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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
whether there has been a violation of the
Securities Act of Washington by:

Order Number S-06-150-10-CO01

CONSENT ORDER

CHARLES MCSWAIN; BILLIE'S CASINO
INVESTMENT LLC,

Respondents.

8 THE STATE OF WASHINGTON TO:

Charles McSwain
Billie's Casino Investment LLC

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INTRODUCTION

11 Pursuant to the Securities Act of Washington, RCW 21.20, the Securities Division and Respondents,
12 Charles McSwain and Billie's Casino Investment LLC, do hereby enter into this Consent Order in
13 settlement of the matters alleged herein. Respondents neither admit nor deny the Findings of Fact and
14 Conclusions of Law stated below.

15

FINDINGS OF FACT

16

Respondents

17 1. Charles McSwain ("McSwain") is an individual residing in Olympia, Washington.
18 McSwain is a CPA and is one of several owners of an accounting firm. McSwain acted as the managing
19 member of Billie's Casino Investment LLC and of Billie's Casino LLC.

20 2. Billie's Casino Investment LLC ("BCI") is a Washington limited liability company created
21 to fund a mini-casino called Billie's Casino in Renton, Washington. BCI was formed on September 10,
22 2002 and dissolved on January 3, 2006. BCI owned 70% of Billie's Casino LLC, the entity which

1 operated the mini-casino. The landlord of the mini-casino owned the remaining 30% of Billie's Casino
2 LLC.

3 Nature of the Conduct

4 *Sale of "B" Units*

5 3. Beginning in 2002, Charles McSwain and Patrick Casady ("Casady"), an employee at
6 McSwain's accounting firm, offered and sold an opportunity to invest in Billie's Casino Investment LLC
7 ("BCI"). BCI was raising funds in order to open a mini-casino called Billie's Casino in Renton,
8 Washington. A mini-casino is a state-licensed card room which is subject to limitations on the number of
9 gaming tables allowed per casino and the amounts that can be bet per table.

10 4. At least 15 Washington residents invested at least \$1,378,688 in BCI. This included \$260,000
11 from the sale of "A" units; \$1,000,000 from the sale of "B" units; \$90,000 from the sale of "C" units; and at
12 least \$28,688 in cash call contributions.

13 5. McSwain and/or Casady approached individuals to invest in BCI. Most of these individuals
14 were clients of McSwain or Casady at McSwain's accounting firm.

15 6. McSwain and Casady presented a PowerPoint presentation to potential investors. The
16 PowerPoint explained that BCI was conducting a \$1,200,000 offering of class "B" units to fund the opening
17 of Billie's Casino. Investors would receive a proportionate share of profits for five years. At the end of five
18 years, BCI would return investors' principal plus a 40% bonus. "B" unit holders would hold no
19 management roles and would not be allowed to remain as members of BCI after the initial five-year period
20 expired.

21 7. The PowerPoint contained projections for investor returns based on the revenues of other mini-
22 casinos in Washington. In addition, the PowerPoint included projections in the event that a law passed

1 permitting slot machines in mini-casinos. McSwain and BCI failed to provide reasonable basis for the
2 projections for Billie's Casino.

3 8. Casady represented to some investors that the investment in BCI was a good investment that
4 was not risky. In addition, Casady told some investors that he was investing in BCI himself. However, this
5 statement was misleading. According to McSwain, Casady planned to invest the fee he received for finding
6 investors but did not have funds to invest in BCI otherwise. BCI paid a \$65,000 fee to Casady out of
7 investor funds. Casady died shortly after receiving the \$65,000 fee from BCI, and subsequently never
8 invested in BCI. Investors were not told that Casady would be paid a fee from their funds, nor were they
9 told that Casady's investment in BCI would be limited to his reinvestment of the fee.

10 9. Casady and/or McSwain told investors that that no additional casinos would be built in Renton
11 after Billie's Casino. This statement was misleading because a mini-casino subsequently was built on an
12 existing bingo hall site in Renton one mile down the street from Billie's Casino. When it opened in 2004,
13 this mini-casino became a competitor to Billie's Casino.

14 10. McSwain, Casady, and/or BCI failed to provide an offering memorandum or prospectus
15 concerning the investment in BCI. Instead, investors received a copy of BCI's LLC Agreement and a Unit
16 Purchase Agreement. The LLC Agreement and Unit Purchase Agreement did not adequately disclose
17 material information about BCI, including but not limited to financial statements, the background of the
18 principals, and the specific risks of investing in a mini-casino.

19 11. The Unit Purchase Agreement contained an Addendum for investors to sign if they were
20 accredited investors. Not all investors signed the Addendum, and at least some of the investors in BCI were
21 neither accredited nor sophisticated investors. McSwain's accounting firm did not maintain records which
22 would allow McSwain to determine the net worth or investing experience of the investors.

1 capital contribution. Approximately \$26,688 was raised in the cash call from 11 other investors. Because
2 not all investors contributed, the contributions were booked as loans.

3 *Sale of "C" Units*

4 15. On or around March 1, 2004, McSwain sent a letter to investors stating that Billie's Casino
5 was "making money." McSwain failed to disclose that the rent for Billie's Casino's location was about to
6 reset to an unfavorable rate which would impact profitability.

7 16. In the same letter, McSwain took the opportunity to solicit BCI investors to invest in another
8 new casino he was forming. Prior to their investment in BCI, McSwain failed to disclose to investors that
9 he might be involved in additional casino business ventures. McSwain further failed to disclose how much
10 of his time he would allocate to the management of BCI versus other casinos.

11 17. On or around June 4, 2004, Billie's Casino conducted an offering of "C" units to existing
12 investors in order to raise additional funds for operations. The "C" units differed from "B" units in that
13 investors could remain as members for more than 5 years. Investors could purchase "C" units with new
14 funds, or convert "B" units to "C" units by paying a 20% conversion fee. Approximately three investors
15 invested at least \$90,000 in new funds in "C" units. At the time of the offer and sale of the "C" units, no
16 financial statements or additional disclosure documents were provided to investors.

17 18. Despite the additional capital, Billie's Casino went out of business in 2005 and investors lost
18 their funds.

19 *Settlement Agreement*

20 19. On or around August 27, 2008, ten investors in Billie's Casino entered into a settlement
21 agreement with McSwain's accounting firm to settle claims from a civil lawsuit regarding their investments.
22

1 Registration Status

2 20. Billie's Casino Investment LLC is not currently registered to sell its securities in the State of
3 Washington and has not previously been so registered.

4 21. Charles McSwain is not currently registered as a securities salesperson or broker-dealer in the
5 State of Washington and has not previously been so registered.

6
7 Based upon the above Tentative Findings of Fact, the following Conclusions of Law are made:

8 **CONCLUSIONS OF LAW**

9 1. The offer or sale of the investments described above constitutes the offer or sale of a
10 security as defined in RCW 21.20.005(10) and (12).

11 2. The offer and sale of said securities was made in violation of RCW 21.20.140, because no
12 registration was on file with the Securities Administrator.

13 3. Charles McSwain violated RCW 21.20.040, the section of the Securities Act requiring
14 registration of securities salespersons, because he offered and/or sold securities while not registered as
15 securities salesperson in the State of Washington.

16 4. The offer or sale of said securities was made in violation of RCW 21.20.010 because, as set
17 forth in the Tentative Findings of Fact, Respondents Charles McSwain and Billie's Casino Investment
18 LLC, in connection with the offer or sale of said securities, directly or indirectly made misstatements of
19 material fact or omitted to state material facts necessary in order to make the statements made, in light of
20 the circumstances under which they were made, not misleading.

1 **CONSENT ORDER**

2 Based upon the foregoing and finding it in the public interest:

3 IT IS AGREED AND ORDERED that Respondents, Charles McSwain and Billie’s Casino
4 Investment LLC, and their agents and employees, each shall cease and desist from offering or selling
5 securities in violation of RCW 21.20.140, the securities registration section of the Securities Act of
6 Washington.

7 IT IS FURTHER AGREED AND ORDERED that Respondent Charles McSwain, and his agents
8 and employees, each shall cease and desist from offering or selling securities in violation of RCW
9 21.20.040, the provision of the Securities Act of Washington requiring registration of securities
10 salespersons.

11 IT IS FURTHER AGREED AND ORDERED that Respondents, Charles McSwain and Billie’s
12 Casino Investment LLC, and their agents and employees, each shall cease and desist from violating
13 RCW 21.20.010, the anti-fraud section of the Securities Act of Washington.

14 IT IS FURTHER AGREED AND ORDERED that Respondent Charles McSwain shall be liable
15 for and pay a fine in the amount of five thousand dollars (\$5,000) before the entry of this Consent Order.

16 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this Order.

17 IT IS FURTHER AGREED that in consideration of the foregoing Respondents Charles McSwain
18 and Billie’s Casino Investment LLC waive their rights to a hearing in this matter and judicial review of
19 this order.

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1 SIGNED this 17th day of August, 2010.

2 Approved for Entry by:

3
4 /s/
5 Marlo De Lange, Attorney for Respondents
6 Washington State Bar Association #27080

7 Signed by:

8 /s/
9 Charles McSwain, individually

10 Signed by:

11 Billie's Casino Investment LLC

12 By /s/
13 Charles McSwain, Managing Member

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15 SIGNED and ENTERED this 18th day of August, 2010.

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18 WILLIAM M. BEATTY
19 Securities Administrator

20 Approved by:

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22 Suzanne Sarason
23 Chief of Enforcement

20 Presented by:

21 

22 Jill M. Vallely
23 Enforcement Attorney