
15 of the comparison document.

16 MR. FISHER: Which section?

17 ASSOCIATE COMMISSIONER LITTLE: (4)(b).

18 MR. MORGAN: So for the Tribal Gaming  
19 Working Group standard, our line of thought was this  
20 would allow gaming operations and customer service in  
21 order to create something, you know, to better provide  
22 for their customers on a patron deposit account.

23 We got into a discussion that  
24 historically, there were unrestricted patron deposit  
25 accounts; specifically, the multimedia system, where it

1 was -- it was before the days of TITO, but it was a card  
2 basis where you could take the card. All you needed was  
3 a PIN. You never had to provide identification, just a  
4 four-digit PIN number. You take the card. That is how  
5 you enabled the machine to play. Your credits you won  
6 went to the card.

7 If you lost the card, you were just out  
8 of luck. That was what you did when you chose not to  
9 provide identification and treat it like a voucher, you  
10 lost a voucher. But you had that ability. And there is  
11 no reason to say you couldn't have that ability, because  
12 you do understand that all of the Title 31 requirements,  
13 whether it's restricted or unrestricted, still apply.  
14 So once you hit the threshold, well, it's very clear in  
15 here that Title 31 standards, if it's inconsistent,  
16 prevail. So once you hit that threshold, of course you  
17 had to provide everything in compliance with Title 31.  
18 But as long as you fell into conformance of Title 31,  
19 what prevented you from having an unrestricted patron  
20 account.

21 MR. HOENIG: Right, I think the question  
22 was there didn't seem to be any cap on it under the  
23 guidance. I mean, not that I -- unless I missed it  
24 here.

25 MR. MORGAN: In 543.11(c) it says

1 conflicts of standards. If there is anything  
2 inconsistent from these regulations, then external  
3 standards incorporated by this provision, such as Title  
4 31 (inaudible) and other such applicable standards shall  
5 prevail. And that's the part of the regulation.

6 MR. HOENIG: Okay.

7 MR. MORGAN: So I agree, we may not have  
8 specifically said it in the guidance, but that's where  
9 we kind of pointed to and said of course we have to  
10 defer and follow those statutes to be in compliance.

11 MR. FISHER: That works, Mike?

12 MR. HOENIG: Well, yeah. I just missed  
13 that. So that makes sense.

14 MR. FISHER: Okay.

15 MR. HOENIG: Maybe we can refresh a  
16 little bit what we talked about at the first meeting.

17 ASSOCIATE COMMISSIONER LITTLE: I know we  
18 talked about the term "agent" last time we met.

19 MR. FISHER: We made a change to it, too.  
20 The change is -- just bear with me a second and I'll  
21 show you.

22 No, you know where we made that change?  
23 We made that change in -- we made that change in the  
24 technical standards, not in the MICS yet. That's the --  
25 you can't really see that, I know.

1           The change in the technical standards was  
2 to remove the last sentence of the definition.

3           MR. HOENIG: That was about the computer.

4           MR. FISHER: Yes, right, it was all about  
5 the computer.

6           So go ahead, Mike.

7           MR. HOENIG: So just to raise the  
8 question, I mean, to clarify that, an agent would still  
9 be required to meet the background and licensing  
10 requirements if they're performing the functions of the  
11 primary management official or a key employee. I mean,  
12 because what the agent is performing, you know,  
13 examining a patron's ID card and opening accounts, I  
14 mean, is that what the comment refers to, so to ensure  
15 that they're undergoing licensing, backgrounding and  
16 licensing as a primary management official, or  
17 primary -- yeah, PMO or key employee?

18           MR. FISHER: Okay, everybody following  
19 that?

20           MR. WEST: I guess do the job functions  
21 entailed in this section rise to the level where they  
22 would fall under the PMO requirements of whatever the  
23 regulation is?

24           MR. HOENIG: 556.

25           MR. FISHER: Okay, so I think we need a

1 second here for people to --

2 MR. RAMOS: PMO or key employee?

3 MR. FISHER: Did you hear the question,  
4 Mike?

5 MR. HOENIG: No, I'm sorry.

6 MR. RAMOS: Are you saying PMO or key  
7 employee, are you defining it straight as PMO, primary  
8 management official or --

9 MR. HOENIG: Does it rise to the level of  
10 primary management official or key employee?

11 MR. CULLOO: The definition of agent?

12 MR. FISHER: Are you talking about the  
13 function that's in here?

14 MR. HOENIG: Yes, this talks about an  
15 agent must examine the patron's identification.

16 MR. FISHER: What I hear him saying is  
17 what's the appropriate level of the person performing  
18 the function.

19 Is that right?

20 MR. HOENIG: Yes.

21 MR. FISHER: So in this section --

22 MR. MCGHEE: Are you saying that it  
23 should be a higher level agent? I mean, are you saying  
24 just an agent, it should be some kind of an authorized  
25 agent, or are you saying it should be an agent of a

1 level of a key employee?

2 MR. HOENIG: I guess that's what we're  
3 trying to --

4 MR. FISHER: Figure out why you did agent  
5 and then see --

6 MR. HOENIG: So agent --

7 MR. CULLOO: Does the definition of agent  
8 assume it has to be someone that's authorized to act,  
9 whether a PMO or a key employee?

10 MR. HOENIG: It just says as authorized  
11 by the TGRA to make decisions or perform assigned tasks  
12 or actions on behalf of the gaming operation.

13 MR. WILSON: This was a question that we  
14 raised, I don't know if it was the last meeting or the  
15 one before, about this definition of agent and whether  
16 an agent had to be licensed or not.

17 MR. HOENIG: Yes.

18 MR. WILSON: And part of the conversation  
19 was, well, no, because an agent could be a vendor's  
20 agent, it could be various things. And I voiced concern  
21 then, and I'll re-voice it now, that there are certain  
22 things, functions within the gaming facility that  
23 probably rise to the occasion that somebody is supposed  
24 to be licensed who is performing that function as  
25 opposed to just being a named agent.



1           So this is -- this raises the same  
2 concern that I raised a couple months ago about are  
3 there times when an agent has to be a licensed agent  
4 versus just the definition of agent which could be a  
5 non-licensed person.

6           MR. MCGHEE: But the way it's defined, it  
7 would be up to the TGRA to determine if that person  
8 needs to be licensed to do that, not required to be  
9 licensed.

10          MR. WILSON: I guess the question is  
11 there are standards right now in IGRA that say what type  
12 of people have to be licensed, key employee being one of  
13 them. So the question that I see being raised is the  
14 functionality surrounding patron accounts such that that  
15 should be a key employee who performs that function.

16          MR. FISHER: That's the same question  
17 they're asking down at the end of the table, too.

18          MR. MORGAN: Within IGRA, is it functions  
19 or is it titles or is it both?

20          MR. HOENIG: It's functions.

21          MR. MORGAN: So if your function falls  
22 within the requirement of IGRA, then you have to be  
23 licensed. There is nothing about the regulation you can  
24 do to get around that. So how you define, determine  
25 agent, you look to their function and you look to IGRA,

1 in most cases you actually look to your statute, your  
2 gaming ordinance to say do I have to license this  
3 person. It's independent of this particular section, or  
4 really anything in the Minimum Internal Control section,  
5 because that's an independent evaluation you do under  
6 IGRA that's separate and apart, at least in my mind, of  
7 MICS.

8 I see how it's related, but -- so when  
9 you look at these, you read these functions and you look  
10 back at your gaming ordinance and say, you know, do  
11 these functions -- are these functions required to be  
12 licensed. Because what you have on the flip side is if  
13 you say this title has to be licensed, so what happens  
14 if I just retitle it? You know, I've got around it.

15 So we tried to be broad and say, yeah,  
16 it's an agent. Then you look to its function. If your  
17 function says you have to license it, you license it.  
18 Because some jurisdictions, their requirements for  
19 licensing are a lot broader. Remember that last change  
20 the NIGC made? You can add titles to key employees than  
21 what's beyond IGRA. So if your gaming ordinance says  
22 you license now the housekeeper that comes every third  
23 Wednesday, you have to.

24 In my mind, for these functions at my  
25 place, yes, this person would be licensed.

1 MR. WILSON: But is the risk -- there is  
2 that stupid word again, Dan.

3 MR. CULLOO: Don't use stringent.

4 MR. WILSON: Is the risk such that this  
5 is a position that should be a licensed position?

6 MR. MCGHEE: I don't think so. The  
7 definition as defined in IGRA talks about someone who  
8 makes over a certain amount of money and if they're  
9 supervised or something else.

10 MS. TAHDOOAHNIPPAH: Does it have to be a  
11 person? Can it be a machine?

12 MR. FISHER: That question is still in  
13 here.

14 MS. TAHDOOAHNIPPAH: But it could be.  
15 You could have just a -- you know, in the future you  
16 have a machine that takes your ID and it reads it, you  
17 know, the bar code and it reads all the information and  
18 it captures all of these things.

19 MR. WHEATLEY: It already does with the  
20 multimedia system. There is a kiosk that you add  
21 currency to through the multimedia system. Now, you  
22 can't get currency off without seeing an agency, that I  
23 know of, unless they have developed --

24 MS. TAHDOOAHNIPPAH: And that meets the  
25 definition of agent. You still approved that to be an

1 agent.

2 MR. MCGHEE: What is it defined right now  
3 as a key employee?

4 MR. HOENIG: Key employee is a person who  
5 performs one or more of the following functions; a bingo  
6 caller, accounting room supervisor, chief of security,  
7 custodian of gaming supplies or cash, floor manager, pit  
8 boss, dealer, approver of credit, and then custodian of  
9 gaming devices.

10 MR. MCGHEE: All right. So if this agent  
11 is going to be having cash, right? Then by your  
12 definition, he'll have to be a key employee.

13 (Simultaneous discussion.)

14 MR. CALLAGHAN: Just for point of  
15 clarification, on the CTRC form, the cash transaction  
16 form, there is a line on there that calls for agent.  
17 And an agent is someone that is not performing the  
18 normal duties of an employee. Just so that we're clear,  
19 we're putting this in a particular box, because there is  
20 some language in here I noticed before so that we're not  
21 in conflict with FINCEN or whatever.

22 MR. WHEATLEY: Because they have a  
23 different definition of agent.

24 MR. CALLAGHAN: So just to be clear, when  
25 you fill out a CTRC form, there is a box in there for an

1 agent to perform something. And I want to be sure that  
2 we're not confusing that with that and/or not being in  
3 conflict with Title 31.

4 MR. WHEATLEY: Because in that instance,  
5 and correct me if I'm wrong, an agent in that instance  
6 is someone that's assisting someone in superseding the  
7 Bank Secrecy Act by cashing out for them on their behalf  
8 of the portion of the funds.

9 MR. CALLAGHAN: Now, someone on the floor  
10 could collect a marker from a patron on the floor. That  
11 would be their normal duties. And we're saying how  
12 someone had to be licensed internally. However, an  
13 agent under the CTFC form would not be an employee  
14 performing its normal duty, it would be someone paying  
15 off the mark of some third party or something of that  
16 nature. Just so that we just bring it out.

17 MR. MCGHEE: I think the way it's written  
18 as an agent is fine, because if that agent is going to  
19 do certain functionalities, then they will be considered  
20 a key employee by the definition.

21 ASSOCIATE COMMISSIONER LITTLE: We're  
22 good with that.

23 MR. FISHER: So the next comment is a  
24 should or shall or must on the guidance.

25 ASSOCIATE COMMISSIONER LITTLE: I think

1 we've worked through those. The next is on page five,  
2 back to agent. I think we talked about that, right? I  
3 think we've already addressed that?

4 MR. FISHER: Covered agent on page five?

5 MR. HOENIG: Yes.

6 MR. FISHER: All right. So now six is  
7 back to these two different accounts, restricted and  
8 unrestricted.

9 ASSOCIATE COMMISSIONER LITTLE: And I  
10 think we talked about that, right?

11 MR. HOENIG: Yes, that's what we  
12 resolved, that's taken care of.

13 MR. FISHER: So the next one would be on  
14 page seven.

15 (Simultaneous discussion.)

16 MR. FISHER: That's it.

17 MS. THOMAS: So it's just generally the  
18 same issues throughout the whole section.

19 MR. FISHER: One was in the reg, one was  
20 in the guidance, same issues.

21 Okay, folks. So NIGC has worked through  
22 all of their comments up here at the front of the room  
23 on section 543.11. So the question now is whether  
24 anybody else around the table has any -- has any  
25 comments or wants to discuss any portions of 543.11.

1           So do you want to do a -- we can see if  
2 we could do a general test to do the whole section  
3 543.11.

4           So if you support the TGWG version of  
5 543.11, there is only one change in it, which is the  
6 standard change to the subsection (a) that we did last  
7 time, raise your hand.

8           Voila, that's it. 543.11, done.

9           MS. HAMEL: They didn't vote.

10          MR. CULLOO: The Blue Man group.

11          MR. CALLAGHAN: We were caucusing.

12          MR. FISHER: It's allowed, any time.

13          MR. WILSON: Could I have a point of  
14 order question?

15          MR. FISHER: Okay. What is it, Tom?

16          MR. WILSON: I'm just doing a check,  
17 because it appears that we're ahead of schedule now. If  
18 I'm not mistaken, officially, the next and last topic is  
19 543.12 --

20          MR. FISHER: Correct.

21          MR. WILSON: -- that we have to cover,  
22 and then we're ahead of the game?

23          MR. FISHER: Yes.

24          MR. WILSON: Okay.

25          MR. FISHER: Yes, you're right. So we

1 talked briefly about that when we came back from the  
2 break.

3 MR. WILSON: Okay. See, this is what  
4 happens when one does not come back timely; they ask  
5 dumb follow-up questions.

6 MR. FISHER: All right. So here we are.  
7 It's 3:30. Now we're ahead of schedule, officially.  
8 We're supposed to go until 5:00 tomorrow. We only have  
9 one more item on our agenda for which the comparison  
10 documents for this meeting have been prepared. We do  
11 have to -- well, I'm guessing, I'm making the -- yes, we  
12 probably have to go back to bingo, because in the bingo  
13 conversation we talked about the regulation, we did not  
14 talk about the guidance in Rapid City. So we have to  
15 return to bingo.

16 And I don't know. If we can work from  
17 the comparison document that was prepared for Rapid  
18 City, then we might be able to put that on our agenda  
19 for this meeting, as well, for tomorrow, or whether NIGC  
20 has been doing more detailed review of the guidance  
21 documents based on coming out of Rapid City and that you  
22 need to do more work, to go back and review the bingo  
23 guidance.

24 ASSOCIATE COMMISSIONER LITTLE: I think  
25 it would be a great idea if we could maybe work on this



1 tomorrow. I mean, I'm pretty confident -- bingo, right.  
2 I'm pretty confident that the document that we have is  
3 ready, but I would like to talk amongst ourselves first,  
4 if that would be okay, and then maybe address it  
5 tomorrow. But that would be really helpful to get that  
6 out of the way.

7 MR. GARVIN: Wait, now you guys want to  
8 go in a closed session?

9 MR. WILSON: Is that in your own  
10 executive session that you want to talk amongst  
11 yourselves?

12 MR. CALLAGHAN: Can we sit in?

13 ASSOCIATE COMMISSIONER LITTLE: You're  
14 more than welcome to.

15 MR. WILSON: I just want to make a  
16 proposal, then, that we get through 543.12 today and  
17 then adjourn for today, and then tomorrow we can pick up  
18 this discussion with bingo and whatever ancillary items  
19 are still out there, and reward ourselves with the fact  
20 that we're ahead of schedule.

21 So it doesn't appear that we probably  
22 need to go until 5:00 tomorrow.

23 MR. FISHER: Correct.

24 MR. WILSON: We may be knocked off by  
25 lunchtime.

1 MR. CULLOO: If we finish way ahead of  
2 schedule, can we not go to Kansas?

3 MR. FISHER: If we get done with our work  
4 earlier, of course. And we might be able to. Who  
5 knows?

6 All right. So let's do 543.12 now and  
7 then we'll adjourn the meeting once we're through  
8 543.12, if that's five minutes or 90 minutes. We will  
9 have to check for public comment before we adjourn for  
10 the day, and then we would pick up in the morning on the  
11 bingo guidance, and then, more likely than not, be done  
12 early tomorrow.

13 Okay. So let's go to 543.12. It's  
14 pretty thin comparatively.

15 ASSOCIATE COMMISSIONER LITTLE: It's a  
16 big subject.

17 MR. FISHER: So much for my optimism.  
18 Okay. Where are we starting? NIGC comment number one  
19 on --

20 ASSOCIATE COMMISSIONER LITTLE: Since  
21 this is a new section, maybe the Tribal Gaming Working  
22 Group could give us a little overview.

23 MR. FISHER: Okay. Who is going to give  
24 us -- Kathi? Go ahead.

25 MS. HAMEL: I thought I remembered. If I

1 remember right, embedded in Class III gaming machines is  
2 player tracking. And as a group, we thought it had  
3 enough merit to be independent of bingo, card games,  
4 pull tabs, because player tracking can be related to any  
5 type of gaming revenue, not just bingo, not just card  
6 games, not just pull tabs. So we pulled it out. So  
7 that was the reason for a new section, rather than  
8 embedding it just in bingo.

9 MR. WEST: Well, the comment that was  
10 brought up on page one was developed by Nimish. And I  
11 expect everyone knows his background in gaming and his  
12 knowledge of scams and abuses throughout the industry.  
13 He indicates that it's been a pretty common form of  
14 abuse or prone to abuse.

15 I would expect that several of the gaming  
16 operations in here have been knowledgeable or been  
17 abused by -- through their player tracking system. So  
18 the comment is it's basically pretty short on standards  
19 for player tracking.

20 I try to go to the IA Gaming Conference  
21 every year in Las Vegas. I know the last two or three  
22 years, the vice-president of internal audit for MGM  
23 indicates that the most common form of abuse that they  
24 see is related to player tracking. And this is an  
25 individual that oversees 30 casinos' internal audit

1 functions. And I'm sure there is other stories in here  
2 that probably -- specific stories as to operations in  
3 here that have been scammed through their player  
4 tracking system.

5 So this is a comment that -- I support  
6 his comment.

7 MR. CULLOO: Does the main abuse occur  
8 during the manual adjustment of points, is that where  
9 you're seeing it?

10 MR. MAGEE: Well, in our case, it's  
11 stealing the database. One of the employees from  
12 Harrah's works for you a while and then he goes to MGM  
13 or somebody and he's got the database from MGM.

14 MR. MCGHEE: Ours is stealing the free  
15 play.

16 MR. FISHER: Sorry?

17 MR. MCGHEE: Ours is stealing the free  
18 play, people changing (inaudible).

19 MR. CALLAGHAN: Rest, the aspect of not  
20 only closed but absolutely inactive accounts, I think  
21 that's your biggest area. Like Arizona, your snowbirds,  
22 they go away and someone could know who is not coming  
23 back to play.

24 MR. WEST: No, I'm just talking about the  
25 comment on the standard. I think the comment as far as

1 closed accounts is on the last page, one of the last --  
2 bottom of page three. But I'm sticking to the general  
3 comment that Nimish has developed for the standards  
4 developed by the TGWG.

5 MR. MCGHEE: I think the reg is  
6 consistent to say you should cover the security of  
7 accounts, which is where all this comes from. And the  
8 way in which you do that is portrayed in the guidance  
9 documents. It just says you should have controls  
10 that -- you should have controls that prevent  
11 unauthorized access, cheating, misappropriation, all  
12 those things when it comes to your accounts, when it  
13 comes to the in-house operating and in-house accounting.  
14 That does cover all of it.

15 If anything, then maybe he's concerned  
16 that the guidance document may not be flushed out or  
17 strong enough, not the actual reg. And that may have  
18 been a comment made prior to seeing the guidance  
19 document. I don't know.

20 MR. WEST: No, he just made it last week  
21 or two weeks ago.

22 MR. MCGHEE: Because it's no vaguer or  
23 broader than all the others have been in that sense.

24 MR. MORGAN: What did the 2010 draft  
25 regulation 543.7(g) state? I'm trying to read it and I

1 can't find it. He says it's not consistent with what  
2 was in that document, but I don't know what version to  
3 compare it against.

4 (Simultaneous discussion.)

5 MR. FISHER: I'm looking for the actual  
6 thing in here. Hold on a second, I'll go to the Web  
7 site and bring it up.

8 All right. What was the subsection?

9 MR. HOENIG: (g).

10 MR. FISHER: Can you give me something  
11 to --

12 ASSOCIATE COMMISSIONER LITTLE: Reference  
13 point?

14 MR. WILSON: 543.9, in the July 2010  
15 draft MICS at 543.9(i) is the section on the  
16 computerized player tracking systems. Is that what  
17 we're looking for?

18 MR. MORGAN: No. The reference he's  
19 pointed to is about patron deposit accounts.

20 MR. FISHER: Right, it's right here, it  
21 starts right up here. I don't know if you can see that.

22 MR. WEST: I think he's got the wrong  
23 reference.

24 MR. WILSON: (g) doesn't deal with -- I'm  
25 wondering if he's citing the wrong reference, because

1 the player tracking is at 543.9 (i) in the document.

2 The document I'm looking at, July 2010  
3 draft MICS, 543.9(i) is computerized player tracking  
4 systems. And it says in the TGWG version there is no  
5 comparable statute.

6 MS. HAMEL: In card games.

7 MR. WILSON: Yeah, I'm sorry, you're  
8 right.

9 MR. FISHER: Voila, right to the spot.

10 So just to be clear, what's up on the  
11 screen is the 2010 version, proposed version of 543.7,  
12 card games.

13 MR. MORGAN: Card games?

14 MR. FISHER: Yes.

15 MR. MORGAN: It should be .9.

16 MR. WHEATLEY: Yeah, that's where he's at  
17 now.

18 MR. FISHER: .9, card games, and we're  
19 looking at section (i). It's two pages, three pages.

20 All right. So we're looking at this  
21 because this is what we believe Nimish was referencing.  
22 Yes? And I guess this arose from a question about  
23 whether these things are covered or not covered in the  
24 guidance, right?

25 MS. HAMEL: Well, I think the comment was

1 against the regulation, not against the guidance.

2 MR. FISHER: I thought there was a  
3 question whether it was covered in the guidance because  
4 the regulation sets the standard that would encompass  
5 all of these things.

6 MS. HAMEL: It's very possible -- is it  
7 possible that the comment made about the regulation was  
8 before the guidance was presented?

9 MR. WHEATLEY: No.

10 (Simultaneous discussion.)

11 MR. MCGHEE: The regulation is not  
12 supposed to provide guidance. That's what the guidance  
13 documents are for.

14 MR. MORGAN: Mr. Little, I have a  
15 question for you.

16 ASSOCIATE COMMISSIONER LITTLE: We're  
17 thinking we can't guess what Nimish was thinking when he  
18 wrote that, but we're thinking he wasn't kind of -- kind  
19 of of the understanding of the direction of this  
20 risk-based approach and how these would relate to  
21 guidance.

22 So you know, clearly from -- it seems  
23 like in his opinion, you know, when you are removing the  
24 specific direction in the regulation, I think that's  
25 what was kind of promoting him to write that. I don't



1 know. We can check with Nimish and get back with you in  
2 the morning. He's still in training right now. That's  
3 why he's not here. Otherwise he would be here.

4 MR. MCGHEE: Because I don't think the  
5 way it's written is out of line with the way the others  
6 have been written, as far as the regulations.

7 MR. MORGAN: That was going to be my  
8 question. On the paragraph that Nimish wrote, the  
9 second sentence says the current provision reflects only  
10 minimal best practices. It's a qualifier for an area  
11 that's prone to abuse. But the point of the standards  
12 is to be minimal best practices, which -- I mean, if you  
13 recognize it's minimal best practice, it seems like we  
14 may have hit the target. Now we flesh it out in the  
15 guidance.

16 Yeah, I would like to know his thoughts.

17 ASSOCIATE COMMISSIONER LITTLE: Yeah,  
18 we'll get in touch with Nimish tonight.

19 MR. WHEATLEY: So are we specifically --  
20 is it specifically the addition and deletion of points  
21 that he's talking about? I mean, I'm looking in the  
22 guidance, and it does state some of the similar, but I  
23 know for a fact that there has been cases in Washington  
24 state, at a property that has extensive expertise in  
25 operations, where this scam has happened and significant

1 losses occurred.

2 MR. MORGAN: It makes a big difference to  
3 me personally about whether he's talking about adding  
4 something to the regulation or whether he's talking  
5 about adding something to the guidance.

6 MR. WHEATLEY: No, I agree, I think it  
7 should be to the guidance, but I think the guidance  
8 could be strengthened regarding this portion, meaning  
9 that any addition or deletion of points needs to be  
10 reviewed by a department independent of that operation.  
11 Or of that department, of the player tracking  
12 department.

13 MR. MCGHEE: So can we just go to the  
14 guidance comments?

15 ASSOCIATE COMMISSIONER LITTLE: Yes.

16 MR. FISHER: So the addition or deletion  
17 was section two. Section three deals with employees who  
18 redeem points. I don't know whether that's covered in  
19 the guidance.

20 MR. WILSON: I'm not sure that what the  
21 guidance lacks is a more robust description of the risks  
22 that are inherent, because when I look at the draft 2010  
23 document, it talks a lot about who can redeem points and  
24 at what level that should happen and adjustments to  
25 accounts. And when I look through the guidance

1 document, there is only one discussion about, you know,  
2 you must have controls around the redemption of points  
3 or something.

4 But I think -- I'm not speaking for  
5 Nimish, but I'm speaking for in our own facility, the  
6 problems that we see deal with redemption of points or  
7 inactive accounts or people getting points moved from  
8 one account to another that shouldn't be. And points,  
9 player tracking, you know, does have a value to it. So  
10 it's not like it isn't -- it doesn't have an impact if  
11 there are problems in your player tracking system.

12 MR. MCGHEE: Security of accounts is what  
13 you're talking about.

14 MR. WILSON: Yes.

15 MR. MCGHEE: Which is what the reg says.  
16 We just got to make sure the guidance document provides  
17 guidance to people to make sure they are secure.

18 MR. WHEATLEY: Exactly.

19 MR. WILSON: This is an area where you  
20 want to be very clear about what the risks are in the  
21 guidance document you're trying to mitigate, because it  
22 is an area that absolutely is prone to fraud, waste and  
23 abuse.

24 MR. MORGAN: So we need more input from  
25 Nimish, I guess from the NIGC on what their concern is

1 here, because -- or is there enough impetus amongst the  
2 committee they don't think the guidance is strong  
3 enough?

4 MR. FISHER: You could make a  
5 recommendation.

6 MR. MORGAN: If they want to draft  
7 something, is that a committee assignment or --

8 MR. MCGHEE: He's got to point out in the  
9 guidance document what he thinks would be stronger. So  
10 the group will either agree or disagree with that.

11 MR. WHEATLEY: I think we should go  
12 through the comments in the guidance, because right on  
13 here they're specifically saying what they feel is not  
14 strong enough, and I think that we can comment on that.

15 MR. FISHER: Plus then you can ask Nimish  
16 tonight whether there are other comments based on the  
17 risk-based approach.

18 ASSOCIATE COMMISSIONER LITTLE: We do  
19 have some of those comments on the guidance.

20 MR. FISHER: They'd like to go through  
21 those. That's what they're saying. So let's go through  
22 those. Let's turn to the guidance comments.

23 MR. WEST: Probably I think page three, a  
24 third of the way up the page talks about adjustments to  
25 player tracking activities. We discussed the comment on

1 page one.

2 MR. MCGHEE: Page two, I'm sorry.

3 MR. WHEATLEY: Risk assessments, it's the  
4 same stuff.

5 ASSOCIATE COMMISSIONER LITTLE: Same  
6 stuff.

7 MR. WHEATLEY: Let's go to the meat of it  
8 on three.

9 MR. WILSON: I mean, I think that first  
10 comment about the guidance on adjustments to player  
11 tracking activity, I personally don't disagree with what  
12 is being said here, that in the guidance there needs to  
13 be greater emphasis on the issues that are identified in  
14 that NIGC comment.

15 MR. WHEATLEY: Absolutely.

16 MR. MCGHEE: Could you go so far as the  
17 recommendation is that we agree it should be expounded  
18 upon without us saying what it should be?

19 ASSOCIATE COMMISSIONER LITTLE: We can do  
20 that.

21 MR. MCGHEE: Otherwise everyone may do it  
22 differently.

23 ASSOCIATE COMMISSIONER LITTLE: Right.

24 MR. FISHER: Kathi?

25 MS. HAMEL: I just want to kind of bring

1 up a point. I know we focus in on adjustments, but I  
2 don't believe the abuse comes from adjustments but from  
3 manual systems and awarding points manually that aren't  
4 through a system.

5 MR. WHEATLEY: It's an adjustment, right?

6 MS. HAMEL: No, it's not. And I think  
7 that's -- an adjustment would be an adjustment to a  
8 point balance for some other reason than play. And I  
9 think that in the guidance document, we talked about  
10 manual player tracking. And that's what can take place  
11 and where the most of the abuse can be, that patron A  
12 had \$1,000 in play and they really only had \$100 in  
13 play.

14 So we seem to focus on adjustments, but  
15 that's really manual tracking.

16 MR. CULLOO: Not necessarily. If someone  
17 is playing the machine and they say their card reader  
18 wasn't working, then they expect some type of manual  
19 adjustment to compensate for it's not their fault, they  
20 didn't know the machine up to the card reader wasn't  
21 capturing their play.

22 MS. HAMEL: Right, and that would be an  
23 adjustment because their card wasn't working. But if  
24 you have a manual player tracking in card games, you  
25 don't have a card.

1 MR. WILSON: You're talking about a  
2 manual player tracking system, right?

3 MS. HAMEL: Yes.

4 MR. WILSON: I didn't even know there was  
5 such a thing.

6 MR. CULLOO: Oh, yeah.

7 (Simultaneous discussion.)

8 MS. HAMEL: What you described is  
9 absolutely an adjustment.

10 MR. CALLAGHAN: Well, we have an  
11 electronic player tracking, and that still may be  
12 manually adjusted.

13 MS. HAMEL: And that's an adjustment.

14 MR. WILSON: Manual as in --

15 MR. CULLOO: You're saying you don't have  
16 an electronic way of capturing points.

17 MR. WHEATLEY: But are you saying the  
18 electronic adjustment doesn't need to be addressed here?

19 MS. HAMEL: No, I'm saying that in our  
20 guidance document we addressed both of those, and that  
21 manual player tracking has probably more risk than  
22 adjustments, because adjustments, there is going to be,  
23 in most cases, there is a paper trail. But it's manual  
24 player tracking, it's the higher risk than just  
25 adjustments.

1 MR. WHEATLEY: But I think even the  
2 guidance documents aren't strong enough on the  
3 adjustments on the electronic systems, in my opinion.

4 MR. MAGEE: Kathi, your concern is then  
5 over rewarding?

6 MS. HAMEL: I don't want everybody to  
7 think that that's the only weakness. I mean, not a  
8 weakness, but the fact that you can have manual player  
9 tracking, that there would have to be really strong  
10 controls if you have manual tracking.

11 Let's say you don't have a card reader  
12 and you're going to track all of your bingo players and  
13 all of your card game players manually.

14 MR. WEST: That's a manual player  
15 tracking system. And that's what you're discussing, as  
16 opposed to a computerized player tracking system.

17 MS. HAMEL: But you may have a  
18 computerized system for awarding and accumulating it,  
19 but you may have to manually enter the information.

20 But you may only have a card reader on  
21 the bingo side but you don't have it on card games.

22 MR. WEST: The first property I worked at  
23 had a manual slot player tracking system. It was just  
24 the most abused thing I've ever seen.

25 (Simultaneous discussion.)



1 MR. FISHER: Okay, so we've got two  
2 conversations going.

3 MR. CULLOO: What was your question?

4 MR. FISHER: Did you want to say  
5 something for the whole group, or was that a side  
6 conversation?

7 MR. WILSON: I'm not sure.

8 MR. FISHER: Did you want to restate your  
9 question?

10 ASSOCIATE COMMISSIONER LITTLE: Oh, I was  
11 in a side conversation.

12 MR. WILSON: Kathi and I were  
13 discussing -- I don't want it to get lost. I would  
14 agree that a manual system is inherently riskier than an  
15 automated system, but I don't -- I don't think there  
16 should be a false sense of security that because it's  
17 automated it's any less prone to fraud, waste or abuse,  
18 because that isn't the case.

19 And so from that standpoint, I just know  
20 that in our own property that this is always a concern  
21 to us. And a lot of it revolves around these manual  
22 adjustments to the system that are done by an employee.  
23 And the -- for example, we use the Advantage system.  
24 And you're supposed to, when you make this adjustment,  
25 make a log entry, because you have an electronic log

1 says that says the reason for the adjustment.

2 The biggest issue we have is a reason  
3 never being documented about why that adjustment is  
4 made, which is your theoretical paper trail that's  
5 supposed to give you comfort that that adjustment was  
6 made for a legitimate reason.

7 So it's important if you have the  
8 controls that the people understand the purpose of those  
9 controls. And that's where, from my opinion, that the  
10 guidance document is lacking in giving a little more  
11 clarity to why these things are important.

12 MR. MCGHEE: It sounds to me like a fair  
13 broad recommendation is to strengthen the guidance  
14 documents. I don't think we can come up with the  
15 specifics here. So the only recommendation would be  
16 that the guidance documents just be more strengthened  
17 for this reg. The easy way out, the only way out.

18 MR. FISHER: Well, you could -- so I was  
19 capturing some of what was being said, but you could  
20 just do that, what's up on the screen.

21 MR. MCGHEE: And then I know the main  
22 keys were adjustment points that you said, right?  
23 Everyone at the table could tell you the different  
24 problems they're having. There are IT standards.

25 ASSOCIATE COMMISSIONER LITTLE: In future

1 sections of the guidance, we kind of also highlight some  
2 areas that probably also need some stronger guidance on  
3 inactive accounts or, you know, transfer of points  
4 between patrons. So if you wanted to do it all in  
5 one --

6 MR. MCGHEE: I'm wondering if maybe we  
7 would look at all of them we would agree that the  
8 comment from the NIGC be our recommendation that yes,  
9 they need to be restricted. Take it now when you can  
10 get it.

11 ASSOCIATE COMMISSIONER LITTLE: Are you  
12 trying to make happy hour?

13 MR. MCGHEE: I'm saying that we might  
14 agree with your comments.

15 MR. FISHER: We could just do that.

16 MR. MCGHEE: If it's all about  
17 strengthening, then I'll say yeah.

18 MS. TAHDOOAHNIPPAH: What's the  
19 definition of a player tracking system?

20 MR. MCGHEE: Is there one?

21 MS. TAHDOOAHNIPPAH: No.

22 MR. FISHER: Trick question.

23 MS. TAHDOOAHNIPPAH: Then I just need to  
24 raise the concern that we have, is that the player  
25 tracking system where we run Class II and Class III

1 together, you know, where this is only going to have  
2 jurisdiction over Class II and really your player  
3 tracking system is looking at everything. Well, now,  
4 how do you -- you would be looking at everything, not  
5 only jurisdiction of this part. I just wanted to bring  
6 up those concerns.

7 MR. CULLOO: That's a big concern.

8 MR. WILSON: Yeah, that's a valid point.  
9 Our player tracking system complies with our compact  
10 requirements, Class III requirements, even though there  
11 is Class II components to it. And that's what we would  
12 default to.

13 MR. CULLOO: In our case, our player  
14 tracking is embedded in our Class II server. So the  
15 state has no control over it even though it interfaces  
16 with Class III machines.

17 MR. MCGHEE: So you would follow NIGC's  
18 standards?

19 MR. CULLOO: So I would follow NIGC's  
20 rules, right.

21 MR. WHEATLEY: Our player tracking is  
22 Class II for that reason. Well, for a bunch of reasons.

23 MR. FISHER: So should we go through the  
24 rest of the comments and then come back and see what the  
25 recommendation may be about strengthening the guidance?

1 MR. MCGHEE: There is only two more  
2 comments.

3 MR. WILSON: Are we at the bottom of page  
4 three?

5 MR. MCGHEE: Yes, only one more comment.

6 MR. FISHER: Bottom of page three,  
7 inactive accounts.

8 ASSOCIATE COMMISSIONER LITTLE: Yeah, it  
9 talks about inactive accounts or fluctuations in player  
10 accounts, transfers of points, things like that.

11 MR. WILSON: Again, for me, I can't  
12 disagree with anything that's being said here from a  
13 guidance document perspective, but there needs to be  
14 more emphasis on the risks that are inherent in a player  
15 tracking system, is I guess how I would say it.

16 MR. FISHER: Can you say that again?

17 MR. WILSON: That there needs to be more  
18 emphasis on the risks associated with a player tracking  
19 system, whether it's a manual system or an automated  
20 system. It is an area that has widespread abuse, and  
21 therefore you really want to -- you want to be as  
22 educated as you can be through the guidance about the  
23 risk associated with the system to ensure that you put  
24 in place adequate controls.

25 MR. WEST: And you don't want to be

1 linked into too specific on the guidance, because there  
2 is probably hackers out there that are devising ways to  
3 get into your player tracking system that you're not  
4 going to -- we're not going to outline in the guidance  
5 documents. I mean, it's like everything else. People  
6 are probably sitting in the parking lot trying to figure  
7 out how to scam this casino right now in ways that no  
8 one in here has ever thought about.

9 MR. MCGHEE: Some of these are maybe  
10 mitigated more in the IT section, a lot of computer  
11 related and how those accounts are set up and how to  
12 protect it. It's covered in IT, also.

13 MR. WILSON: It is covered or should be  
14 covered?

15 MR. MCGHEE: It won't specifically  
16 address like player tracking, but since this is a  
17 computer-automated system that holds these kind of  
18 accounts, then there is going to be IT controls over it.

19 MR. WEST: But in a lot of small  
20 properties, you may have one IT person that's doing  
21 everything.

22 MR. MCGHEE: There is still controls.  
23 They might have one IT guy, but there is still controls.

24 MR. FISHER: So up on the screen there is  
25 a couple of different formulations to -- for a potential

1 recommendation, one of which is just do that or --

2 MR. MCGHEE: Well, I think strengthening  
3 the guidance as the one liner and those are the --

4 MR. MORGAN: I will note, when we did  
5 this on the work group level, that there was strong  
6 discussion, just like in promotion and comps. When you  
7 get outside the authority that -- the limited authority  
8 NIGC has, whether you're getting back into is it a good  
9 idea, but is it a good idea for him to say it or is it a  
10 good idea for Brian to say it?

11 That was some discussion. And I think  
12 some of that thought process is reflected in the  
13 guidance at what level they kind of kept it at. And so  
14 while I may not disagree that in the best practices you  
15 need to do that, it's a question of, again, where is it  
16 coming from.

17 MR. MCGHEE: For the same reason you  
18 deleted promotions you would delete player tracking on  
19 this. It has nothing to do with gaming. You don't have  
20 to have player tracking at your facility, it's a choice.  
21 In essence, it is a promotion. You're getting points  
22 for playing. You're getting points you can do fun stuff  
23 with. It's the same reason that NIGC doesn't have  
24 authority over player tracking.

25 MR. MORGAN: It was one of those issues I

1 would say there was not consensus. And you see  
2 sometimes, as we went through our document, where we  
3 fell at sometimes changes a little bit. But that was a  
4 strong discussion within our group at least on  
5 authority, we set you guys up for failure by publishing  
6 something and somebody knows they're waiting out there  
7 to kind of throw a rock or is it so inherent of a risk  
8 that you do it or is it something that you take care of  
9 some other way? That discussion point was brought up.

10 So I know we've looked at the guidance  
11 and you all say I don't think we've gone far enough, but  
12 that is the thought process of maybe why it didn't go  
13 far enough on some of these subjects.

14 MR. MCGHEE: You all have already tackled  
15 this. (Inaudible). The same concept lies behind both  
16 of them.

17 MR. CALLAGHAN: I'm getting to like you  
18 guys so much I hate to say this, Mr. NIGC, but it's not  
19 a gaming matter, it's not a Class II gaming matter, for  
20 that matter, it's not gaming dollars. And for the same  
21 reason that Matthew articulated about the --  
22 rearticulated about -- what was the last subject? I'm  
23 running for president. I can't remember what he said.

24 The promotions. I do agree it's very  
25 important, it's extremely important, it is one of our



1 greater areas potentially for abuse because there is so  
2 much money in it anyway, easily lost, it's a reality,  
3 but I don't know whether it belongs as an additional  
4 regulatory requirement in NIGC.

5 MR. MORGAN: That's the reason I think  
6 you see the regulation itself is very broad, very vague,  
7 until we delve into a little bit deeper on the guidance.  
8 But as far as the working group, there were several  
9 folks leery of going far into this area. And the hard  
10 thing to do in that area is to disagree it's not a good  
11 idea, because almost everybody universally says yes, if  
12 you're going to have a casino operation that authorizes  
13 player tracking, you need to do this stuff.

14 And sometimes we get back to, well, it's  
15 a good idea for NIGC to do training and technical  
16 assistance, yes, that is a best practice in a casino  
17 operation. But in the Class II world, their  
18 jurisdiction is limited to certain activities and does  
19 this activity fall within their authority. It's a  
20 dilemma sometimes.

21 MR. MCGHEE: It was previously published  
22 as the --

23 MR. MORGAN: It said computerized under  
24 the gaming machine in Class III and then in card games.

25 I think if you listen to the policy

1 discussions over the number of years at NIGC, there is  
2 lots of people that bring up points of, well, the NIGC  
3 does that, but whether they actually have the authority  
4 or not is questionable. Nobody has challenged them yet.  
5 And from the decision you saw when someone did try to  
6 challenge their authority on Class III MICS on the  
7 enforceability, the court did find no, under IGRA, you  
8 do not have that authority.

9                   And you get back to in Class III,  
10 everybody agrees you should have Minimum Control  
11 Standards for Class III, just what is the proper party  
12 to put those control standards in and enforce those  
13 standards.

14                   MR. WILSON: Well, that is an interesting  
15 point, because player tracking isn't a game, right? I  
16 mean, it exists as a business tool. And the risk is  
17 with the business, it's not really an integrity of  
18 gaming issue as much as it's --

19                   MR. CALLAGHAN: Even less so than  
20 promotions.

21                   MR. WILSON: So that does bring up an  
22 interesting point as to whether this is even appropriate  
23 being here.

24                   MR. MCGHEE: The same argument comes up  
25 with comps.

1 MR. WILSON: I was going to say, I think  
2 that's true.

3 MR. CULLOO: Really one of the things,  
4 too, on everyone's financial statements, I'm sure they  
5 have a point liability account, because they have to  
6 know what's there. I think operations is fully capable  
7 of analyzing what's going on in their own facility when  
8 it comes to things like adjustment of points. And for  
9 instance, in ours, a club attendant can't make that  
10 adjustment by themselves, they have to have a supervisor  
11 come over. And we have a paper log they fill out, too.  
12 Those are turned in and reviewed for abuse.

13 So I tend to think this is a subject,  
14 too, that may best be left out.

15 MR. MORGAN: The lawyer in me says you  
16 don't have the approval. The regulator in me says it's  
17 a good idea, at Chickasaw Nation it's a good idea to  
18 have controls around it because there is a risk.

19 MR. WILSON: We have controls around it,  
20 but we have a compact that requires it, but we still  
21 have controls around it. But I do think that I just had  
22 a vision from the tribe and I'm saying now that I think  
23 that --

24 MR. CALLAGHAN: He's channeling.

25 MR. WILSON: Yeah, I'm channeling with

1 the chairman. And I believe that our position on player  
2 tracking and comps and promotions will be the same, that  
3 those are not areas that -- we agree they need to be  
4 controlled and there are risks there, but they are not  
5 areas that we believe NIGC has the authority to  
6 regulate.

7 MR. FISHER: All right, then. So what  
8 does that mean for us?

9 MR. MCGHEE: I think that begs the same  
10 question that you asked about promotions. There seems  
11 to be a point to ask do people think player tracking  
12 should be included in the regs, because you seem to be  
13 running into the same problems as you did with  
14 promotions.

15 MR. WILSON: I think we have to ask the  
16 same question about this as we did about promotions.

17 MR. MCGHEE: He's channeling me.

18 MR. WILSON: Unfortunately, I didn't hear  
19 you down here, Dan.

20 MR. FISHER: He just said the same thing  
21 you just said.

22 That's interesting. We went from how do  
23 we strengthen this guidance to how do we eliminate the  
24 provision.

25 ASSOCIATE COMMISSIONER LITTLE: I'm not

1 going to discuss authorities, because it opens a whole  
2 other can of worms. But we need to be realistic in our  
3 expectations of what this committee will produce, if  
4 it's something that we can use. I'm not going to pass  
5 judgment on anything that you're producing or  
6 recommendations that you're making, but it's always  
7 important to realize when we get our recommendations  
8 how -- are we going to be able to implement them. So  
9 TMI.

10 MR. MCGHEE: And the question is, so if  
11 we recommend that you take it out and you don't, then we  
12 have no comment or anything on, if you decide to keep it  
13 in, here is what we want.

14 ASSOCIATE COMMISSIONER LITTLE: That's a  
15 good point.

16 MR. MCGHEE: If we decide not to take the  
17 advice on the promotions and put it in, we really gave  
18 no recommendations to where you decided, if you keep it  
19 in, what we want. Same with player tracking. So I hate  
20 to ignore the whole thing in case you don't take our  
21 advise.

22 MS. LASH: And that's true, but we really  
23 do have to watch closely when we have intermingled  
24 systems in Class II and Class III, the loss of  
25 jurisdiction. I mean, this is NIGC's jurisdiction, it's

1 Class II. With promotions, once you're getting money  
2 for Class III games, you're using that in promotions,  
3 that doesn't fit within this box. And once this money  
4 is co-mingled with Class III money, there is a loss of  
5 jurisdiction.

6 So we're dealing with that kind of same  
7 issue here when you have these player tracking systems  
8 that are Class II and Class III. I mean, there is a  
9 blurred line there.

10 MR. CULLOO: Well, in Washington state,  
11 the way you get away from the state having any  
12 jurisdiction is it's a one-way flow of information from  
13 the server. You capture the information but nothing  
14 goes back to the Class III server. So therefore, they  
15 have no control over it. There is a firewall that  
16 prevents the information from going back the other way.

17 MR. MCGHEE: To me, the way it's written  
18 is you would have control over a Class II player  
19 tracking system if you decide to let Class II machines  
20 operate with it. And then you have the authority to  
21 look at it, whether Class III is involved in it or not,  
22 because you allowed Class II to operate with it.

23 MR. FISHER: All right. So do we want to  
24 test this? Do you want to adjourn for the day and  
25 consider it overnight, or how would you like to proceed?

1 MR. CALLAGHAN: Is there an opportunity  
2 for the NIGC to propose soft regulations?

3 MR. FISHER: It's getting late.

4 (Simultaneous discussion.)

5 MR. CALLAGHAN: Maybe what I'm saying is  
6 more of a bold -- I mean, I agree that -- again, I go  
7 back to the kinder, gentler, the new and improved NIGC.  
8 These are areas where you know that there is challenges  
9 out there, and it would be -- I think it would be a good  
10 thing if you provided some guidance on these things. I  
11 just don't see -- I don't see any land grab by the NIGC.  
12 And I don't mean that in a negative way, just added  
13 territory for you, annexing.

14 I think that could damage our entire work  
15 here. I think what we've done, particularly with bingo,  
16 at least our recommendations with bingo, would be the  
17 hardest part of our work. And I think adding certain  
18 things like this to what we're doing could destroy  
19 everything we're doing here right now, because we're  
20 throwing out the baby with the bath water. And I would  
21 rather make some adjustments, how unpalatable they maybe  
22 to the NIGC. But I just think that it would be more  
23 beneficial to the overall global work, incrementalism,  
24 something maybe you could take a look at in the future.  
25 But under the framework of what we're doing, not so

1 much.

2 ASSOCIATE COMMISSIONER LITTLE: It's  
3 helpful to have discussion. And you know, as kind of  
4 what Daniel is talking about, whether or not it's in  
5 your recommendations, we are taking in everything you're  
6 saying here. It is all -- we'll all get a transcript  
7 and it will be reviewed.

8 But you know, we should be realistic. We  
9 have realistic expectations of what we can actually do.  
10 I'm not trying to sway you away from the representation  
11 that you make.

12 MR. WILSON: For clarification, when you  
13 say "realistic," is that saying that like if I'm on the  
14 record saying that I don't think that this is an area  
15 that NIGC can regulate that that's unrealistic?

16 ASSOCIATE COMMISSIONER LITTLE: No, I'm  
17 not saying that.

18 MR. WILSON: I'm trying to understand,  
19 then, what is unrealistic about the conversation that  
20 we've been having?

21 ASSOCIATE COMMISSIONER LITTLE: Well, I  
22 mean, like I said, I don't want to get into authorities  
23 here or not or removing or adding entire sections, you  
24 know. Some things we just may not be able to do. We do  
25 have a process here, and we do need to go and consult



1 with tribes, you know. So it just would be helpful.

2 I mean, kind of just tagging back to what  
3 Dan had said, but in the event that we can't do what you  
4 recommend, there are some other options there to have,  
5 you know, different options. We talked about that  
6 yesterday morning a little bit, that, you know, we want  
7 to address this issue, we want to get something out  
8 there that's going to be, you know, workable for a very  
9 diverse industry, how we do need to have realistic  
10 expectations of what we actually can do.

11 So there is always the, you know, we want  
12 everything, the best-case scenario, whether it be from  
13 the government's perspective or the tribal government's  
14 perspective, but what actually can we get done.

15 MR. CALLAGHAN: Daniel, if I'm reading  
16 this correctly, on the left side, the proposed MICS,  
17 that's the NIGC side, and then on the right side is the  
18 TGWG. So the way I read that is there is no proposed  
19 MICS from the NIGC. They're just saying that we don't  
20 agree with TGWG's suggested MICS.

21 MR. FISHER: It's because it got moved  
22 out of the different sections.

23 Go ahead, Robin.

24 MS. LASH: I have a comment just for the  
25 record with regard to our discussion we're having. A

1 tribe can invest its TGRA with authority by amending its  
2 gaming ordinance which in Class II would also invest  
3 NIGC with authority. However, this is a matter of  
4 tribal sovereignty. If the tribe does not choose to  
5 expand its gaming ordinance to include player tracking,  
6 which is not Class II, the TGRA and NIGC -- both the  
7 TGRA and the NIGC lack jurisdiction under IGRA and  
8 gaming ordinance.

9 MR. WILSON: What is that that you're  
10 quoting?

11 MS. LASH: It's discussing when we were  
12 talking about the jurisdictional issues and what NIGC  
13 has jurisdiction over. And we're talking about that  
14 like you did with promotions and player tracking.

15 MR. WILSON: I understand, but I guess  
16 just --

17 MS. LASH: This is from my legal counsel.

18 MR. WILSON: Okay. And my issue isn't  
19 that, my issue is is that citing a precedence or a case  
20 that has already decided that player tracking is not  
21 part of it? That's my question.

22 MR. MCGHEE: He thought you were reading  
23 something official.

24 MS. LASH: No. It is official, but it's  
25 not --

1 MR. MCGHEE: Recently created somewhere,  
2 in print or whatever you want to call it.

3 MS. LASH: No, it's not a case.

4 MR. WILSON: It's not?

5 MS. LASH: No.

6 MR. WILSON: So that's just an opinion?

7 MS. LASH: Yes, a legal opinion.

8 MR. MCGHEE: I think we need to consider  
9 that if you throw something out, do you still want to  
10 have comment on what's left.

11 MR. FISHER: And that's a choice that the  
12 group has to make about whether you have a plan B or, in  
13 essence, you have a contingency plan for if you  
14 recommend something and that recommendation is not  
15 approved, then your second recommendation would be do  
16 this. You have a choice to make about whether you do  
17 that or whether you simply make a strong recommendation  
18 that says do this.

19 So we're back to what do you -- do you  
20 have a comment to make? Because I want to check to see  
21 what you want to do right now.

22 MR. MORGAN: Just a little bit, because I  
23 still see this conversation similar to promotions. We  
24 had consensus on as far as the regulation and guidance,  
25 but we were pretty evenly split, though, on how to -- in

1 my words, you know, while we agreed that it may have  
2 been good a good idea, we had very strong disagreement  
3 on a vehicle to get it there, of how it arrives.

4 And I was just going to, probably like  
5 you, check to see if we still had that disagreement on  
6 the vehicle of how it arrives. Because we had some  
7 people that said yes, good idea, bulletin, and we had  
8 other people that said no, because a bulletin rises to a  
9 certain level and we don't want to get there.

10 We were pretty evenly split on the last  
11 subject. Now, whether that holds true for this subject  
12 or not, that's what I would like to see.

13 MR. FISHER: So that would mean testing  
14 both, whether to delete this provision or not recommend  
15 this provision and to create a bulletin. Is that what  
16 you're saying?

17 MR. MORGAN: I'm not saying we have to  
18 get there today, right now. I said me looking, I said  
19 that's where I see us going.

20 MR. FISHER: All right. John?

21 MR. MAGEE: For me, it comes back down to  
22 the promotional gaming issue, that I probably would have  
23 voted the same way I did last time, I would probably  
24 stand aside. Because for me, the promotional and these  
25 type of items we're talking about here, it is

1 problematic and there is a lot of abuse. And probably  
2 in multiple facilities, and in our facilities, it costs  
3 us several thousand dollars, hundreds of thousands of  
4 dollars. And I get that. So it's a property issue, and  
5 you deal with the regs and you learn from those  
6 mistakes.

7 I guess what I'm having a little problem  
8 with is that, you know, we were brought here to review  
9 the Tribal Gaming Working Group's recommendation to NIGC  
10 for adoption, and yet we've got several members from  
11 that work group sitting at this committee telling us,  
12 well, we need to take that out of the document because  
13 that's not what we wanted.

14 So just -- I'm just working with, you  
15 know, trying to pull this out myself in my head, trying  
16 to figure out, okay, this is the document you presented,  
17 but yet this is the section you don't want in there.

18 So it's a little confusing from that  
19 standpoint. And I guess that -- and I get what Matthew  
20 said, you know, there was kind of a consensus and it's  
21 how we brought it together.

22 MS. LASH: There was a house divided in  
23 the working group, too.

24 MR. MAGEE: If we go back around the  
25 table again, because I don't want to hold this up, and I

1 get it is for individual properties to adopt and  
2 mitigate the problems as they see fit. And we have.  
3 You know, we've done that and I'm sure other properties  
4 have, too. And maybe it's not fair to try to create a  
5 broad statute that applies to each property, because  
6 each property is set up differently. I get that  
7 argument, too.

8 The only problem I have is  
9 philosophically, the work group put together a document  
10 for presentation, but yet members of the work group are  
11 here saying no, we don't want that.

12 ASSOCIATE COMMISSIONER LITTLE: Can I  
13 respond?

14 Our intent was not to bring you here to  
15 just whole cloth bless what the Tribal Gaming Working  
16 Group has done. We would hope that you would all take a  
17 good close look at it. As we're coming up with ideas,  
18 and some of you have done a really good job at finding  
19 your own questions in here, areas that don't make sense  
20 to you and things that could be clarified, that's  
21 really, really helpful to the overall process. And I  
22 don't want to answer for the Tribal Gaming Working  
23 Group, but they made it pretty clear earlier that there  
24 was not a lot of consensus. And actually things that I  
25 heard as they went through the process, part of it was a

1 pretty drug-out, tough fight. Not necessarily a fight.  
2 Not a good choice of words.

3 MS. HAMEL: It was a fight.

4 ASSOCIATE COMMISSIONER LITTLE: It was a  
5 tough process. And the Commission, we really respect  
6 that and appreciate all the hard work and dedication and  
7 the resources that went into that. And that's why, you  
8 know, we felt that when Poarch Creek submitted it to us,  
9 it was important to look at.

10 MR. MAGEE: Well, the only follow-up  
11 comment I would say is that we'll probably get some flak  
12 from those who were adamant about certain sections that  
13 we decided to take out for whatever reason.

14 MR. MCGHEE: It comes down to, you know,  
15 yes, to me it's a good idea and it makes sense to be in  
16 place, but kind of like what we were talking about here  
17 is more of a big, broader principle issue or legal issue  
18 of authority and blah-blah-blah, not whether it's a good  
19 idea.

20 And I don't know if -- I would have to  
21 talk to my legal people to say, hey, should we be  
22 supporting whether we have the authority to do that?  
23 Because I'm not equipped to do that and they're not  
24 here, to make such a big comment like it shouldn't be in  
25 here, because I don't think you have the authority,

1 because I don't have the knowledge. I have to look at  
 2 it to have an opinion from my tribe on that. You know  
 3 what I mean?

4 So I would just assume it would be  
 5 status quo until I had that, because that's a bigger  
 6 statement you make when you're starting to talk about my  
 7 tribe, if I'm speaking on behalf of my tribe, for me to  
 8 say my tribe doesn't believe you have the authority to  
 9 do that, when I can't do that, you know.

10 MR. FISHER: Okay, where are we? You  
 11 want to adjourn and consider it overnight?

12 So where we are time-wise is that we're  
 13 at 4:30, which is the scheduled time on our agenda for  
 14 public comment. So this is the invitation to anybody in  
 15 the audience that wishes to provide public comment  
 16 directly to the committee. To do so, now would be the  
 17 time. So does anybody wish to provide public comment?

18 No, we don't have anybody stepping  
 19 forward. Okay, nobody stepped forward.

20 So can you hang in there with me, folks?  
 21 So I think we're done for the day. So let's adjourn.  
 22 And when we come back in the morning, we'll pick up on  
 23 this question of how to deal with what is proposed in  
 24 543.12.

25 ASSOCIATE COMMISSIONER LITTLE: Oh, one



1 other thing. It's Rest's birthday today.

2 MR. FISHER: We can go off the record.

3 (TAC meeting recessed at 4:32 p.m.)

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