September 9, 2014

Sent by E-mail

Enrique Zuniga, Commissioner
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109

Re: Material Errors and Omissions Regarding the Finance Presentation

Dear Commissioner Zuniga:

Mohegan Sun Massachusetts, LLC ("MSM") appreciates the opportunity to be involved in the final phase of the review of its application by the full Commission. We, unfortunately, are compelled to respond to the Finance Presentation and related reports provided to the Commission as they contain several factual misstatements that impact the accuracy of the analysis provided by the Finance Presentation. As we demonstrate in detail below, the Finance Presentation to the Commission and the related evaluative reports contain a large number of material factual errors and mistakes in methodology that, among other things: (i) result in misstatement of MSM's capital investment in the project and its revenue projections by tens of millions of dollars; (ii) fail to analyze the financial strength of Brigade Capital Management ("Brigade"), an Application Qualifier and majority owner of the Project, on the same or similar terms as afforded all other majority owners of project applicants; and (iii) inaccurately describe MSM's Marketing Agreement in several highly material ways.

Through this Memorandum, MSM has offered several proposals that could assure the Commission of the soundness of our financial structure, such as providing additional confirmation by our lenders or financial experts that explain the metrics they used in expressing high confidence in our project, as well as securing a shadow credit rating for the project by an independent credit rating agency. We offer this because the most experienced gaming investors in the industry have viewed our project on very different terms than the Commission evaluators. Likewise, to remedy the series of material errors in the Finance Presentation and related evaluative reports, we respectfully request, as we have several times throughout this process, the opportunity to discuss our nuanced structure with you and your consultants, HLT Advisors. We welcome this opportunity in a public session. We also believe that the large number of materials errors that we have shown warrant a reexamination of the Finance Presentation.

Section 1.1 – The Depiction of MSM's Funding Plan is Inaccurate

At the core of Section 1 is the financeability of the selected project. MSM's application includes a binding financing commitment letter and two highly confident letters from some of the most respected financial institutions that participate actively in the financing of the gaming market sector. Although we had hoped that our April 28th filing, which contained the financing commitment letter from our banking partners at Bank of America, would have illustrated to the Commission's satisfaction MSM's ability to obtain the necessary capital to fund the Revere project, please note that we are prepared to revisit any areas of concern that the Commission may have with the terms of the highly confident letters.

We also note that the depiction of the MSM Funding Plan (page 14 of the Finance Presentation) is inaccurate. The "Extreme Downside Case" contains two factual issues. First, MSM will not need to make an $82.9 million senior debt payment under the extreme downside. Rather, MSM will only need to make a much more modest minimum amortization of $30 million based on a requirement of 50% of free cash flow as the required minimum amortization. Second, as Commissioner McHugh pointed out, Suffolk's stakeholder income and the ground lease payment do not match under the Extreme Downside Case. In addition, you mentioned your assumption that Brigade, Mohegan and Sterling Suffolk had decided to split "stakeholder income" into thirds under the "Base Case." Your assumption is incorrect and the fact that the income results in a split in thirds is a mere coincidence.

Similarly, the notion that MSM only has $45 million available to initiate development is not true. We will have several months to get the financing in place and will have the $732 million in financing quickly, which we can then deploy. Our ability to borrow is significantly enhanced by the equity guaranty being provided by our affiliate Brigade Leveraged Capital Structures Fund Ltd. ("Guarantor") under which Guarantor undertakes to provide cash equity to cover up to twenty-five percent (25%) of the total project budget (including amounts spent to date). We would be happy to have representatives of Bank of America confirm this for you. Any suggestion that the willingness of the financial community to provide the needed project financing is anything less than strong can easily be dispelled through further discussion with our lenders and other financial experts to explain the metrics they used to evaluate this project, and many other successful gaming projects, and show how they differ from HLT's analysis. We would be happy to arrange this as quickly as possible to disabuse any notion that our finances should, in any way, be subject to question.

Although we greatly respect the role that the consultants have played in the review process, it is important from the perspective of what it takes to finance casino development projects to have an understanding of how the market evaluates development costs. The HLT report and analysis did not count as relevant the costs incurred to fund the pursuit and purchase of the Region A license. When it comes to casino finance, the market has a tried and true method for analyzing what is considered equity, and it is not an analysis that is based solely on construction costs. MSM followed the industry norm by including license pursuit and acquisition costs as equity in the analysis it provided to the Commission. Indeed, MSM's prospective lenders have agreed in the commitment letter they issued to treat costs incurred to pursue the license as equity contributions to the Revere project. Similarly, these lenders credit the cash to be utilized to pay the license fee as an equity contribution. In addition, it is expected that a significant portion of these costs will be treated as capital contributions under applicable federal, state and local tax laws. We believe the Commission should regard these costs in a similar vein. They are real, and they demonstrate resoundingly the strong commitment we have made to the Commonwealth to advance our proposal.

In addition, while it is understandable that the debt to equity ratio of MSM's proposal would receive some attention, this ratio is only one of several that should be considered and it is not the most important one for a project of the type proposed. MSM's project will be funded by lenders evaluating the creditworthiness of the project on the basis of its projected cash flow characteristics. Key financial metrics they are considering include leverage ratio (which is a ratio of debt to cash flow) and fixed charge coverage ratio (which is a ratio of fixed expenses to cash flow). As demonstrated thought the numerous financial disclosures we have made, MSM has solid financial standing with respect to each of these metrics. As mentioned above, the chief concern of an analysis of MSM's financing proposal should be whether MSM will succeed in obtaining financing and completing the development of the Revere project. On this basis, MSM is very well positioned in light of the strength of the cash flow characteristics of its project, and the commitment letter from Bank of America and the highly confident letter from Goldman Sachs illustrate this conclusion.

In addition, the availability of adequate equity capital has been guaranteed to the Revere project by Guarantor pursuant to the agreement entered into with Sterling Suffolk. The Guarantor has agreed to provide up to twenty-five percent (as and to the extent required by construction lenders) of the projected project costs for the first hotel and the gaming facility (but not food and beverage facilities or the second hotel). The assurance of an equity investment of up to twenty-five percent of the vast majority of total costs (to the extent required by lenders) should be more than adequate to provide construction lenders with confidence of MSM's commitment to the completion of the project and to thereby ensure the success of MSM's financing efforts.

Finally, we respectfully submit that the Commission's presentation incorrectly characterized the preferred equity interests making up a portion of MSM's financing proposal for the Revere project. The terms of the preferred equity interests are not akin to those of a "short-term loan." On the contrary, aside from the fact that the preferred equity interests are classic preferred equity securities with a liquidation preference and other such features (and accordingly occupy a position below the debt in MSM's capital structure), they will not mature until ten years from the date of initial investment – which is not short-term by any means. Further, Brigade agreed that no cash dividends will be required to be paid on the preferred equity interests from the date of initial investment through the date that is eighteen months following the date on which construction of the project has been completed. The Commission depicted the call feature, through which Brigade's investment in the preferred equity interests can be redeemed and retired, as a problem. In fact, this option – not obligation – is very advantageous to the issuer of the equity and the Revere project in that it provides the flexibility to redeem the interests when financially advantageous (for example, when the Revere project has begun operating successfully and all project development risk has passed, it may be possible for it to obtain replacement funding at a lower cost of capital).

Section 1.2 – Failing to Include Brigade in Analyzing the Current Financial Strength is a Material Error

At the beginning of the MSM application process, ample information was filed with the Commission on Brigade. Important to all companies in the gaming space is the involvement of the institutional investor community in the equity ownership of the business. This is the case for MGM, Penn and Wynn. However, what should be viewed as a positive—the involvement of a financially vibrant partner—appears to have been packaged as a criticism of MSM's application. Should the Commission select the MSM application for the Region A License, it will have a partner that is not only financially strong, but also subject to full licensing review, and with this comes great oversight authority for the Commission with respect to Brigade and its finances.

We note that Brigade is itself a significant business apart from the client funds it manages. It is certainly not simply a repository for the funds of its clients. It is an operating business with substantial revenues, EBITDA, free cash flow, and zero debt. These metrics are very relevant for asset management companies and show how strong Brigade's financial profile is on a comparative basis. It is not appropriate to characterize Brigade as no more than "other people's money" and, on that basis, decide not to credit its significant financial wherewithal in evaluating MSM's proposal. To suggest otherwise ignores the audited financials that we provided for Brigade Capital Management LP as an independent entity.

In addition to investing funds on behalf of client investors, Brigade also manages and invests approximately $197 million on behalf of its own partners and employees. Far from only investing "other people's money," Brigade's own partners and employees are deeply invested in Brigade's investment program.

While it is true that part of Brigade's business is managing nearly $17 billion of funds on behalf of client investors, Brigade maintains the right to invest a significant proportion of those funds on behalf of such investors and is therefore empowered to direct substantial amounts to the Revere project.

For the reasons mentioned, Brigade's financial wherewithal is as relevant to an assessment of MSM's proposal as Wynn Resort's financial wherewithal is to Wynn MA's proposal. Given that Brigade is bringing such huge financial strength to this project, there is no basis whatsoever for the arbitrary decision to disregard its impact on the finances of MSM's proposal. The effect of this material error is to subject the proposals to different standards based on relative "complexity" rather than acknowledge that both applicants maintain an ability to finance and deliver the project as promised, albeit by different methods.

The report indicated that Brigade is being treated like an "institutional investor," ignoring the fact that Brigade took the extraordinary step to become a "qualifier". As a qualifier, Brigade should be afforded the same treatment and held to the same standard that any other qualifier would be. In addition, whether Wynn or MSM gets the license, much of the funds invested will come from the capital markets and many of the indirect equity holders will be funds (as reflected by Wynn Resort's current equity ownership), so no special significance should be attached to the fact that Brigade is an institutional investor.

Finally, to underscore its confidence in its financing proposal, MSM would be willing to have an independent, major credit rating agency issue a shadow credit rating for MSM and the Massachusetts project. We are confident that such a rating would demonstrate the strength of our financing proposal, and would dispel any doubts about the ability to have our project financed and built.

Section 2.1 -- The Commission Excluded $59,121,727 in Costs that Should be Attributed to MSM's Minimum Capital Investment and Construction Budget Under 205 CMR 122.03.

MSM strongly opposes the Commission's determination that its total construction budget is $376,389,028 and total eligible capital investment is $526,988,181. The calculations that led to these figures are presented on pages 15 and 16 of the Report to the Commissioners for: Category #2 – Finance; and pages 4 and 5 of the HLT Advisory "Investment Plan" Presentation provided as an Appendix to the Report to the Commissioners for: Category #2 – Finance." These calculations are material errors for which MSM respectfully requests corrections as follows:

- Total Construction Budget for the project is **$435,510,755**, exclusive of additional equity contributions that will occur as a condition of licensure or otherwise.

- Total Eligible Capital Investment is **$586,109,908**.

MSM would be remiss not to point out that the Commission's calculations excluded $59,128,727 that have been spent thus far on construction-related costs and meet the definition of eligible capital investments pursuant to 205 CMR 122.03. These costs further the project and advance the construction timeline (both on and off site). The table below provides a full accounting of these eligible costs.

TABLE OF ELIGIBLE CAPITAL INVESTMENT EXPENDITURES BY MSM EXCLUDED FROM TOTAL CONSTRUCTION BUDGET		
Expense	**Explanation**	**Category of Eligible Expense**
$2,125,427	A line item allocated for "labor" in the Mohegan Tribal Gaming Authority Pre-Financing Budget Expense Detail provided to the Commission as Exhibit 5 to an April 28, 2014 Memorandum represents the cost provided to Mohegan Sun employees for design and development planning, including for engineering, due diligence, design, site preparation, and infrastructure improvements inside the site. While a small portion of this expense allocated for labor relate to the Palmer Project, much of that	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8). • 205 CMR 122.03(9).

	work advanced what ultimately became MSM's and construction plans for the Revere Project, including interior design, sustainability features and engineering concepts.	
$9,654,195	A line item allocated for "Consulting Fees" in the Mohegan Tribal Gaming Authority Pre-Financing Budget Expense Detail provided to the Commission as Exhibit 5 to an April 28, 2014 Memorandum represents the cost of fees paid to consultants for engineering, due diligence, design, preparation of sustainability features, site preparation, and infrastructure improvements inside the site. While a small portion of this expense allocated for labor relate to the Palmer Project, much of that work advanced what ultimately became MSM's and construction plans for the Revere Project, including interior design, sustainability features and engineering concepts.	• Costs related to the design of the project, including building design, interior design, and exterior site design. 205 CMR 122.03(3). • Costs associated with consulting and due-diligence necessary to fund studies and devise engineering solutions in accordance with M.G.L. c. 23K including traffic studies, environmental studies, and other associated mitigation studies. 205 CMR 122.03(4). • Costs associated with minimizing the environmental impact of the project including upfront costs aimed at minimizing a carbon footprint or implementing sustainable elements and/or smart growth practices. 205 CMR 122.03(5). • Costs associated with applying for federal, state, or municipal permits. 205 CMR 122.03(8). • Professional and management fees including for engineers, architects, developers, contractors, or operators to the extent that they represent indirect and overhead costs related to the development of the project, and do not represent profits or payout as part of partnership agreements or "home office" overhead (i.e., out of state). 205 CMR 122.03(9).
$1,707,548	A line item allocated for "Other Expenses" in the Mohegan Tribal Gaming Authority	• 205 CMR 122.03(3).

	Pre-Financing Budget Expense Detail provided to the Commission as Exhibit 5 to an April 28, 2014 Memorandum represents the cost of preparation work for eligible capital expenditures, such as relevant studies for construction-related solutions.	• 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8). • 205 CMR 122.03(9).
$12,442,194	A line item allocated for "Gaming License Application" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the cost of fees for engineering, due diligence, design, sustainability, site preparation, and infrastructure improvements inside the site, including fees to engineers, environmental consultants, architects, designers and others. Although these costs were born in furtherance of a prior project contemplated for the entire Suffolk Downs property, this preparation work was critical in that it produced environmental, access, design, and engineering solutions that were integrated into the MSM project. While denominated as "Gaming License Application," these costs represent eligible capital expenditures that provided many of the engineering, design, site preparation, sustainability and other features incorporated into MSM's RFA-2 Application, Construction Plans, Notice of Project, SDEIR and others.	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8). • 205 CMR 122.03(9).
$6,044,485	A line item allocated for "Permitting" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the costs associated with applying for federal, state, or municipal permits. As MSM filed a Notice of Project Change and relied on much of the Draft Environmental Impact Report submitted by the prior applications, these costs are properly considered as permitting expenses for the current project.	• 205 CMR 122.03(8).

$16,017,539	A line item allocated for "Pre-Development Costs (Capitalized)" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the cost of fees paid to consultants for engineering, due diligence, design, preparation of sustainability features, site preparation, and infrastructure improvements inside the site, all of which were used or substantially advanced the Revere-only project.	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8).
$2,384,858	A line item allocated for "Pre-Development Costs (Capitalized)" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the cost of preparation work to develop the Suffolk Downs property, all of which was used or substantially advanced the Revere-only project.	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8).
$3,820,598	A line item allocated for "Environmental Projects (Capitalized)" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the cost of consultant fees, construction work, and other measures taken to achieve Clean Water Act and other environmental compliance at the Controlled Animal Feeding Operation (CAFO), which is <u>inside</u> the property boundaries of the project site. This environmental work was necessary to minimize the environmental impact of the project and was directly related to the development of the project.	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5). • 205 CMR 122.03(8). • 205 CMR 122.03(9).
$4,931,883	A line item allocated for "Environmental Projects (Capitalized)" in the Sterling Suffolk Racecourse, LLC Chase Costs Budget, January 1, 2007 through December 31, 2013 provided to the Commission as Exhibit 6 to an April 28, 2014 Memorandum represents the cost of	• 205 CMR 122.03(3). • 205 CMR 122.03(4). • 205 CMR 122.03(5)

	construction, maintenance and regulatory payments taken to achieve Clean Water Act and other environmental compliance at the Controlled Animal Feeding Operation (CAFO), which is <u>inside</u> the property boundaries of the project site. This environmental work was necessary to minimize the environmental impact of the project and was directly related to the development of the project.	• 205 CMR 122.03(8). • 205 CMR 122.03(9).

MSM also respectfully takes issue with the characterization of this $59,121,727 in eligible capital investments as "sunken costs" or "monies spent to pursue a casino license" or other like terms on pages 17 and 28 of the Finance Presentation, pages 10, 11, 15 of the Report to the Commissioners for: Category #2 – Finance, and in the oral remarks of the presenters at the Commission's September 8, 2014 meeting. These costs are attributable to the fees and costs necessary to produce a high-caliber architectural design with superior sustainability features, and careful transportation planning.

There is an incongruity between this financial analysis – which penalizes an applicant for incurring pre-licensure costs for design, engineering, site preparation, and on-site infrastructure improvements – and the criteria of other Sections of the RFA-2 Application, which purport to prize high-quality design, engineering, site preparation, and on-site infrastructure improvements. MSM has invested the tens of millions of dollars described above to achieve design, construction, and environmental plans that were acknowledged by the Section 4 – Building & Site Design evaluators as being superior in most respects, yet this significant investment has been turned into a substantial deficit in the Financial Section by the Commission's chosen methodology, which excludes its consideration as an eligible cost and, in so doing, contravenes the other Application criteria and the plain language of 205 CMR 122.

MSM also notes that by incurring these design, engineering, site preparation, and on-site infrastructure improvement expenses, that MSM development plans carry more specificity and value than the line items presented by Wynn which - lacking in similar expense or detail - are therefore subject to manipulation or exaggeration. It is as if MSM is being penalized for providing more detail about its construction plans and being further along in the design and permitting process.

Section 2.2 – MSM Provided an Opening Date of September 2017 to the Commission

In its Construction Schedule Comparison at Page 30 of the Finance Presentation (and elsewhere in the evaluation materials), the Construction Schedule Comparison states that MSM's Opening Date was "n/p" (or "Not Provided"). However, the Report to the Commissioners for Category #4 - Building & Site Design states correctly that MSM projects an opening in September 2017. This is an accurate representation of the information provided to the Commission. MSM respectfully requests that the Category 2 – Finance materials be corrected to reflect MSM's September 2017 projected opening date.

Section 3 – The Market Assessment Ignores Significant Portions of MSM's RFA 2 Application

The Market Assessment of MSM is based entirely on a Market Study prepared by PKF Consulting USA dated December 18, 2013, only three weeks after MSM had trained its attention on the Revere site. This Market Assessment fails to consider the rest of MSM's RFA 2 Responses and the clarification responses that MSM has provided. Through these responses, MSM has provided extensive information regarding how it will market to potential guests throughout the Northeast United States and internationally. Most notably, MSM has indicated it will have access to certain benefits of Mohegan Sun's database of five million accounts - the most extensive list of gamers in the Northeast. As we have noted, MSM will leverage its extensive experience in direct mail and email marketing, and intends to send 60 mailers annually to Mohegan Sun guests that highlight regional attractions and draw visitors to MSM. We note that the database of MGM and the slots applicants was a key issue in the prior Finance Reports prepared by you and the consultants and are surprised that Mohegan Sun's vast database was not mentioned as an asset to the MSM project, especially in the Market Assessment description.

Likewise, the Market Assessment ignored MSM's strategic plan to market to international tourists. As we have noted, MSM's experience suggests that the international market has two distinct segments - international tourists and international gamblers - each of which requires a unique approach. We have presented a plan to attract each of these segments. Likewise, the Market Assessment ignored MSM's Agreements with the Greater Boston Convention and Visitors' Bureau ("GBCVB") and the North of Boston Convention and Visitors' Bureau ("NBCVB"), which require MSM to collaborate with these groups to market MSM and the region aggressively. Specifically, MSM is required to:

- Participate in GBCVB and NBCVB sales calls to existing and prospective regional, national, and international partners;

- Join international sales missions;

- Conduct cross-promotions at tradeshows, including the U.S. Travel Association's IPW, the Incentive Travel Exhibition, the International Incentives, Business and Meetings Exposition, Discover New England's DNE Tourism Summit and International Marketplace, and the American Bus Association's ABA Marketplace; and

- Participate in such events as the North of Boston Annual Tourism Summit, North of Boston Travel Guide and Map, North of Boston Destination Planner, and North of Boston Member Luncheons and Sales Meetings.

Furthermore, it is a material error for the commission and HLT to rely almost exclusively on the PKF market study as a statement of future marketing intentions. MSM, nor any responsible gaming company would rely on a December 2013 study for a 2017 opening, to allow for anticipated changes in overall market conditions as well as the ongoing and expanding marketing and tourism agreements as indicated above. In short, the PKF study is already out of date and it is misleading for the Commission to derive such conclusions from its work product.

Indeed, several commissioners acknowledged during deliberation that overarching market data may provide a more accurate depiction of the potential gaming marketplace.

Likewise, the discussion omitted key comparison points related to MSM's competitor. A key point of the issues discussed was the fact that the competing proposal projects a large amount of revenue from international play from Asia. Notably, these players must fly over Las Vegas (which has a much lower tax rate – approximately 6.75% – on table games than even the 25% revenue sharing arrangement between Mohegan Sun Connecticut and the State of Connecticut). Given the competition's large reliance on table game revenue, combined with the additional flight time required to reach the East Coast from Asia as opposed to Las Vegas (the country's primary gambling destination), this point should have been raised in comparison to provide a clear and fair view of the contrasts between the Region A applicants.

Additionally, the Finance analysis did not include a calculation of how hotel room availability drives revenue. Comparisons between the Wynn's Las Vegas casino, which contains approximately 4,000 hotel rooms, and Everett, which has only 504 hotel rooms, is a crucial data point when analyzing the Wynn proposal based on Wynn's current and past performance. Although it was noted tangentially that Las Vegas is a different market, the comparison is much more stark and should have been noted within the analysis to provide a clearer view of the comparison.

Section 4.2 – This Section Contains Multiple Errors

A) MSM will be Able to Assert Appropriate Control Over its Tenants to Ensure Maximum Gaming Revenue.

Both MSM and Wynn will use third-party retailers at their facilities and the fact that Finard Properties and New England Development (NED) will be responsible for finding tenants at MSM does not mean the MSM will have less control over these tenants. You noted that at MSM a tenant could decide to close earlier than what was best for the overall operation, including gaming revenue. However, through MSM's partnership with Finard and NED, lease agreements will be specifically tailored to provide MSM with considerable control over the terms and conditions that each and every tenant must adhere to in order to remain in compliance with its lease. Such terms and conditions will include quality control of product, minimum hours of operation, employee relations, hospitality standards and compliance with MSM's Momentum points program. These conditions are typical of those imposed upon tenants at Mohegan Sun Connecticut, which has functioned successfully with high quality lessees for nearly two decades. There is no reason to believe that MSM would enjoy a different result.

The effect of this material error is to suggest MSM's relationship with its third party retailers is outside of industry norms, when in fact this arrangement is commonplace within the resort gaming industry and also employed at our competitor's project.

B) The Marketing Plan was not Explained Correctly.

Section 4.2 – This Section Contains Multiple Errors

A) MSM will be Able to Assert Appropriate Control Over its Tenants to Ensure Maximum Gaming Revenue.

Both MSM and Wynn will use third party retailers in their facilities and the fact that Finard Properties and New England Development (NED) will be responsible for finding tenants at MSM does not mean the MSM will have less control over its tenants. You noted that at MSM a tenant could decide to close earlier than what was best for the overall operation including gaming revenue. However, through MSM's partnership with Finard and NED, lease agreements will be specifically tailored to provide MSM with considerable control over the terms and conditions that each and every tenant must adhere to in order to remain in compliance with their lease. Such terms and conditions will include quality control of product, hours of operations, employee relations, hospitality standards and compliance with MSM's Momentum points program. These conditions are typical of those imposed upon tenants at Mohegan Sun Connecticut which has functioned successfully with high quality lessees for nearly two decades.

B) The Marketing Plan was not Explained Correctly.

The Marketing Plan between Mohegan Sun and Brigade was presented inaccurately. Every customer in the Mohegan database will be used to "seed" the MSM database, not only those customers within a 30-minute drive radius of MSM's proposed location, as was stated in the Presentation. The database restrictions in place for MSM state that Mohegan provide its ***entire*** customer database to MSM, not merely those that are within a certain distance from MSM. This amounts to a customer database for MSM that is immediately populated with millions of domestic and international players, including approximately 20% of Greater Boston residents that are currently within Mohegan's customer database.

MSM cannot provide any customer data to Mohegan, the marketing arrangement is a purely one-way benefit to MSM. It was stated during the presentation that MSM may share customer data for customers outside of the "primary" market area for MSM. This is not accurate; the MSM database restrictions apply to all of MSM customers, not merely those within a certain mile or drive radius of the Revere property. As stated previously, this provides a unique benefit to the Commonwealth as the MSM database cannot be shared with properties associated with one of its ultimate parent companies, unlike other applicants.

The marketing restrictions apply to a 60-minute drive radius, not a 30-minute drive radius, significantly increasing the scope of the restrictions beyond what was acknowledged in the Commission presentation. The zip codes that compose the marketing database restrictions extend beyond the 495 Interstate beltway.

Notion that Brigade is not in "alignment" with the Commonwealth is not true. Neither the Commonwealth nor Brigade wants MSM to be acting as any type of feeder market to other Mohegan properties. To protect the Commonwealth from this, Brigade insisted on a number of protections, protecting any unique customers that MSM develops from being shared with the other Mohegan casinos. This was materially omitted from the discussion. There was also some suggestion in the presentation to a possible concern of a lack of alignment due to Brigade holding some debt in the MTGA. This statement ignored the fact that Brigade has repeatedly communicated to the Commission and its staff and consultants a willingness to sell any such debt if the license is awarded.

We look forward to the correction of these errors and hope we get the opportunity to meet with you.

Sincerely,

Mitchell Etess,
Manager, Mohegan Sun Massachusetts
CEO, Mohegan Tribal Gaming Authority

cc: Catherine Blue, Esq.
John Ziemba, Esq.
Mr. Doug Pardon
Mr. J. Gary Luderitz
David Rome, Esq.
Kevin Conroy, Esq.
David Waddell, Esq.