

From: Mac Potter <mpotter@northernstarcasinos.com>

Sent: Tuesday, May 7, 2019 7:48 AM

Cc: Vicki J. Beavers <VBeavers@ag.nv.gov>

Subject: Governor's Task Force on Sexual Harassment and Discrimination Law May 7, 2019 Meeting

Chair Attorney General Ford, Vice Chair Cuevas and Task Force Members,

Throughout much of 2018, I followed the discussions on the Nevada Gaming Control Board's proposed *NGC Regulation 5.250 - Sexual Harassment Awareness and Prevention*. While the Nevada Gaming Commission did not take action on the amendment before year's end, the creation of Governor Sisolak's *Task Force on Sexual Harassment and Discrimination Law Policy* quickly reinforced the importance of the subject for all Nevadans and their employers. As I will likely be unavailable for today's meeting of the Task Force, I am writing to offer the short list of concerns that I had shared with NGC Chairman Alamo regarding the proposed amended regulation:

Standing of the parties – Regulation 5.250 is silent as to a claimant, witness, and/or alleged offender's standing and whether, or if, any or all must have been within a reasonable time or are currently employed by the licensee;

Time limit for reporting – absent a defined time limit or any reference to NRS, it appears to suspend otherwise applicable statute(s) of limitation;

Definition of valid claim – it fails to define "valid" (i.e., timely filed, accurate and factual, proven by a preponderance of evidence) and in whose judgment the final determination is made;

Due process and the presumption of innocence – absent any reference to NRS, it appears to suspend these critical legal principles;

Possible consequences for bringing a false, misleading, or materially inaccurate complaint – absent any reference to NRS, it fails to address the issue of perjury or subornation of perjury;

Rationalizing differences between authorities – it lacks clarity as to differences between USEEOC, NERC, and GCB and, as their respective jurisdictional authorities may determine different outcomes for the same misconduct, the dangers of legal uncertainties and possible double jeopardy for the alleged offender and the licensee;

Since they were expressed from the perspective of a Nevada gaming licensee, these concerns may not apply specifically to the current effort. They may, however, be useful in the Task Force's formulation of recommendations to the Governor on the subject as applied to State agencies *as employer*.

Thank you.

Mac Potter
Chief Operating Officer
Nevada Casino Holdings, LLC
P.O. Box 1847
Sparks, NV 89432
mpotter@northernstarcasinos.com
Cell: 775-530-1583

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