

# AGENDA

## PREPARATION FOR AND PARTICIPATION IN GAMING COMMISSION HEARINGS

*Training Objective: Develop the skills to prepare for and participate in a hearing before the Gaming Commission related to licensing and patron disputes.*

### **DAY ONE:**

**8:00 a.m. Doors open.**

**9:00 a.m. Introduction to session.**

### **Approach**

- \* Theory & Practice
- \* By preparing for formal hearings you are prepared for informal hearings
- \* Informality of our conversation in training
- \* Which training ideas are you going to put to use?

### **Delegated Authority**

- \* Has authority been delegated to you to participate in a hearing?
- \* What is the course and scope of delegated authority?
- \* What is the Commission's immunity?
- \* What is the immunity that applies to employees, agents and officials of the Commission?

### **Preliminary Issues**

- \* Has the licensee consented to the Commission's rules?
- \* Commission's attorney-client privilege
- \* Commission's work product
- \* Licensee's attorney-client privilege
- \* Licensee's work product
- \* Ex parte communications (adjudicator neutrality)
- \* Confidentiality

## **Strategic Thinking**

- \* Evidence Primer
- \* Evidence (Witness testimony, documents, video, admissions)
- \* Business records
- \* Demonstrative Evidence
- \* Evidence Standard
- \* Hearsay Defined
- \* Practical Suggestions regarding hearsay
- \* Best evidence rule
- \* Complete evidence “rule”

## **Getting evidence into a hearing**

- \* Authentication
- \* Authentication via a witness
- \* Self-authentication
- \* Evidence introduced under a relaxed standard

## **Elements of a License Violation**

- \* What evidence do you have which supports each element?
- \* Where is the evidence coming from?
- \* What is the strength of the evidence? (corroboration, admission, credibility)
- \* Was the licensee aware of the applicable rules?
- \* Chronology tells stories.
- \* What do the adjudicators want from you?
- \* What is the best argument against your position?
- \* In addition to the Licensee which violated the rules, what about the boss?

## **Elements of a Patron Dispute**

- \* What evidence do you have which supports each element?
- \* Where is the evidence coming from?

- \* What is the strength of the evidence? (corroboration, admission, credibility)
- \* Was the patron aware of the applicable rules?
- \* Chronology tells stories.
- \* What do the adjudicators want from you?
- \* What is the best argument against your position?

## ***4:00 p.m. End of Day One***

### **DAY TWO:**

***9:00 a.m.***

### **Prior to the Hearing**

- \* Who is asking for the hearing?
- \* Pre-hearing relief
- \* Notice
- \* Discovery
- \* Motion practice
- \* Stipulations

### **Hearings**

- \* Location
- \* Perception & Reality of Fairness
- \* Presiding Officer takes charge
- \* Share the script (who goes first, who goes second)
- \* Sequestering witnesses, transcribing the hearing, public or private, Weingarten
- \* Opening Statement
- \* Prosecutor case in chief
- \* Licensee or patron case in chief
- \* Prosecutor rebuttal
- \* Licensee or patron rebuttal
- \* Burden of Proof
- \* Testimony
  - \* Direct
  - \* Cross
  - \* Rebuttal

- \* Closing Argument
  - \* What evidence did you prove?
  - \* What relief do you want?
- \* Why does it make sense to give you that relief?
- \* Presiding Officer Closes Hearing
- \* The adjudicators deliberate
- \* The decision
- \* Is there a right to appeal?

### **Risks**

- \* Defamation
- \* Getting involved in management issues
- \* Abuse of “prosecutorial” discretion

### **Mock Hearing**

***4:00 p.m. End of Day Two***