

BEFORE THE LIMITED GAMING CONTROL COMMISSION
STATE OF COLORADO
Case No. _____

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

IN THE MATTER OF:

Appeal Pursuant to
Regulation 47.1-1203
of Vista Gaming Corporation and
Innovative Gaming Corporation

THIS MATTER came for hearing before the Commission on August 14, 1997. The subject-matter of the hearing concerned the appeal by Vista Gaming Corporation ("Vista") and Innovative Gaming, Inc. ("IGI") (collectively, the "Appellants") from the decision of the Director of the Division of Gaming ("Director"), as set forth in his letter of May 19, 1997, to Vista, to deny approval for the Lightning Strike Roulette ("LSR") slot machine manufactured by IGI and to be distributed in Colorado by Vista.

FINDINGS OF FACT

1. The instant appeal was filed by the Appellants pursuant to Gaming Regulation 47.1-1203, 1 C.C.R. 207-1¹. The appeal was timely instituted, and the Appellants have standing to pursue the appeal.
2. Prior to the hearing on August 14, 1997, before the Commission, the Division of Gaming and the Appellants entered into a stipulation concerning certain factual matters. These stipulated facts concern, inter alia, the functions and operation of the LSR and are incorporated herein by reference. At the hearing, additional testimony was provided by Craig Bullis, Vice-President of Compliance for IGI, and Paul Hogan, an investigative auditor for the Division of Gaming ("Division").
3. The LSR is a slot machine within the meaning of the Limited Gaming Act of 1991, C.R.S., 12-47.1-101 et seq. ("Act"). The LSR is a multi-station slot machine which permits players to wager on various numbers and, if successful, win cash or prizes. Each player station permits total wagers of \$5.00 or less per play of each game.

¹ Further references to the Colorado Code of Regulations are intentionally omitted. The rules and regulations found in 1 C.C.R. 207-1 are hereinafter referred to as the "Gaming Regulations."

4. The LSR is a video slot machine which visually depicts a spinning wheel and a ball. However, the LSR does not have or utilize a ball or wheel in any fashion: the winning numbers for each game are chosen through a random number generator contained in computer chips and circuit boards in the device. The LSR's method of selecting winning combinations, through use of an electronic random number generator, is like that of other approved slot machines in Colorado.
5. Slot machines, upon request, are tested by the Division. The Appellants have requested testing and approval of the LSR.

CONCLUSIONS OF LAW

6. The Commission has broad authority to promulgate standards relating to slot machines. Section 12-47.1-302 (2) (s), C.R.S.. The Commission has exercised that authority in promulgating Gaming Regulations 47.1-1221 through 1253 (the "Slot Machine Standards"). Slot machines meeting the requirements of the Slot Machine Standards should be approved for play in Colorado by the Director, unless otherwise prohibited by law.
7. The evidence in the record provides no proper basis for denial of approval of the LSR based upon the reason that the "game" visually displayed by the LSR emulates a roulette game. Whether or not roulette is authorized for play as a live or table game is not a proper basis for determining whether the LSR should be approved for play.
8. The Commission and the Division have since 1991 approved slot machines for play in Colorado where such slot machines offered visual representations of games not explicitly authorized by law as table games or for play as live games. Video draw poker is an example of such an approved slot machine, as are reel slot machines.
9. Nothing in the Slot Machine standards, the Act, or the Gaming Regulations limits the "games" that can be displayed by video slot machines to only those "games" authorized by law in Colorado for live play or for play as table games. Moreover, the Director has no authority to arbitrarily create such a limitation.
10. Gaming Regulation 47.1-1217 cannot properly be relied upon by the Director to deny approval for the LSR. That regulation creates no additional requirements pertaining to the approval of slot machines.
11. Gaming Regulation 47.1-1233 cannot be relied upon by the Director to deny approval for the LSR. No evidence introduced at the hearing or in the record in this

matter indicates that the rules of play of the LSR are misleading; and the fact that the LSR may electronically emulate the play of a roulette game does not mean that the LSR rules of play are for that reason misleading.

12. Neither the Director nor the Commission may create standards for slot machines without resorting to formal rule-making procedures. See Colorado Office of Consumer Counsel v. Mountain States Telephone and Telegraph Company, 816 P.2d 278 (Colo. 1991). Such rule-making has not been undertaken with respect to the matters at issue in the instant appeal.

ORDER

WHEREFORE, the Commission hereby orders the Director to approve the LSR video slot machine for play in Colorado, subject to final testing by the Division and Gaming Laboratories International ("GLI") pursuant to the Slot Machine Standards and the testing procedures customarily followed by GLI and the Division in approving other slot machines in Colorado. The Director's final decision to approve or disapprove the LSR shall be consistent with the findings and conclusions contained herein.

SIGNED this 17 day of October, 1997.

COLORADO LIMITED GAMING
CONTROL COMMISSION

By: [Signature]

Chairman,

Title: Colorado Limited Gaming Control Commis

Form approval:

[Signature]

ASSISTANT ATTORNEY GENERAL
COUNSEL FOR COLORADO DIVISION
OF GAMING