

The Stardust Skim

By Paul A. Bible



In the early morning hours of December 5, 1983, agents of the State Gaming Control Board (“Board”) began twenty-four hour surveillance of the Stardust Resort and Casino (“Stardust”) which was located on the Las Vegas Strip. The Board action followed the issuance, pursuant to NRS 463.311, of a December 4, 1983 Ex Parte Emergency Order by the Nevada Gaming Commission (the “Commission”), suspending all gaming licenses at the Stardust, effective on the appointment of a supervisor to manage the Stardust pursuant to NRS 463B. This was the first occasion the Commission had used the supervisor or the emergency order statutes which were enacted in 1979 and 1983, respectively. The Commission action was initiated after the Board filed a Complaint against the Stardust, its owner (“Owner”), general manager (“Manager”), Trans-Sterling, Inc. and Karat, Inc. (collectively, “Trans-Sterling”) to revoke their gaming licenses. The Board also filed an Ex Parte Application for an Emergency Order of Suspension.

The events which caused the Board’s action against the Stardust began in 1982 when the FBI unsealed affidavits alleging “skimming” (or the unlawful removal of casino revenue) at the Stardust. The affidavits identified the casino manager and assistant casino manager as “chief mechanics” of the skim.

The Board conducted its own investigation by having its agents examine all the Stardust’s fill and credit records for a substantial part of 1982. The agents noticed patterns which occurred during swing shift on specific days during the first two weeks of each month when four Stardust employees were always working together. This pattern suggested that bogus fill slips were being generated and never delivered to the appropriate game. Board agents also surreptitiously conducted surveillance



of certain table games to determine if the chip fills to the games matched the fill slips in the drop boxes. On many occasions, there was no match, but the cage was

in balance, which led the Board agents to conclude that money in the amount of the bogus fill slips was being removed from the cage. Board agents also conducted separate Investigative Hearings with the Owner and the Manager pursuant to NRS 463.110(4). At the hearings, the agents described the skim and identified the four Stardust employees who they believed were responsible. Following the hearings, the Board agents returned to the Stardust to conduct further investigation and discovered that the skim was continuing. This led to a joint state-federal investigation on December 2, 1983 which caused the Board to file an amended complaint to add the activity on December 2, 1983 to its charges.

A supervisor to manage the Stardust was not appointed until several days after the Commission’s Emergency Order. As soon as the appointment was made by the Clark County District Court, Trans-Sterling immediately challenged the Order Appointing Receiver by filing a Petition for a Writ Prohibition with



the Nevada Supreme Court. The Supreme Court held an extraordinary evening session on December 13, 1983 where it suggested the Commission should hold a hearing to allow the Stardust to challenge the Emergency Order of Suspension. On December 14, 1983 the Commission set a hearing for December 15, 1983 on its Emergency Order. The Commission also permitted the Stardust to conduct discovery. Over a three-day period on December 15, 19 and 20, the Commission heard ten witnesses and reviewed sixty exhibits at the hearing on the Emergency Order of Suspension. At the conclusion of the hearing, the Commission upheld its Emergency Order and set a date for commencement of the hearing on the Board’s amended complaint. Prior to that hearing, all parties signed a Stipulated Settlement Agreement (“Settlement”) which involved all of the casino

properties owned or leased by Trans-Sterling, including the Fremont and The Sundance which were located in downtown Las Vegas. In addition to providing for the revocation of all licenses and imposition of a \$3 million fine, the Settlement provided that the Trans-Sterling parties waived their legal rights, including their right to appeal. In addition, per the terms of the Settlement, the Trans-Sterling parties did not admit any liability, the supervisor remained in place at the Stardust and the revocation of all licenses were stayed for a specific period of time to allow all properties to continue to operate while the properties were marketed and sold. If the properties were not sold by the end of the stay, all gaming licenses were revoked.

During a special telephone conference call meeting of the Commission to approve the Settlement, the Owner and Manager testified as follows:

CHAIRMAN BIBLE: Thank you. I'd like to ask you a series of questions relating to the stipulation, and as I indicated earlier, Mr. [Owner], would you answer first, and Mr. Manager second, please?

First of all, I want to ask each of you whether or not you entered into this stipulation and agreement voluntarily and of your own free will.

MR. [OWNER]: This is Mr. [Owner]. Yes.

CHAIRMAN BIBLE: Mr. [Manager].

MR. [MANAGER]: Yes.

CHAIRMAN BIBLE: Thank you. And I want to have each of you represent to this Commission and for purposes of the record that you entered into this stipulation without coercion or duress.

MR. [ATTORNEY]: Do you want them to state those words, Mr. Chairman?

CHAIRMAN BIBLE: Just an answer yes or no will be satisfactory.

MR. [OWNER]: This is Mr. [Owner]. Yes.

CHAIRMAN BIBLE: Thank you.

MR. MANAGER: Under the circumstances, yes.

(Note: The author has redacted the names of the Owner, the Manager and their attorney.)

Further, they were also asked about each provision of the Settlement, to which they each responded that they understood the same. When they requested the Commission to approve the Settlement, the Commission complied.

In May 1983, Trans-Sterling terminated its interest in the Sundance Hotel and Casino, Inc. On July 9, 1983, Trans-Sterling served a Notice of Rescission of Settlement and demand for statutory hearing. The next day, Trans-Sterling filed suit in Nevada Federal District Court against all the members of the Board and Commission in their individual and representative capacities, under 42 U.S.C. Sec. 1983, alleging they were coerced into signing the Settlement. Trans-Sterling also asked the court for a temporary restraining order and a preliminary injunction to enjoin enforcement of the Settlement. This motion was denied on July 24, 1983 by an order which concluded that Trans-Sterling could not prevail on the merits of its complaint against the Board and Commission. On July 15, 1985, the district court issued an unpublished opinion dismissing the Trans-Sterling complaint which was affirmed on September 30, 1986 by the Ninth Circuit Court of Appeals in *Trans-Sterling, et al. v. Paul A. Bible, et al.*, 804 F.2d 525 (1986).

During the pendency of the federal court litigation, the supervisor managing the Stardust was also appointed to operate the Fremont Hotel & Casino. Not surprisingly, both casinos made a profit while being managed by the supervisor, which, subject to deductions required by Regulation 17.060, it was required to distribute to the Owner pursuant to the former NRS 463B.200. This distribution of earnings continued until the supervisor sold the Fremont and Stardust as provided in the supervisor statute. In 1985, the legislature amended NRS 463B.200 to restrict distribution of earnings to the reasonable rental value of the property under the management of a supervisor with any excess earnings to be paid to the State General Fund.

This article has been prepared to create a road map for future Boards and Commissions to use in the event they are required to use the extraordinary powers of the Commission to revoke gaming licenses ex parte in an emergency and to appoint a supervisor to manage gaming properties to avoid unnecessary financial hardship to the residents of the community in which they are located.

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