

Interview with J. Brin Gibson, Chairman of the Nevada Gaming Control Board

By Maren Parry

J. Brin Gibson was appointed by Governor Sisolak as Chair and Executive Director of the Nevada Gaming Control Board (“Board”) in November of 2020 to succeed Chair Sandra Douglass Morgan. Chair Gibson serves alongside veteran Board Member Philip Katsaros and new Board Member Brittne Watkins, who was appointed by Governor Sisolak in May of 2021.

Chair Gibson has extensive gaming law experience and comes to the position of Chair from Brownstein Hyatt Farber Schreck’s Las Vegas office, where he was a shareholder in the Gaming & Regulatory Practice Group. Prior to joining Brownstein, he worked in the Nevada Attorney General’s office as the Chief of its Gaming Division where he was top legal counsel to the Board, the Nevada Gaming Commission (“Commission”), and the Gaming Policy Committee. Previously he also served as Chief Legal Counsel to Governor Sisolak and provided special assistance to the Governor’s office during two special legislative sessions. Prior to his service with Governor Sisolak, he was appointed by Governor Brian Sandoval to two separate terms as a Commissioner of the Colorado River Commission of Nevada.

Chair Gibson holds a Bachelor of Arts degree with Highest University Honors, a Master of Public Policy, with a focus on econometrics and statistical methods, and a J.D., with Law Review honors, from Brigham Young University.





We have all had significant life changes during the pandemic, but how has your transition into the role of Chair of the Board changed your life?

The transition into the role of Board Chair during the pandemic increased my capacity to make difficult decisions in the midst of a fluid, even chaotic environment. The pandemic created a period of significant uncertainty for Nevada's gaming industry and for the Board and Gaming Commission as regulators. I have experienced uncertainty before, but never uncertainty with the massive weight of the pandemic and its results. The ramifications of erring, of choosing wrongly, weighed heavily on me and on those who worked with me. Mistakes in decision-making could result in businesses destroyed and upheaval in the lives of those employed by such businesses. The alternative of freezing under these pressures - of not choosing at all - were similarly bad.

As author Jacko Willink teaches in his book, Extreme Ownership, the pandemic taught me to make challenging decisions and to keep moving. As difficult as regulating gaming was during this time, it was an invaluable experience in providing me with the opportunity to grow personally.

You have four children. How have they adjusted to sharing a roof and meeting space with the official business of the Board?

My children and my wonderful wife have adapted remarkably well to my position with the Board. Each member of my family understands the requirements of my role as Board Chair for a quiet workspace within which to conduct numerous, often sensitive, meetings, including official Board meetings. In addition, my household has adjusted well to the confidentiality requirements of much of my work.

The work hours required as Board Chair during the vaccination period of the pandemic—18 to 20-hour days on a regular basis—was difficult. My wife carried an especially heavy load, often making up for my absence. I am deeply grateful to my family for their support throughout the pandemic.

You have previously served as legal Counsel to the Board and to the Commission. What has most surprised you about being on the other side of that relationship?

Prior to entering this new role, I did not appreciate how much administration the position of Board Chair entails. My prior experience with the Board and Commission was as Chief of the Gaming Division, Office of the Attorney General (“OAG”). I was functionally chief legal counsel to the Board and Commission. It did not take long as Board Chair to recognize the need to delegate legal work to Chief Darlene Caruso and her team of attorneys in the OAG’s



Gaming Division. Chief Caruso and her team are assigned discrete legal question to analyze and discrete legal documents to draft. Conducting this work requires incredible dedication of time and deep focus to explore fully the nuanced questions of law posed to them.

The Board Chair functions as the executive director of an Executive Branch agency and as a member of the Board. Understanding the law is crucial to success in the role, but the administrative functions of the position require that I manage the approximately 400 employees located in offices in Elko, Laughlin, Reno, Carson, and Las Vegas. Overseeing staff in 5 offices spread across the state, with the differences in culture and gaming regulation these geographic distinctions entail, demands that I maintain a broad view of the agency. Most days, I am required to manage personnel issues, to coordinate the work of multiple disparate Board divisions, each with distinct priorities and functions, and to manage the fiscal resources of the Board, among other responsibilities.

This work does not leave much time to adequately research and analyze the minutiae of our statutes and regulations. Consequently, I rely heavily on the Board’s OAG-assigned legal counsel. They do remarkable work.

How have your other employment experiences been helpful in your new role as a regulator?

My 4 years as Chief of the OAG's Gaming Division, allowed me to understand the position our Deputy Attorneys General are in and the pressure that is put on them while balancing multiple obligations and assignments issued by individual Board Members and Commissioners, Division Chiefs and divisional staff. I have worked with Board leadership to share this perspective with them.

My experience with the Governor's office taught me how state Executive Branch policy is managed when the number of policy inputs on the Governor's small team is overwhelming. Each member of the Governor's staff has multiple departments and agencies for which they are responsible, and it is critical that they are never surprised by negative issues arising from any division or agency.

As Board Chair, my prior experience as general counsel to the Governor has helped me understand how to prioritize which material developments are important to communicate to the Governor's staff. This proved especially useful in maintaining a coordinated response to the pandemic and sending clear messages to the gaming and hospitality industry and to the general public.

My time in private legal practice and as in-house general counsel allow me to appreciate the ways technology can significantly improve the quality of one's decision-making, personal and company or agency organization, and the quality of the product an entity produces, whether it be a legal document or an investigation for licensing.

Technological advances, particularly deployment of tools such as APIs for secure and instant transfers of confidential and complex documents and information, can improve dramatically the efficiency of the Board's processes, both internally or organizationally, and externally, in managing the regulated businesses with which the Board interacts.



As you look at the Board as an organization, have you identified anything that you would like to see change at the Board during your tenure? Have you made any changes since your appointment as Chair?

For an organization like the Board, focus on technology must be paramount. We are long past the days where tech fluency can be siloed as a skillset reserved for our Technology Division and team of IT experts. As regulators of an industry growing rapidly worldwide, while continually exploring new applications of technology, it is critical that the Board maintain technological sophistication across our whole workforce.

Relatedly, we need to ensure our own computer and information management systems are protected from breach to the greatest degree possible. To achieve this, I have empaneled a committee of internal leaders, who are tasked with achieving Board CIS certification with the goal of achieving ISO/IEC 27001 and NIST certifications.

Cyberbreaches and associated ransomware attacks have taken the world by storm. Internally, the Board must better understand and teach technological fail points caused by human error. We must engrain in our staff appropriate cyber-hygiene to avoid opening ourselves to breach. Matters as simple as using discretion regarding which devices one may use to conduct work business, which methods of communication are secure and which are open to attack, and many others require tech fluency of all staff.



Much of your initial time leading the Board has, of necessity, been focused on leading Nevada's gaming industry through reopening after mandatory closures due to COVID-19. Nevada's gaming regulators have not typically been required to be experts in public health or make recommendations to licensees that encourage specific health measures such as vaccination. How have you approached making these decisions?

I have approached the medical side of pandemic management among gaming licensees with humility, which is not difficult to achieve in the face of so much I do not know. To the degree the Board's work with licensees to encourage vaccination has been successful, I credit the assistance members of the State Vaccination Team and the Clark County Incident Management Team have provided to me. Additionally, I owe a great deal to members of my family who are physicians and who have substantial experience managing COVID-19.

In addition to those who are formally trained in epidemiology, infectious disease or public health, I have also benefited greatly from the intellectual flexibility of Board staff. Several individuals within the Board ranks have participated in regular regional and statewide pandemic management calls and have been critical in drafting pandemic-related Board Industry Notices and various iterations of Board health and safety policies.

Once you have some breathing room, what do you see as your priorities in gaming regulation (or on the horizon for the Board to address)?

One project that is well overdue is debriding of Commission regulations. The exemptions the Board and Commission enjoy from the Nevada Administrative Procedure Act (NRS Chapter 233B) have been an essential tool for us as regulators to keep up with changing industry trends and to effectively craft rules and policies to allow Nevada to take advantage of such innovation.

Where we benefit on the front end of the rulemaking process, however, we lose a little on the back end. Over time, regulations—and often, codified law, more generally—become laden with decades of outdated concepts and extraneous language which impedes all involved. These duplicative and sometimes outdated regulations can make attempts to understand and follow the rules we set out difficult. Regulatory errata also increase the complexity of enforcing rules. And, critically, it slows our ability to create new rules that read in a manner consistent with those already codified.

With our return to the Board’s pre-pandemic focus on more traditional gaming regulatory matters, I have tasked the Board’s leadership to work with legal counsel in the OAG’s Gaming Division to streamline the regulations. This will occur by internally workshopping each chapter of regulation, identifying regulations and statutes to amend, and then by using the regulatory and legislative processes to achieve this goal.

Gaming, especially sports wagering and mobile gaming, is now authorized in a number of jurisdictions throughout the United States, and it seems that most states are considering the legalization of gaming or are in process of establishing a system for gaming regulation. Nevada has long represented the “Gold Standard” when it comes to gaming regulation. Has Nevada had the opportunity to provide resources to regulators in less established jurisdictions?

It is critical that Nevada maintain leadership in matters of gaming regulation, not only for reputational reasons, but also for the benefit to Board and Commission members and staff derived from the work required to maintain a leading position. An affirmative push to remain on the cutting edge of the industry is important to us as regulators so that we ourselves maintain regulatory acuity, knowledge of new ideas and concepts, requiring that we focus staff and Board member continuing education and training on these new, often challenging, areas of the gaming economy.





While we do have substantial work ahead of us, we also have a tremendous amount to be proud of, but we can't let our pride in being the "Gold Standard" turn into apathy. We have a decades-long head-start in gaming regulation over other jurisdictions that are just coming online—we've gone through our growing pains already and are in a prime position to innovate in the gaming regulatory space. And other jurisdictions see this. We have interacted and aided numerous U.S. jurisdictions as sports wagering has been introduced across the country with the fall of PASPA. We have also assisted and continue to work with foreign jurisdictions, such as Japan, as these foreign nations explore regulated gaming.

I will pose to you the same question I previously asked Chair Morgan in an interview for this publication: Technology develops and changes so quickly that your answer to this question may be outdated by the time it reaches the readers, but what do you see as the most exciting technological developments in the gaming industry? Do you believe the regulations in place are able to address a landscape that can change faster than regulations can be adopted, and does the Board have the tools it needs to adequately evaluate and regulate the proposals and applications brought forward for its consideration?

Personalization of the gaming experience, for each individual gaming customer, is an exciting development in the gaming economy. The industry has an incredible capacity to collect data from and on its customers, but my sense is that AI/ML and VR technologies will allow game manufacturers to add substantial value to the customer gaming experience in the future. It is one thing to collect data—it is entirely another matter to use this data in meaningful ways to personalize the gaming experience.

Of course, collection of personal information and data comes with the obligation that the industry amend and expand compliance plans to protect, or even strip-out any PII or PHI, intentionally or inadvertently collected. Moreover, in collecting any sensitive information, the industry is obligated to maintain the most robust cybersecurity measures. Data assisting manufacturers and operators in creating a personalized customer experience can be a double-edged sword if those customers feel no sense of privacy for their data.



There are also interesting developments in applying technology to problem gambling. The industry standard with regard to problem gambling is self-exclusion. I expect that, in addition to self-exclusion, technology will enable licensees to identify other indicia of problem gaming and to intervene with patrons much earlier than occurs now. With improvements in technology use and algorithm-driven behavior assessment, AI is primed to become an important tool in assessing customers for behavior indicative of a gambling disorder. The Board and Commission have seen at least one presentation of a software package that does exactly this. Self-exclusion, now the standard, will soon be replaced with AI/ML behavioral analysis and operator intervention. This will become the industry standard.

Naturally, such technology carries with it the same caveats as discussed above when it comes to patron information and the substantial obligation licensees have to protect information regarding patron gambling habits. In fact, given the health-related orbit in which problem gambling rotates, the confidentiality and cyber-protection obligations are surely even higher.



Your educational accomplishments demonstrate the value you place on continuing higher education. As Chair you are invited to sit on the Gaming Law Advisory Committee at the William S. Boyd School of Law at the University of Nevada, Las Vegas. How can the law school further the industry/how can regulators and educators work together?

The law school has done a fantastic job of giving its students a practical gaming law education. In the past, I have had the opportunity to be involved with classes taught by Professor Cabot and others. My observation is that the school leverages well its proximity to one of the gaming capitals of the world. So much of gaming practices revolves around laws and regulations that may appear simple enough to read, but which are much more difficult to apply. Gaming law and practice is also heavily reliant upon historical precedent and upon practices that cannot be clearly identified in any text. Hence, the importance of focus upon practical experience within the academy.

One of the most important ways the Board and law school have been able to assist each other is through the extern program that Member Johnson led on behalf of the Board for many years. Member Watkins has expressed an early interest in leading the Board's externship programs and I am personally committed to doing so.



Maren Parry is an attorney in the Las Vegas office of Ballard Spahr LLP practicing primarily in the areas of administrative law, privileged licensing and real estate. Maren currently serves on the Gaming Law Advisory Committee of the William S. Boyd School of Law at the University of Nevada, Las Vegas, where she received her J.D. in 2005, and as a member of the Executive Committee of the Gaming Law Section of the State Bar of Nevada.