

# Gentlemen's Clubs and Casinos in Las Vegas

## *Flirting With the Possibility of a Sexier Strip*

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Las Vegas casinos certainly are not shy when it comes to sex appeal and most undoubtedly seem to take on a "less is more" philosophy when it comes to clothing. With the numerous provocative advertisements and the sexually charged entertainment offered at casinos, it would seem shocking that to experience the entertainment a gentlemen's club<sup>1</sup> has to offer in Las Vegas actually requires leaving the strip,<sup>2</sup> that area of Las Vegas Boulevard roughly between Sahara Avenue and Russell Road, a distance of 4.1 miles (6.6 km),<sup>3</sup> where all of the major casinos are located and where the majority of tourists stay when they visit Las Vegas.

Casinos today have it all, from upscale shopping and spas to nightclubs and concerts. Casino licensees want to provide every service and type of entertainment imaginable to keep their patrons close to gaming and that includes offering adult-themed entertainment to its guests. Almost anything you can possibly want to do in Las Vegas can be done without ever having to leave the casino, however no casino on the Las Vegas strip, or Las Vegas in general, has yet provided the adult entertainment offered in gentlemen's clubs.

Nevada law does not expressly prohibit topless<sup>4</sup> dancing from casinos.<sup>5</sup> In fact, several casinos have topless pools and shows with topless dancers. However, no casino on the Las Vegas strip has a gentlemen's club on its premises.<sup>6</sup> Since casinos already have topless entertainment, why has a casino never offered its patrons the entertainment featured at a gentlemen's club? Some casinos are considering the addition of gentlemen's clubs and have approached Nevada gaming regulators as to whether and how this can be accomplished.<sup>7</sup> This paper will examine why the gaming industry in Las Vegas has for the most part, not included gentlemen's clubs, why they are being considered now, what needs to be done to make this combination possible, and what the future might hold regarding the integration of gentlemen's clubs and casinos.

### **I. The History and Evolution of Erotic Dance Entertainment.**

*What is a "gentlemen's club"?*

A gentlemen's club, often referred to as a strip club, is a club that usually includes a bar and offers erotic entertainment including striptease<sup>8</sup>, pole dancing, and other related

1 Gentlemen's clubs are also commonly referred to as "strip clubs" and include erotic dance such as pole dancing and lap dances. This paper will use the term "gentlemen's club" or "strip club" to mean an "erotic dance establishment" See, Clark County Code § 6.160.030(d): "erotic dance establishment" means a fixed place of business which emphasizes and seeks, through one or more dancers, to arouse and excite the patrons' sexual desires."

2 Most of what is referred to as "the Las Vegas strip" is not located in the city of Las Vegas, but is located in Paradise and Winchester, unincorporated parts of Clark County. See, Nevada Road and Recreation Atlas, Benchmark Maps, 90-91 (2007). This paper will refer to this area of land as it is commonly referred to: the "Las Vegas strip," or "the strip."

3 The term is often used to refer not only to the road but also to the various casinos and resorts that line the road, and even to properties which are not on the road but in proximity to it.

4 See, Clark County Code § 6.160.110, "Topless" means the showing of the female breast below a point immediately above the top of the areola with less than fully opaque covering. "Fully opaque covering" does not include pasties, latex paint, or hair pieces.

5 Interview with Mark Clayton, former member of the Nevada Gaming Control Board (March 5, 2009).

6 See, Clark County Code § 8.04.010.135, "Premises" means the tract of land on which a gaming establishment is located and all buildings, restaurants, hotel or motel structures, recreational facilities, shops, arcades, support and maintenance rooms and parking lots which are connected and operated in such an integral manner as to form a part of the same operation or complex as the gaming establishment, whether under separate leases or not.

7 Interview with Randall Sayre, member of the Nevada Gaming Control Board (May 4, 2009).

8 See, English Collins Dictionary, "Striptease" is a form of erotic entertainment in which a person gradually undresses to music <<http://dictionary.reverso.net/english-definitions/striptease>> (last accessed April 23, 2009).

services such as lap dances.<sup>9</sup> Performers are usually called strippers, exotic dancers, entertainers, or dancers.<sup>10</sup> Generally, dancers<sup>11</sup> collect tips from customers either during or after performing a strip tease while on stage.<sup>12</sup> Lap dances are usually for a set fee per song and dancers sometimes receive additional tips after a lap dance.<sup>13</sup> Additional services offered at strip clubs include VIP services, sometimes referred to as “the champagne room.”<sup>14</sup> These services generally entail an hour of more intimate lap dances in a private room or booth and are usually for a set fee upwards of \$400.00.<sup>15</sup> While prohibited by Clark County and City of Las Vegas ordinances, some dancers allow “fondling of breasts and backsides,” especially in the VIP rooms.<sup>16</sup> “[Some] Dancers figure the potential to make a few extra bucks is worth the citation.”<sup>17</sup>

Dancers generally are not employees of a gentlemen’s club, but instead work as independent contractors.<sup>18</sup> In most clubs, dancers have to pay a house fee to the club in order to work in it.<sup>19</sup> In addition, most clubs take a percentage of each private dance.<sup>20</sup> Strip clubs usually fall into one of two categories: topless and fully nude.<sup>21</sup> Local jurisdictions generally have laws regarding what kinds of clubs are allowed, if any,<sup>22</sup> and what the applicable rules are for each type of club. Rules include, but are not limited to, what kind of contact dancers and patrons can have with each other, how dances must be performed, whether alcohol can be served, and distance requirements from other establishments such as churches and schools.<sup>23</sup> This paper will be limited to discussion involving what are described as topless clubs and will address the applicable laws in Clark County pertaining to erotic dance establishments.

#### *How gentlemen’s clubs have evolved into desirable business prospects.*

Historically gentlemen’s clubs were associated with illegal activity and organized crime.<sup>24</sup> Once called “strip joints”, these businesses used to be characterized as seedy places featuring “strippers with missing teeth”<sup>25</sup> and “saloons with sawdust on the floor.”<sup>26</sup> An article written by an entertainment law attorney who practices in the area of adult entertainment vividly describes the earliest strip clubs:

[H]e noticed as he drove about town a ramshackle building advertising erotic or exotic dancers...[he was]...greeted by some leg-breaker, who plainly was from the bottom of the local gene pool. After paying an impressive admission fee...[he] was escorted to a table, across a pitch-dark business that was no classier than its exterior. He was then greeted by a “too-fat-to-wear-that” woman with a missing front tooth who, to his amazement, asked if he would like an up-close-and-personal “dance” for a tall fee.<sup>27</sup>

9 See, Webster’s Dictionary Online, “Lap dance” is an activity in which a usually seminude performer sits and gyrates on the lap of a customer. <<http://www.merriam-webster.com/dictionary/lap%20dance>> (last visited May 31, 2009).

10 Interview with dancer from Sapphires Gentlemen’s Club (May 2, 2009).

11 See, Clark County Code § 6.160.030(b), “Dancer” means a person who dances, models, personally solicits drinks or otherwise performs for an erotic dance establishment and who seeks to arouse or excite the patrons’ sexual desires. This definition includes persons who receive any monetary consideration from an erotic dance establishment for soliciting the sale or purchase of any product by arousing, exciting or appealing to a patron’s sexual desires or implying sexual gratification.

12 Interview with dancer, *supra* n. 10.

13 *Id.*

14 *Skin City*, Jack Sheehan, 14 (HarperCollins Publishers, 2006).

15 *Id.*

16 *Id.*

17 *Id.*

18 Interview with dancer, *supra* n. 10, See also, Kiko Wu, *Stripper-faq*, <<http://www.stripper-faq.org/faq.htm>> (last visited May 31, 2009).

19 Interview with dancer, *supra* n. 10, See also, Sheehan, *supra* n. 14 at 264.

20 *Id.*

21 *Id.*

22 *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); the U.S. Supreme Court ruled that a state can totally ban topless or nude dancing. See also, *Erie v. Pap’s A. M.*, 529 U.S. 277 (2000); the Supreme Court reaffirmed its finding that nude dancing was expressive conduct “marginally” protected by the First Amendment, but ruled that it could be regulated in order to limit “secondary effects” such as crime.

23 See, Clark County Code § 6.160.110; other jurisdictions have similar regulations.

24 Interview with Mark Clayton, *supra* n. 5.

25 Clyde DeWitt, *Representing the Adult Entertainment Industry*, 22-WTR ENTSLAW 1, 22 (2005).

26 Sheehan, *supra* n. 14 at 19.

27 DeWitt, *supra* n. 25 at 24.

The majority of early strip clubs were not classy places and until the 1970's there were few exceptions.<sup>28</sup> Despite the lack of class the early strip clubs had, these establishments brought in wealthy businessmen who were willing to spend huge amounts of money for this style of erotic entertainment.<sup>29</sup> Entrepreneurs began to recognize the appeal and the market for topless entertainment.<sup>30</sup> They saw that people were willing to spend their money in these seedy clubs, and couldn't even imagine what they would spend in a beautiful, high class, luxurious club.<sup>31</sup> As a result, the "upscale gentlemen's club" was born and the concept was a huge success.<sup>32</sup> Since there was little about the business that was subject to intellectual property protection, the business model grew and new clubs began opening around the country.<sup>33</sup> Currently there are over 40 gentlemen's clubs in Las Vegas.<sup>34</sup> "[T]here's just a huge amount of money in the topless scene in Vegas these days."<sup>35</sup> Las Vegas is known for being one of the premier places to go for the best gentlemen's clubs in the world.<sup>36</sup>

*Laws pertaining to gentlemen's clubs in Clark County.*

One of the reasons that gentlemen's clubs pose a risk to a gaming license is that there are very strict and specific laws that erotic dance establishments must follow and these laws often are ignored by dancers, proprietors, and management in strip clubs.<sup>37</sup> There are very specific ordinances that put strict limitations on what kind of personal contact the dancers<sup>38</sup> and patrons can have with each other.<sup>39</sup> Dancers are not allowed to mingle with patrons while unclothed or nude.<sup>40</sup> While topless clubs are permitted to serve alcohol, fully nude clubs are not eligible to receive a liquor license in Clark County.<sup>41</sup> All dancing must take place in an area that is immediately accessible to law enforcement.<sup>42</sup> Tipping is allowed and customary in strip clubs; however, when tipping, patrons are not allowed to engage in any contact otherwise prohibited by the regulations.<sup>43</sup> Because the regulations involving the clubs are particular and extensive and often not complied with, gaming regulators have cause to be concerned about gentlemen's clubs operating on the premises of gaming licensees.<sup>44</sup>

*Crime and gentlemen's clubs.*

While some gentlemen's clubs may be completely legitimate, others have a reputation for affiliation with organized crime and criminal activity.<sup>45</sup> Illustrative of this is in 2006, when Frederick "Rick" Rizzolo, owner of the Crazy Horse Too gentlemen's club, was convicted of Conspiracy to Defraud the United States of Taxes.<sup>46</sup> Besides tax fraud, the Crazy Horse was found to have participated in other criminal acts including, but not limited to, extortion, threats, and wire fraud.<sup>47</sup> Rizzolo was sentenced to prison, paid a \$250,000.00 fine, agreed to sell his club, and agreed not to have any involvement in strip clubs for the rest of his life.<sup>48</sup> Incidents like this demonstrate why gentlemen's clubs generally have a reputation for crime in the public eye.

28 *Id.*

29 *Id.*

30 *Id.*

31 *Id.*

32 *Id.*

33 *Id.*

34 Sheehan, *supra* n. 14 at 13.

35 *Id.* at 253.

36 See, Askmen.com, *Top 10: Strip Clubs*, Ranking Las Vegas' Spearmint Rhino one of the top 10 strip clubs in the world, <[http://www.askmen.com/top\\_10/travel\\_100/101b\\_travel\\_top\\_ten.html](http://www.askmen.com/top_10/travel_100/101b_travel_top_ten.html)> (last visited May 31, 2009).

37 Interview with Randall Sayre, *supra* n. 7.

38 See, Clark County Code § 6.160.030(b). *Supra* n. 11.

39 See, Clark County Code § 6.160.110.

40 See, Clark County Code § 6.160.110(4)(n).

41 See, Clark County Code § 6160.110(f).

42 *Id.*

43 *Id.*

44 Interview with Randall Sayre, *supra* n. 7.

45 Interview with Mark Clayton, *supra* n. 5.

46 The United States Department of Justice, District of Nevada, *Las Vegas Strip Club Owner Pleads Guilty to Conspiring to Defraud the United States* <<http://usdoj.gov/usao/nv/press/june2006/rizzolo060106.htm>>, (last visited April 25, 2009).

47 *Id.*

48 *Id.*

Prostitution is illegal in Clark County.<sup>49</sup> However gentlemen's clubs have a reputation for being places where prostitution is widespread. "[F]rom a police perspective, prostitution is almost impossible to stop..."<sup>50</sup> "Part of the reason is that soliciting for prostitution is just a misdemeanor crime, and so we may spend a lot of tax dollars to set up a sting and then the girl is out on bail two hours later."<sup>51</sup> Law enforcement agents have witnessed prostitution taking place outside strip clubs.<sup>52</sup> "A lot of these girls are doing tricks in the back of limousines [outside of clubs]."<sup>53</sup> The dancers make a lot of money just dancing, but "there are girls that get greedy, or are not making money that week, and they'll make it any way that they can, with the right guy."<sup>54</sup> However this is a problem not just in gentlemen's clubs, but one that is widespread in Las Vegas including street prostitution as well as prostitution on the strip where call girls work at the bars and other areas in the strip casinos.<sup>55</sup>

As gentlemen's clubs historically were associated with mobsters, the public perception of some tends to be that to run that kind of business you have to work with the mob.<sup>56</sup> Historically, the clubs have also had issues with drugs and prostitution and the public associates these problems with strip clubs today.<sup>57</sup> The Clark County Commission has recognized that "erotic dance establishments" are sometimes "fronts for or operated by persons associated with organized criminal activities."<sup>58</sup> The mission of the Clark County Commission pertaining to gentlemen's clubs is to balance the interests of reducing criminal activity through regulation and to protect the rights of erotic dancers and patrons.<sup>59</sup>

#### *Gentlemen's clubs that have restricted gaming licenses.*

Gaming and gentlemen's clubs are not inconsistent businesses.<sup>60</sup> In fact, there currently are some gentlemen's clubs that hold restricted gaming licenses.<sup>61</sup> This is mainly because of a loophole that existed in the law that permitted an establishment that was granted a restricted gaming license to change its business without having to undergo any further licensing approval.<sup>62</sup> For example, Olympic Gardens and Play it Again Sam's gentlemen's clubs were a Greek restaurant and a supper club, respectively, when they were granted gaming licenses and then subsequently became gentlemen's clubs.<sup>63</sup> This law was changed and businesses can no longer get in through the back door, and must now seek approval from gaming regulators if they want to change their primary business.<sup>64</sup>

The Topless Girls of Glitter Gulch ("Glitter Gulch"), a downtown Las Vegas strip club, was the first gentlemen's club to apply for a non-restricted gaming license since the law was changed that prevented restricted gaming licensees from morphing into other business forms without having to get approval from Gaming Control Board ("GCB").<sup>65</sup> During the course of its investigations through "covert observations" gaming regulators were solicited for prostitution on at least one occasion, solicited to purchase illegal narcotics, and witnessed occasions where dancers were violating local municipal codes in respect to their dancing activities.<sup>66</sup>

49 Clark County Code § 12.08.015.

50 See, Sheehan, *supra* n. 14 at 189, quoting Clark County Sheriff, Bill Young.

51 *Id.*

52 *Id.* at 202, quoting an undercover law enforcement agent.

53 *Id.*

54 *Id.*, quoting Clark County Sheriff Bill Young.

55 *Id.* at 187-204.

56 Interview with Mark Clayton, *supra* n. 5.

57 *Id.*

58 Clark County Code § 6.160.010.

59 Clark County Code § 6.160.020.

60 Interview with Mark Clayton, *supra* n. 5.

61 A "Restricted license" is defined by NRS § 463.0189 and means a state gaming license for, or an operation consisting of, not more than 15 slot machines and no other game or gaming device at an establishment in which the operation of slot machines is incidental to the primary business of the establishment. 8 gentlemen's club locations in Las Vegas currently have restricted gaming licenses.

62 Interview with Randall Sayre, *supra* n. 7.

63 Mark Clayton, former member of the Gaming Control Board, guest lecturer at the William S. Boyd School of Law gaming law course (Fall 2008).

64 Clark County Code § 3.015(10).

65 Interview with Mark Clayton, *supra* n. 5.

66 Before the State Gaming Control Board, *Hearing Minutes, Granite Gaming Group, LLC dba Girls of Glitter Gulch*, application for restricted license along with a finding of suitability (Sept. 5, 2008).

The GCB was specifically concerned with what the Glitter Gulch's process was for training and orientating new dancers.<sup>67</sup> The Glitter Gulch explained that they make sure the girls are aware of the laws pertaining to their dancing activities and that they have a zero tolerance policy regarding drugs and prostitution, however because the dancers are independent contractors, "they have worked in other clubs...[and] come in with preconceived ideas as to what is ok and what isn't ok."<sup>68</sup> They were also concerned with its surveillance system. When gaming regulators visited Glitter Gulch, the agents could not find anyone who knew how to use the system.<sup>69</sup> While gaming regulators did recognize that the Glitter Gulch had "made huge strides...reacting to concerns [by the GCB] that were brought to its attention..." they ultimately referred them back to staff<sup>70</sup> and did not recommend approval of a gaming license at that time.<sup>71</sup>

## **II. The evolution of the Las Vegas gaming industry with regard to adult and topless entertainment.**

Las Vegas has recently taken on a significantly sexier edge to its image. While the gaming industry has always seemed to realize the importance of including beautiful women and sex appeal as a part of its marketing scheme, there has been a rapidly increasing effort by casinos to ramp up their sex appeal.<sup>72</sup> This trend toward a sexier image is a shift away from the 1990s when the city tried to market more toward families.<sup>73</sup> Casinos realized that the sexy image was a more profitable one and have since been progressing toward sexier and more erotic entertainment venues.

### *Topless shows in casinos.*

Topless shows have been around on the Las Vegas Strip since the 1950's.<sup>74</sup> "Lido de Paris" was one of the first shows in Las Vegas that made the "showgirl" an icon and featured classically trained ballerinas who performed topless.<sup>75</sup> Apparently arrival of the show caused a stir in the Las Vegas community so the producer of the show invited the chief of police and the City Council to the opening.<sup>76</sup> They approved the show and it became a very popular tourist attraction and by the 1960s, the majority of casinos had topless shows.<sup>77</sup> The shows are described as featuring women "dressed in rhinestone costumes, feathers, and furs."<sup>78</sup> In the 50's and 60's showgirls were required to do what was referred to as "mixing," meaning after performances they would sit with high rollers and gamble with them.<sup>79</sup>

In the 1980's during slow economic times, casinos struggled to afford the cost of the elaborate topless shows.<sup>80</sup> Then, with the push toward making Las Vegas more family oriented in the 1990's, many of the topless shows were replaced with other less risqué shows.<sup>81</sup> This resulted in the original showgirls now being referred to as an "endangered species in modern Las Vegas."<sup>82</sup> Some of the original topless reviews are still offered at casinos, but the majority of them have now been replaced with other entertainment and racier topless shows to keep patrons from leaving casinos for strip clubs to enjoy topless entertainment.<sup>83</sup>

67 *Id.*

68 *Id.*

69 *Id.*

70 "Referred back" is a courtesy the GCB gives an applicant if the applicant has not met its burden of proof to receive a recommendation for approval by the gaming regulators. The application is referred back to staff to give the applicant time to address the issues the GCB had concerns with and can be reconsidered come at a future date when the issues have theoretically been fixed. (Interview with Mark Clayton, May 30, 2009).

71 Hearing Minutes, Granite Gaming Group, LLC dba Girls of Glitter Gulch, *supra* n. 66.

72 Interview with Randall Sayre, *supra* n. 7.

73 Sheehan, *supra* n. 14 at 13, 14.

74 *Step, Kick, Step, Kick, Twirl into History*, Los Angeles Times (December 2008).

75 *Id.* See also, Donald D. Spencer, *Mid Century Vegas: 1930s-1960s* (2009).

76 *Id.*

77 *Id.*

78 See, Donald Spencer, *supra* n. 75.

79 *Id.*

80 *Step, Kick, Step, Kick, Twirl Into History*, *supra* n. 74.

81 *Id.* See also, Sheehan, *supra* n. 13 at 13, 14; describing a 1994 issue of *Time* magazine with a cover story titled "Las Vegas: The New All-American City." The article depicted photos of a young father carrying an infant through a casino stating "The general Las Vegas marketing spin today is that the city is fun for the whole family."

82 Su Kim Chung, *Las Vegas Then and Now*, 113 (2007).

83 European-style pool generally is not defined specifically, but refers to topless sunbathing.

*“European” pools.*

The next step Las Vegas casinos took toward topless entertainment was what are often referred to as European pools.<sup>84</sup> Caesar’s Palace was the first casino to open a topless pool in 1998.<sup>85</sup> While the pool was intended to be marketed to the casino’s European clients, the concept took off and became something that other casinos followed suit in as they witnessed the marketing success the allure of topless women laying around at the pool had not just on the European clientele, but in general.<sup>86</sup> Existing Clark County laws permit a resort/hotel<sup>87</sup> to provide for its guests a specially designated portion of its swimming pool area where topless sunbathing is permitted.<sup>88</sup> However, such an area must be separated from all other swimming pool and guest areas; be obstructed from the view of patrons in other swimming pool and common areas; be off-limits to all minors under the age of eighteen; and cannot be used for any special events, contests or parties while any topless sunbathing is taking place.<sup>89</sup> Additionally, if gaming is permitted in the topless pool area, it must be open to the public, and not just to hotel guests.<sup>90</sup>

*The latest trends in adult entertainment in Las Vegas casinos.*

In 2008, the Rio Hotel and Casino was the first to take the topless pool to the next level.<sup>91</sup> The Rio partnered with Sapphires Gentlemen’s club to open its own topless pool.<sup>92</sup> The pool is marketed using Sapphires’ logo and dancers.<sup>93</sup> Both businesses benefit, as the Rio gets to advertise the beautiful topless women that will be hanging out at its pool, and Sapphires gets to market itself to all the patrons at the Rio who see its logos and talk to its dancers.<sup>94</sup> The dancers apparently get incentives, including free poolside food and drinks to encourage them to hang out there.<sup>95</sup> While this partnership did not require approval from the gaming regulators, the GCB still examines the relationship closely.<sup>96</sup>

The Hard Rock is the latest casino to partner with a gentlemen’s club. The Hard Rock and Rick’s Cabaret, a publically traded gentlemen’s club, are partnering to create an ultimate bachelor party suite, complete with luxury amenities, nightclub lighting and sound, not to mention a stripper pole.<sup>97</sup> They will also offer VIP limousine service to Rick’s Cabaret.<sup>98</sup>

So what exactly is the line casinos are afraid to cross since they already offer adult entertainment including topless entertainment? The main notable difference between gentlemen’s clubs and the topless entertainment currently offered at casinos seems to be the factor of intimate contact, including one to one interaction with the entertainers and lap dances. It is this intimate contact, in part, that makes gentlemen’s clubs different from topless shows and topless pools that are permissible in casinos. The environment has a reputation of lending itself to the problems previously mentioned and further, current laws prohibit contact and tipping in topless showrooms and specific zoning requirements restrict gentlemen’s clubs to operating in specific locations. These are some of the reasons casino licensees may be hesitant to attempt opening gentlemen’s clubs.<sup>99</sup>

### **III. Why at least some casinos want to add gentlemen’s clubs.**

There is fierce competition among casino licensees to offer something edgier, sexier

<sup>84</sup> European-style pool generally is not defined specifically, but refers to topless sunbathing.

<sup>85</sup> Sonya Padgett, *Sun Worshipers: No Tan Lines Allowed*, Las Vegas Review Journal (July 24, 2005).

<sup>86</sup> Interview with Mark Clayton, *supra* n. 5.

<sup>87</sup> In Clark County, in order to hold an unrestricted gaming license (more than 15 slot machines and/or live table games) the establishment must be a resort hotel. *See*, Clark County Code § 8.04.310. *See*, Clark County Code § 8.04.90.145 for requirements to qualify as a resort/hotel.

<sup>88</sup> Clark County Code § 8.20.570(i)(1).

<sup>89</sup> *Id.*

<sup>90</sup> Interview with Randall Sayre, *supra* n. 7. *See also*, NRS § 463.0129(1)(e).

<sup>91</sup> Dan Whitcomb, *Strippers by the Pool: Vegas Casinos Getting Sexier*, Reuters (September, 2008).

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Interview with Randall Sayre *supra* n. 7; Interview with Mark Clayton, *supra* n. 5.

<sup>97</sup> Arnold M. Knightly, *New Hard Rock Suite to Feature Everything but a Stripper*, Las Vegas Review Journal (2009).

<sup>98</sup> *Id.*

<sup>99</sup> Interview with Bill Bible, President of the Nevada Resort Association (April 20, 2009).

and different to attract patrons to their establishment.<sup>100</sup> “We’ve always had topless bars in Las Vegas but they were off the beaten track and weren’t an option for the masses.”<sup>101</sup> “But then places like the Crazy Horse Too started getting popular, and they provided the element of contact and personal involvement.”<sup>102</sup> Prominent casino owners have “been amazed by observing the powerful allure of the topless clubs for hotel guests...”<sup>103</sup> “All of the casinos are trying to get gentlemen’s club-type entertainment without actually crossing that line.”<sup>104</sup>

It is likely those in the gaming industry are aware of the kind of money these businesses bring in. To illustrate the profit potential of a gentlemen’s club, Rick’s Cabaret, a publicly traded company that owns and operates 19 gentlemen’s clubs, one in Las Vegas, had a gross profit of almost \$37 million dollars in 2008.<sup>105</sup>

One way to distinguish Las Vegas from other gaming and entertainment venues “vying for tourism and convention dollars – is to sell SEX...”<sup>106</sup> “It’s the promise of hot steamy sex that separates Las Vegas...from the other 47 states that have legalized gambling.”<sup>107</sup> Casinos are also competing with each other for customers and adult entertainment is something people want to see. Therefore, the one with the most enticing adult entertainment is probably going to have an advantage. One of Las Vegas’ best-known casino developers, Steve Wynn, has been interviewed on the topic of gentlemen’s clubs and has reportedly stated that “while he won’t be the one to lead the charge for county licensing changes that would allow gentlemen’s clubs to be owned and operated by the major hotel-casino companies, he admits that he will be cheering for restrictions to be lifted.”<sup>108</sup>

Due to the desirability of the entertainment and the success that casinos have seen in the past few years with adult themed entertainment, licensees have recently approached the GCB about the possibility of putting gentlemen’s clubs on their premises.<sup>109</sup> For this reason, the issue has been under recent discussion among gaming regulators as there are several issues surrounding the integration of the gaming industry and the erotic dance industry.

#### **IV. The problems that have to be overcome to make gentlemen’s clubs a component of casino resorts.**

The GCB considers strip clubs legal and legitimate businesses.<sup>110</sup> There is no law that expressly bars topless dancing in casinos on the Las Vegas strip.<sup>111</sup> There are, however, two major overlaying issues regarding the integration of erotic dance entertainment and casinos on the Las Vegas strip. First, current zoning and other regulations prohibit the type of topless entertainment generally offered at a gentlemen’s club, specifically including interaction with the dancers and lap dances, from operating in a casino on the strip.<sup>112</sup> Second, the reputation for association with organized crime in strip clubs, and concern of failure to follow applicable laws and regulations would put a casino at risk for a finding of unsuitability and discipline by the GCB and NGC.

##### **a. Changes to laws and regulations that would need to be made.**

*Regulations prevent topless interactive contact from taking place in casinos.*

Topless activities are not barred in casinos. In fact, existing law expressly allows specific

<sup>100</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>101</sup> Sheehan, *supra* n. 14 at 295.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.* at 296; referring to Sheehan’s interview with Steve Wynn.

<sup>104</sup> Whitcomb, *supra* n. 91.

<sup>105</sup> See, Rick’s Cabaret, Int’l, Inc. NASDAQ: RICK, <<http://www.google.com/finance?client=ob&q=NASDAQ:RICK>> (last visited May 31, 2009).

<sup>106</sup> Sheehan, *supra* n. 14 at 13.

<sup>107</sup> *Id.* at 248.

<sup>108</sup> *Id.* at 296.

<sup>109</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>110</sup> Interview with Mark Clayton, *supra* n. 5.

<sup>111</sup> *Id.*

<sup>112</sup> Interview with Jennifer Roberts, Lionel Sawyer & Collins, practicing attorney in gaming and regulatory law (April 23, 2009).

forms of topless entertainment in casinos.<sup>113</sup> Entertainment provided in the form of topless pools and topless showrooms<sup>114</sup> are exempt from the regulations that apply to erotic dance establishments.<sup>115</sup> While topless dancing is permitted in casinos, there are specific regulations that go along with it. The performers must remain on the stage at all times they are topless; the performers must, at all times they are topless, have no physical contact with patrons; and the performers cannot be viewed by patrons located outside of the showroom when they are topless.<sup>116</sup> The showroom must have theater-style or cabaret-style seating where patrons are assigned to specific seats or where seat attendants direct patrons to their seats.<sup>117</sup> Any form of tipping for the performers is prohibited in all areas of the showroom.<sup>118</sup> These regulations would obviously need to be changed for a casino to permit the type of entertainment involving interaction and contact that gentlemen's clubs offer to take place on its premises.

*Zoning regulations prevent gentlemen's clubs from operating in casinos on the Las Vegas Strip.*

Currently, Clark County regulations and zoning ordinances restrict where gentlemen's clubs can be located and generally these areas do not overlap with the area known as the Las Vegas strip.<sup>119</sup> Pursuant to Clark County regulations, an establishment may be considered an "unsuitable location" for gaming if it is within 250 feet of an adult-oriented business.<sup>120</sup> Additionally, the GCB may determine a location that is difficult to police is unsuitable for gaming.<sup>121</sup> This has been of huge concern to gaming regulators due to their investigation of the Glitter Gulch in its application for a license that found the establishment was difficult to police.<sup>122</sup>

Further, gentlemen's clubs meet the criteria of an adult entertainment cabaret<sup>123</sup> and therefore are only permitted to be located in what is referred to as the adult-use overlay district.<sup>124</sup> The adult-use overlay district is an area of land determined suitable for adult uses.<sup>125</sup> The purpose of the adult-use overlay district is to "establish safe and appropriate locations for adult uses, to minimize the possible adverse effects of adult uses on nearby public and private property, and to protect existing communities from incompatible uses."<sup>126</sup> Adult uses are only permitted on M1 zoned property within the area specified as the adult-use overlay district.<sup>127</sup> The majority of the area of land known as the Las Vegas Strip is not in the adult-use overlay district.<sup>128</sup> No variances or waivers are permitted for adult oriented businesses,<sup>129</sup> therefore pursuant to current regulations, a gentlemen's club must only be located in the adult-use overlay district.

This does not mean that a casino on the strip could never open a gentlemen's club, but it would have the additional hurdle of getting the Clark County Commission to

<sup>113</sup> See, Clark County Code § 8.20.020.350 and § 8.20.570.

<sup>114</sup> See, Clark County Code § 8.20.020.350 "Showroom" means a room that is located on the premises of a resort hotel containing a stage and seating for minimum of one hundred twenty-five patrons wherein musical, theatrical, and/or other entertainment is offered to patrons, and where the sale, service, and consumption of alcoholic beverages is permitted. Topless entertainment may be offered in showrooms provided the requirements of Section 8.20.570 are also met.

<sup>115</sup> Interview with Jennifer Roberts, *supra* n. 112.

<sup>116</sup> Clark County Code § 8.20.570(i)(3).

<sup>117</sup> *Id.*

<sup>118</sup> Clark County Code § 8.29.020.350.

<sup>119</sup> Clark County Code § 30.48.530.

<sup>120</sup> Clark County Code § 8.04.070(A)(5).

<sup>121</sup> Clark County Code § 8.04.070; unsuitable locations.

<sup>122</sup> Granite Gaming Group, LLC dba Girls of Glitter Gulch, *supra* at n. 66.

<sup>123</sup> Clark County Code § 8.20.020.001; "Adult entertainment cabaret" means an establishment that offers topless dancing, performing or entertaining by a cabaret entertainer; that is licensed pursuant to Clark County Code Section 6.95.010(c); that is subject to the erotic dance establishment regulations contained in Clark County Code Chapter 6.160; and that must also be licensed for the service of alcoholic beverages. See also, Clark County Code § 30.08.030; Typical production shows offered by resort hotels that include topless entertainers shall not be considered an adult entertainment cabaret provided that a separation and/or barrier that prevents physical contact between performers and customers is maintained at all times during each performance.

<sup>124</sup> Clark County Code § 30.08.030.

<sup>125</sup> See, Clark County Code § 30.48.500.

<sup>126</sup> *Id.*

<sup>127</sup> Clark County Code § 30.48.530.

<sup>128</sup> *Id.* See table for specific boundaries of the adult use overlay district.

<sup>129</sup> Clark County Code § 30.48.500(c).



change existing ordinances that currently prevent gentlemen's clubs from operating in a casino on the Las Vegas Strip.

- b. Although no prior approval of the state gaming control system is necessary, compliance with gaming control standards and policies in forming the business association and in operations would be.**

*The role of the GCB and NGC.*

The GCB is charged with administering the laws of the Gaming Control Act<sup>130</sup> and regulations adopted by the Nevada Gaming Commission ("NGC").<sup>131</sup> The GCB not only serves as an investigator in licensing matters, it also serves as a police officer of the gaming industry in Nevada.<sup>132</sup> The GCB can recommend to the Commission to deny, limit, condition, or approve any license.<sup>133</sup> The NGC serves as the decision maker on finding an applicant suitable and granting a gaming license and serves as a judge in disciplinary actions brought by the GCB based on its investigations.<sup>134</sup> It is up to the GCB and the NGC to ensure that licensees are complying with all federal, state, and local laws.<sup>135</sup> The NGC has the power to discipline a licensee for breaking laws or for "any cause deemed reasonable."<sup>136</sup> This includes the power to revoke or suspend a casino license, or issue fines.<sup>137</sup>

To hold a gaming license in the State of Nevada is a privilege.<sup>138</sup> Any establishment that conducts gaming must be "licensed, controlled and assisted to protect the public health, safety, morals, good order, and general welfare" of Nevadans.<sup>139</sup> The GCB and the NGC have worked very hard for the last 50 years to legitimize the gaming industry in Nevada and make sure that the industry is of the utmost integrity.<sup>140</sup> Regulators conduct an extremely in depth and intrusive investigation to ensure licensees are suitable.<sup>141</sup> Character and criminal activity are crucial aspects to gaming regulators.<sup>142</sup> Relevant factors, among others, for which the GCB might find an individual unsuitable to hold a gaming license include association with organized crime members or other unsuitable persons.<sup>143</sup> While the Gaming Control Act<sup>144</sup> does not specifically define "association," and Nevada courts have never defined the term in the context of unsuitable persons, the Commission subjects any volitional relationship to heightened scrutiny.<sup>145</sup>

*Finding of suitability.*

NRS 463.167 permits gaming regulators to require anyone doing business on the premises of a licensed gaming establishment to be found suitable.<sup>146</sup> In *Nevada v. Glusman*, the court ruled this to be a permissible and constitutional law, however, the court held that if the regulators want to find a suitability of a business located on the premises of a gaming licensee, the state must pay the costs of the investigation.<sup>147</sup> Investigations can cost from tens of thousands of dollars to over \$ 1 million dollars.<sup>148</sup> Since *Glusman*, there has not been an instance where the regulators required a business on a casino's premises to be found suitable but *Glusman* demonstrates that this is a permissible action that the regulators can take if they desire.<sup>149</sup>

<sup>130</sup> See, <[http://gaming.nv.gov/stats\\_regs.htm](http://gaming.nv.gov/stats_regs.htm)>.

<sup>131</sup> NGC Reg § 5.040. See also, NRS § 463.1405.

<sup>132</sup> Lionel Sawyer & Collins, *Nevada Gaming Law* 29 (3rd ed., Trace Publications, 2000).

<sup>133</sup> *Id.* at 30.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> NRS § 463.1405(3).

<sup>137</sup> Lionel Sawyer & Collins, *supra* n. 132 at 30.

<sup>138</sup> NRS § 463.0129(1).

<sup>139</sup> *Id.* at (d).

<sup>140</sup> Interview with David Schwartz, Ph.D., Director of the Center for Gaming Research at the University of Nevada, Las Vegas (April 17, 2009).

<sup>141</sup> NRS § 463.170(2), NRS § 463.0129.

<sup>142</sup> NRS § 463.170(2)(a), NRS § 463.170(2)(b).

<sup>143</sup> Lionel Sawyer Collins, *supra* n. 132 at 57.

<sup>144</sup> The Gaming Control Act includes Nevada Revised Statutes § 368A, and §§ 462-466.

<sup>145</sup> Lionel Sawyer & Collins, *supra* n. 132 at 59.

<sup>146</sup> NRS § 463.167.

<sup>147</sup> *Nevada v. Glusman* 98 Nev. 412, 651 P.2d 639 (1983).

<sup>148</sup> Robert Faiss, professor at William S. Boyd School of Law and gaming law attorney (lecture, fall semester, 2008).

<sup>149</sup> Interview with Randall Sayre, *supra* n. 7, Interview with Bill Bible, *supra* n. 99.

While it might be unlikely that gaming regulators would force a finding of suitability of businesses operating on the premises of a licensee due to the burden of cost, they do have this option. However, independent of a finding of suitability, casinos must make sure that the businesses on their premises are run in a way that does not reflect poorly on the gaming industry and the state of Nevada. Pursuant to NGC regulation 5.001, if the regulators deem an activity by a licensee, its agents or employees to be “inimical to the public health, safety, morals, good order and general welfare” or if it would “tend to reflect discredit upon the State of Nevada or the gaming industry “ they will deem it to be unsuitable.<sup>150</sup> If regulators find that an unsuitable activity is going on, it is grounds for discipline including fines and restricting, suspending, or even revoking a gaming license.<sup>151</sup> Thus, no matter what the relationship is, the regulators can discipline a casino licensee for activities going on in the businesses on the casino’s premises.

This applies even if the licensee does not operate, but is only the landlord of a business located on its premises.<sup>152</sup> A licensee can be punished for tolerating an unsuitable method of operation that is taking place on its premises.<sup>153</sup> There is an extensive list of acts or omissions that may be determined to be unsuitable methods of operation.<sup>154</sup> Specifically, licensees may be punished for failing to exercise discretion to prevent incidents that might reflect on the reputation of the state, associating with persons of notorious or unsavory reputation, and failing to comply with all federal, state, and local laws and regulations.<sup>155</sup>

#### *Power of the GCB and NGC to discipline gaming licensees.*

The NGC has the full and absolute power to revoke or suspend any gaming license or to fine any casino for any cause “deemed reasonable by the Commission.”<sup>156</sup> While the decision the Commission ultimately makes in disciplining a licensee is subject to judicial review if the licensee chooses to seek it,<sup>157</sup> this is a difficult burden on the licensee and is not a situation in which licensees would want to find themselves.<sup>158</sup> The review is confined to the Commission’s record<sup>159</sup> and the court may reverse the Commission’s decision only on a showing of prejudice to a casino’s substantial rights.<sup>160</sup> Additionally the Nevada Supreme Court has recognized that the Commission is best suited to determine what a reasonable punishment is for a casino licensee.<sup>161</sup> The court has held if any evidence supports the Commission’s decision, the decision will stand.<sup>162</sup> Due to the power and discretion the gaming regulators have in disciplining a licensee, a licensee must proceed with caution concerning anything that could jeopardize its license.

#### *Current areas of concern involving entertainment in casinos.*

Many issues involving entertainment in casinos have been areas of recent concern for the GCB.<sup>163</sup> The GCB recently sent a letter to all nonrestricted licensees warning them about several issues involving activities going on in nightclubs, ultra lounges, and European pools.<sup>164</sup> The letter listed complaints received relating to these venues involving incidents including, but not limited to, excessive inebriation, overt sexual acts in public places, drug use and distribution, date rape, acts deemed lewd, indecent or obscene, and prostitution.<sup>165</sup> The letter stressed,

<sup>150</sup> NGC Regulation § 5.011.

<sup>151</sup> *Id.*

<sup>152</sup> *Id.*

<sup>153</sup> NGC Regulation § 5.010(2).

<sup>154</sup> NGC Regulation 5.011.

<sup>155</sup> *Id.*

<sup>156</sup> NRS § 463.1405(3).

<sup>157</sup> NRS § 463.145(2).

<sup>158</sup> NRS § 463.317(2).

<sup>159</sup> NRS § 463.315(2).

<sup>160</sup> NRS § 463.317(3).

<sup>161</sup> *Nevada Tax Commission v. Mackie*, 75 Nev. 6, 333 P.2d 985 (1959).

<sup>162</sup> *M&R Investing Company v. Nevada Gaming Commission*, 93 Nev. 35, 559 P.2d 829 (1977).

<sup>163</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>164</sup> Randall Sayre, *Letter to All Nonrestricted Licensees and Interested Parties. Re: Nightclubs, Ultra Lounges, European Pools, and Similar Venues* (April 9, 2009).

<sup>165</sup> *Id.*

[W]hether venues are licensee owned and operated, licensee owned and subcontractor operated, lessee owned and operated, lessee owned and third party operated or any other variation in joint venture owned and operated, it is the Nevada gaming licensees' responsibility to ensure operations conducted within the boundaries of their property are run in accordance with all laws and regulations and in a manner that does not reflect badly on the State of Nevada or its gaming industry.<sup>166</sup>

The letter concluded that "indifference to illegal acts or unsuitable business practices within your properties... will not be tolerated and may be considered an unsuitable method of operation."<sup>167</sup> While the letter was not directed to operation of gentlemen's clubs, it would most definitely apply to a gentlemen's club located in a casino and would likely be a starting point as to what the GCB would expect in such operations.<sup>168</sup>

*Examples of disciplinary action taken by the GCB and NGC.*

In 2001, a GCB Enforcement Agent visited Baby's Night Club inside the Hard Rock Casino.<sup>169</sup> The agent personally observed on more than one occasion "inappropriate sexual conduct by patrons of the Hard Rock that would have constituted a violation of NRS 201.210 and NRS 201.220."<sup>170</sup> These acts were witnessed in areas that were visible to the public.<sup>171</sup> The GCB filed a complaint against the Hard Rock Hotel & Casino, which was settled by payment of a \$100,000.00 fine.<sup>172</sup> According to Bobby Siller, who was a GCB member at the time, "the GCB wants people to have a great time, but they have to operate within existing city ordinances and laws."<sup>173</sup>

If a casino wanted to, notwithstanding the zoning and other regulations that would need to be lifted, it could open a gentlemen's club and not have to get prior approval from the GCB. However, the GCB would expect to see detailed plans for compliance and operating and regulators would closely scrutinize the activities going on in the club.<sup>174</sup> Any violation of a law could be grounds for discipline including the revocation of a gaming license.<sup>175</sup> Thus, it could be a huge risk for a casino to attempt to put a gentlemen's club on its premises unless it could demonstrate that the establishment would follow all laws and regulations

*Compliance plans.*

As evidenced in the Glitter Gulch's application for a gaming license and finding of suitability, compliance plans of are of significant importance to gaming regulators.<sup>176</sup> The Glitter Gulch had developed a compliance program but had not implemented it prior to applying for its gaming license.<sup>177</sup> This was a concern by the gaming regulators because they want to see evidence that the plan actually was effective.<sup>178</sup> One of the recommendations by the GCB was that Glitter Gulch implement its compliance plan and operate for another year with the compliance plan in place.<sup>179</sup> The GCB also advised that Glitter Gulch continue to meet with them during this time.<sup>180</sup>

While the GCB considers a compliance plan important in determining suitability of a licensee, it expects that the compliance plan actually be effective and followed by the licensee. An example of this was in 2004, when the GCB filed a complaint against

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> Interview with Mark Clayton, *supra* n. 5.

<sup>169</sup> *State Gaming Control Board v. Hard Rock Hotel, Inc. dba Hard Rock Hotel & Casino*, Complaint for Disciplinary Action (2002).

<sup>170</sup> *Id.* See also, NRS § 201.210 prohibiting open or gross lewdness; and NRS § 201.220 prohibiting open and indecent or obscene exposure.

<sup>171</sup> *Id.*

<sup>172</sup> *State Gaming Control Board v. Hard Rock Hotel, Inc. dba Hard Rock Hotel & Casino*, Stipulation for Settlement and Order (2002).

<sup>173</sup> Liz Benston, *Hard Rock Fined for Allowing Sex Acts in Public*, Las Vegas Sun (2002).

<sup>174</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>175</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>176</sup> Granite Gaming Group, LLC dba Girls of Glitter Gulch, *supra* n. 66.

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*

<sup>180</sup> *Id.*

the Hard Rock Casino that alleged “failure to exercise discretion and sound judgment to prevent incidents that reflect on the reputé of the State of Nevada and act as a detriment to the development of the industry.”<sup>181</sup> The complaint alleged that specific advertisements resulted in a failure to conduct advertising “in accordance with decency, dignity, good taste, honesty, and inoffensiveness.”<sup>182</sup> Some of the advertising involved depicted “a female person from the knees down with her underwear falling to her ankles... with a cowboy hat on the floor...” and stated “Get Ready to Buck All Night,” advertising an event taking place during the National Finals Rodeo.<sup>183</sup> Another advertisement featured a woman “holding a pair of dice that cover the nipple area only on her breasts” and stated, “We Sell Used Dice.”<sup>184</sup>

The Hard Rock would have its Compliance Committee conduct mandatory reviews of any “questionable elements” in its advertising.<sup>185</sup> These particular advertisements were not submitted to that Committee.<sup>186</sup> The Hard Rock ultimately entered into a Stipulation for Settlement with the GCB whereby it paid a fine of \$100,000.00, not because the advertising was found to be inappropriate, but for not following its Compliance Plan provision for review of any “questionable” advertising.<sup>187</sup>

This does not mean that the GCB could not seek a heavier penalty for a casino that failed to follow a compliance plan.<sup>188</sup> The GCB and NGC take these matters on a case by case basis and each decision to penalize a licensee depends on the particular facts and circumstances of the matter in front of them.<sup>189</sup> As evidenced by the Glitter Gulch hearing, a detailed compliance plan is of significant importance to gaming regulators and one they would expect to see if a casino wanted to have a gentlemen’s club operating on its premises. Having a compliance plan, however, in no way limits the GCB in monitoring operations on casino premises.

## V. The Future.

As gentlemen’s clubs continue to be profitable businesses, adult entertainment continues to be desirable, and competition for customers continues to be aggressive, the possibility that a casino will attempt to operate a gentlemen’s club on its premises may be soon coming. While no casino has jumped all the way into it, casino licensees have approached gaming regulators expressing interest in this regard.<sup>190</sup> However, during the current economic status of Las Vegas, it is probably too risky to try.<sup>191</sup> The first to attempt to pursue it will have the most difficult time due to the fact Clark County laws would need to be changed to even legally put a club in a casino that offered the type of topless interactive entertainment that normally takes place in gentlemen’s clubs. Most licensees are probably trying to take a “wait and see” approach as to what happens to the first one who tries to pursue this. The Girls of Glitter Gulch is demonstrative of what gaming regulators expect if gentlemen’s clubs are to be associated with gaming.

If a casino wanted to put a gentlemen’s club on its premises, the first and possibly most difficult step would be getting the existing zoning and other prohibiting regulations lifted by the Clark County Commission. This obviously puts a political overlay on the whole thing, as it will depend a lot on who is on the Commission at the time and what they and their constituents feel about the idea. If the regulations were lifted, while it would not have to, the next crucial step would be to bring an extensively thought out plan to propose to the GCB, including evidence of a compliance plan that has been operative

<sup>181</sup> *State Gaming Control Board v. Hard Rock Hotel, Inc. dba Hard Rock Hotel & Casino*. Complaint for Disciplinary Action (2004).

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> *Id.*

<sup>187</sup> *In the Matter of State Gaming Control Board v. Hard Rock Hotel, Inc. dba Hard Rock Hotel & Casino*, Stipulation for Settlement and Order (2004).

<sup>188</sup> *Id.*

<sup>189</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>190</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>191</sup> Interview with Mark Clayton, *supra* n. 5.

and effective for at least a 12 month period. That being said, licensees must also make sure that the businesses on their premises are run in a way that does not reflect poorly on the gaming, regardless of the business relationship. For this reason, casinos take on some degree of risk to their gaming license when they lease part of their premises to businesses they have no ownership right in. If a licensee was to enter into a lease with a business that was going to operate a gentlemen's club, or any other business, on the licensee's premises, it would be important to include provisions in the lease allowing the licensee the authority to enter the business as necessary in order to monitor its activities. Additionally, it would be advisable to include a provision that would give the licensee the right to terminate the lease if they found that unsuitable conduct was taking place. That way the licensee would have control and oversight of the activities taking place and would be able to determine whether all laws were being complied with.

The licensee operating a gentlemen's club on its premises would then need to follow its compliance plan, follow all federal, state, and local laws, and expect that everything they do would be scrutinized by the GCB. At that point, gentlemen's clubs in casinos could possibly be a new trend on the Las Vegas strip. However, it comes with a huge amount of work, and a huge amount of risk for a licensee to undertake.

While competition for customers is fierce and every licensee must compete for what is currently selling, and a big part of that is undoubtedly sex, licensees must keep in mind the laws and that their gaming license is a privilege that could easily be taken away.<sup>192</sup> While gaming regulators understand the need to bring in revenue and tourists, they also undertake the responsibility to see to it that whatever is done, it is legal and does not reflect poorly on the State of Nevada.<sup>193</sup> That is the main concern for gaming regulators in Nevada and it will be a matter of if this could be done to reflect those objectives as to if we will ever truly see "stripping on the strip."<sup>194</sup>

<sup>192</sup> Interview with Randall Sayre, *supra* n. 7.

<sup>193</sup> *Id.*

<sup>194</sup> *Vegas Retro*, <<http://www.vegasretro.com/burlesqueburlesque.html>> (last visited May 28, 2009).

