



The Commonwealth of Massachusetts

Massachusetts Gaming Commission

NOTICE OF MEETING and AGENDA

August 7, 2012 Meeting

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Tuesday, August 7, 2012

1:00 p.m.

Division of Insurance

1000 Washington Street

1st Floor, Meeting Room 1-E

Boston, Massachusetts

PUBLIC MEETING - #20

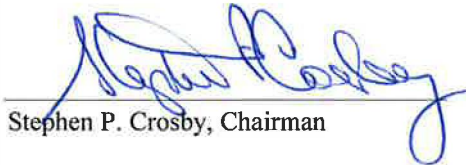
1. Call to order
2. Approval of minutes
 - a. July 17, 2012 Meetings
 - b. July 26 meetings
3. Administration
 - a. Executive Director search update
 - i. Screening process
 - b. Additional Hires
 - c. Discussion of MGC Internal Policies
 - i. Consideration of policy directory
 - d. Project Management Consultant
 - i. Status report
4. Racing Division
 - a. Update
5. Project Work Plan
 - a. Consultant status report
 - i. Review of consultant schedule and scope
 - ii. Consideration of Phase I Regulations
 - b. Technical and other assistance to communities
 - i. Ombudsman search update
6. Finance / Budget
 - a. FY13 Budget - vote
7. Public Education and Information
 - a. Community outreach/responses to requests for information
 - b. Report from Director of Communications and Outreach
 - c. Discussion of Western Massachusetts Forum
 - i. August 8 "Applicant" process
 - d. Possible Diversity/Inclusion Forum
 - e. October Industry Conference

8. Research Agenda
 - a. Status report

9. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as “Gaming Commission Meeting” at www.mass.gov/gaming/meetings, and emailed to: rcgs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us.

8/3/12
(date)


Stephen P. Crosby, Chairman

Date Posted to Website: August 3, 2012 at 1:00 p.m.

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes
DRAFT

Date: July 17, 2012

Time: 12:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room E
Boston, Massachusetts

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: Chairman Crosby (after 3:30 PM)

Call to Order:

Chairman Crosby opened the 16th Commission meeting. He explained the meeting format, beginning with the usual Commission meeting, a break to address the press, reconvening of the meeting, and a public hearing on Racing Regulations.

Approval of Minutes:

See transcript pages 3-4.

Commissioner McHugh stated that the minutes for July 10 were distributed. Chairman Crosby recommended one revision to the minutes designed to note his belief in the importance of diversity in the search for the Commission's executive director.

*Motion made by Commissioner Stebbins to approve the minutes of July 10, 2012 as amended.
Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.*

Administration:

See transcript pages 4-36.

Executive Director Search Update – Commissioner Stebbins stated that Jim LaRosa and Jennifer Romain from JuriStaff were present to provide an update. Mr. LaRosa stated that since the last meeting they were able to get a copy of the draft job description, which was very well prepared and thorough, though he did make some changes based on information he gathered during the course of his discussions during the preceding week. On Thursday he went to Linwood, New

Jersey to meet with consultant Fred Gushin to get his feedback as to what the Executive Director position should look like and what states they should look at for candidates. Ms. Romain had an opportunity to speak with each of the Commissioners and was able to get good insight into what is needed for this position. Mr. LaRosa stated that the general consensus among the Commissioners is to try to hire someone from another gaming commission. It was also discussed that it would not be wrong to give consideration to candidates that did not come from a gaming background if they had regulatory experience or other experience that would be transferrable, but this was not the preference. Commissioner Stebbins recommended that each Commissioner look at the job description and forward any changes to him so he can forward them to JuriStaff, with the goal of providing final approval at the next meeting. Mr. LaRosa stated that they will be targeting other agencies and commissions for candidates. If, however, they see strong candidates from the casino industry or outside, they will vet them and present them. Commissioner McHugh asked how this position will be presented to candidates in order to stress that this is an exciting opportunity. Mr. LaRosa stated that the candidate will be provided with marketing materials selling the position. Ms. Romain stated that when she calls a candidate she will have information available to use as selling points and she could craft this information in conjunction with the Commission. Commissioner Zuniga pointed out the statutory requirement prohibiting the Commission from hiring an individual who has worked for a licensee within three years of hiring. He noted that this requirement will have to be given consideration even though the Commission does not know who the licensees will be at this point.

Mr. LaRosa stated that three casino industry publications have been identified as good sources to advertise for this position. He stated that typically someone looking for a position will go to the employment ad section of a publication. However, none of them, however, has traditional employment ads and none is typically used to advertise for open positions, so a display ad would have to be used. He presented several options for advertising and asked the Commission to let him know how to proceed with advertising the position. Chairman Crosby stated that a display ad would have to be done professionally. Mr. LaRosa stated that he works with several ad agencies that can create an ad for an approximate cost of between \$1000 and \$3000. Commissioner Stebbins recommended coordinating this advertising with the Commission's Director of Communications and Outreach, who is working on branding, so that the advertisement is consistent with that branding.

Mr. LaRosa stated that the next step is to start reaching out to candidates who have already been identified. He stated that a decision has to be made about when the candidates name will become public and whether to give candidates an opportunity to opt out if they become a finalist. Commissioner McHugh stated that two scenarios have been drafted, one for a single Commissioner screening the interviews, and one for a subcommittee screening interviews. He is awaiting feedback from other agencies on confidentiality, and is working toward having a proposal for the next Commission meeting.

Additional Hires – Commissioner McHugh stated that Commissioner Cameron and he are both of the opinion that the Commission should hire a full-time staff attorney promptly. He stated that a job description should be drafted to bring back to the full Commission and move forward

with finding someone. Commissioner Zuniga volunteered to draft this job description. Chairman Crosby stated that the search is ongoing for an additional Executive Assistant.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he distributed the first draft of the employee manual which consists of six chapters that have been edited by Commissioner McHugh. He asked the Commission to review this and get back to him with any comments, with the goal of approving this at the next Commission meeting.

Project Management Consultant – Commissioner Zuniga stated that he met with PMA to start planning for an integrated session. Relative timelines and stakeholders were reviewed and insightful questions were asked regarding policies that will have an effect on the overall timeline and schedule.

Racing Division:

See transcript pages 36-66.

Consultant Report – Commissioner Cameron introduced Annie Allman from Last Frontier Consulting. She has worked in conjunction with Spectrum Gaming to prepare a report on racing in Massachusetts. Ms. Allman addressed the Commission. She stated that this report was prepared by looking at the Massachusetts racing industry from the perspective of new Commissioners who are interested in becoming familiar quickly with key issues. To prepare the report, she conducted interviews with staff and stakeholders, as well as with industry experts. She also reviewed publically available data consisting of Racing Commission reports, statistics, and media coverage.

Ms. Allman stated that the racing industry in Massachusetts has been in a decline in the five year period ending in 2011, a decline primarily driven by the removal of greyhound racing. There has also been a decline in workload for the Racing Commission, and it has lost much of its dedicated leadership. She stated that the former Racing Commission has a very engaged staff that is passionate about racing but is looking for direction and more leadership with specific racing knowledge. The staff is working without updated resources and is unable to perform at the level they would like to. At present, the tracks and horsemen are very focused on their gaming application. Ms. Allman strongly encouraged the Commonwealth to consider adopting the Association of Racing Commissioner International Model Rules of Racing to update the regulatory framework and outlined steps that could be taken immediately. She stated that the Commission should upgrade its audit or financial system, as there are still field auditors doing manual input. She stated that the financial system could be automated using an FTP site and utilizing appropriate software. She also stated that there is a need to upgrade the licensing system and technology to allow data to be imported or exported to and from some of the national data bases. She advised that these changes be treated expeditiously if they are to be implemented and ready for the 2013 racing season.

Chairman Crosby stated that the legislation is clear in its intent to reinvigorate the racing industry in Massachusetts, and the Commission's mandate is to ensure the industry is ready to

compete in a new environment that includes expanded gaming. He asked Ms. Allman what her recommendation would be for the leadership structure of the Racing Division. She responded that that was somewhat out of the scope of her review, but stated that it is clear a senior manager is needed who is dedicated to the regulation of racing. Chairman Crosby stated that the Commission has spoken to Auditor Suzanne Bump to have a transition audit done as soon as possible and she has assigned a representative of her staff to begin this process. Questions and comments from the Commissioners were addressed. Chairman Crosby asked whether implementation of the changes proposed in Ms. Allman's report would result in a state of the art regulatory process capable of protecting the integrity of racing in the Commonwealth. Ms. Allman stated that she believes that implementation of the recommendations would have that result.

Chairman Crosby stated that the Commission should get a search started soon for a director for the racing division. Commissioner Cameron stated that she has a plan which can be discussed. She recommended the Commission accept the report, the findings, and the plan of action which would be to immediately put together a working group which will be charged with looking at all the recommendations and implementing them by next racing season. Chairman Crosby stated that there is a press conference scheduled for 2:00 p.m. where questions can be addressed by Commissioner Cameron or Ms. Allman.

Project Work Plan:

See transcript pages 66-82.

Consultant Status Report – Kathleen O'Toole was present to provide an update on the gaming consultants' work. She stated that the consultants have been drafting regulations for the RFA Phase 1 and will continue to interact with Anderson & Kreiger, Commissioner McHugh and other Commissioners are required over the next few weeks to bring the regulations to final form. The consultants have also submitted three documents: a preliminary review of the Tribal State Compact, a follow-up to the discussion last week of the possibility of the Commission engaging in meetings with the investment community, and information on Commission budget and investigative requirements. Commissioner McHugh addressed the steps that ought to move forward effectively with assessment of the proposed regulations. He stated that several policy decisions remain outstanding. He would like to work with Anderson and Kreiger to identify these policy questions, prepare a short memorandum, and send it to Ms. O'Toole and the Commission for their judgment and advice regarding which policies ought to be adopted. He has also asked Anderson and Kreiger to go through the regulations with an eye toward making the language conform to that customarily used in Massachusetts regulations. His goal is to have this work finished and back to the consultants by the end of next week. Chairman Crosby asked where the Commission will be and what will need to be done next when the consultants are finished. Ms. O'Toole stated that the work plan does go through October, but the work of the consultants will be completed in September. Both consulting groups have informed her they will not walk away if the work is not complete within sixteen weeks and are prepared to complete the tasks included in the work plan. Ms. O'Toole stated that the scope of licensing, investigations, and RFA-2 regulations are the next steps. Chairman Crosby stated that the Commission will need

a team to help draft RFA-2, resolve allied policy issues and help investigate the returned RFA-1 forms. He stated that a decision will have to be made whether to expand the contract with the existing consultants, issue an RFP for additional help, or engage in a combination of both. Commissioner Cameron stated that with the team of existing consultants, the Commission is well prepared to continue to use them for all three of these items.

Chairman Crosby stated that the time is 2:00 p.m. and the meeting will be suspended for a scheduled press conference and will reconvene when the press conference is completed.

Motion made by Commissioner McHugh to suspend this meeting until 2:30 p.m. Motion seconded by Commissioner Zuniga. The motion passed by a 5-0-0 vote.

Reconvening of Meeting: Chairman Crosby reconvened the 16th Commission meeting.

Project Work Plan (continued):

See transcript pages 82-107

Commissioner Cameron stated that the consultants have some very good ideas on how to assist the Commission moving forward with investigations. Commissioner Zuniga stated that the investigation portion was not part of the original consultant contract, and because the dollar amount could be substantial, the Commission would need to consider an open RFR. Commissioner McHugh stated that the Commission needs to determine the components of the tasks and then figure out if the contract can be extended or if a new RFR is necessary. Ms. O'Toole stated that the consultants have provided information about the services they are capable of rendering as the Commission's work proceeds, but will defer to the Commission on procurement procedure.

Chairman Crosby stated that he and Commissioner Zuniga have spoken with an investment banking advisor who may be able to assist the Commission with dealing with Wall Street in the future, and may also be able to assist with the competitive environment. Commissioner Zuniga stated that the firm has not provided any cost related information at this point. He stated that the Commission should write a scope of what is required and a solicitation should be written.

Technical and Other Assistance to Communities – Chairman Crosby stated that the ombudsman position has been finalized and posted. He stated that at the last Commission meeting there was an agreement that a bidder could become a formal applicant by the completion of a document and delivery of a \$400,000 check, either when the RFA is launched in the middle of October, or when the RFA is completed. After that meeting, however, the Commission received information that one prospective bidder had had discussions with the DOT and that other bidders were concerned that they might be placed at a competitive disadvantage if they were precluded from having similar conversations. He stated that the Commission has spoken with officials at the DOT who stated that a bidder had submitted forms to them for a prospective project but that no discussions with the bidder had taken place. Commissioner Stebbins has recommended at the Western Mass Forum on August 8 the one page applicant form be released and from that point

forward anyone who completes the form and pays \$400,000 can begin discussions with state agencies. Commissioner Zuniga stated that he has a meeting scheduled with the Comptroller to set up the account and the proper that must be in place before the Commission can accept money from outside entities. It was decided to draft a form and resume the discussion at the next Commission meeting.

Chairman Crosby stated that the community advisory document has been completed and is posted on the Commission website.

Chairman Crosby stated that the time is 3:00 p.m. and the 16th meeting will be suspended to convene the 17th meeting.

Motion made by Commissioner McHugh to suspend this meeting for the purposes of conducting Commission meeting 17. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

Reconvening of Meeting: Chairman Crosby reconvened the 16th Commission meeting.

Charitable Gaming:

See transcript pages 107-111.

Status Report – Chairman Crosby stated that Commissioner McHugh has submitted an excellent outline of a report to the Legislative leadership on the subject of charitable gambling. Commissioner McHugh stated that he would like to use the outline to create a narrative draft report which he will circulate by the beginning of next week for consideration at the next Commission meeting. After that meeting, he will make any necessary changes, and the Commission can vote on it on the 31st and submit it to the legislature on the same day.

Chairman Crosby stated that he has a 4:00 p.m. appointment and will have to leave the meeting. He asked Commissioner McHugh to Chair the remainder of the meeting.

Finance/Budget Update:

See transcript pages 111-115.

Commissioner Zuniga stated that he submitted to the Commission a preliminary budget for FY 2013 and requested comments. He stated that at the end of the document he culled out line items 7, 8, 9, & 10, because he does not have enough information at present to be precise about the amounts those are likely to involve. Commissioner Cameron thanked Commissioner Zuniga for this easy to read, comprehensive document and stated that she would review it more thoroughly and submit any questions she may have. Commissioner Stebbins stated that it would be helpful to have more revenue projections or sources of funds going forward.

Public Education and Information:

See transcript pages 115-126.

Community Outreach/Responses to Requests for Information – Commissioner McHugh asked if there were any thoughts relative to how to deal with requests to speak with the Commission. Up to this point the Commission’s position has been to speak with anyone in a public forum. He stated that the topic could be included in the protocol for the speakers bureau that Communications Director Driscoll is now formulating. Another approach would be to set aside a portion of one meeting each month to have half an hour for an open forum. Another option would be to have two Commissioners talk with people at the Commission offices and post a summary of the conversation on the Commission website. Commissioner Zuniga stated that the idea of having a periodic open forum for people to come forward goes right along with the Commission’s mission to be transparent and participatory. Commissioner Stebbins stated that when he was on the Springfield City Council, the Council set aside a public participation session at each meeting. Those who wished to address the Council were asked to call ahead to put their name on a list and their comments were kept to a certain timeframe. He stated that the Commission would likely receive many requests to speak at an open portion of the meeting, but with a periodic open portion, a speakers bureau, and field hearings on regulations, the Commission would have mechanisms for routine receipt of information and commentary from the public. Commissioner McHugh asked Commissioner Stebbins to outline in a memorandum the thoughts he just voiced and bring them back to a future meeting for consideration. Commissioner McHugh stated that he would also like the Commission to consider creating an electronic library with information on the gaming industry as an aid to cities to towns.

Report from Director of Communications and Outreach – Elaine Driscoll stated that she has three proposals from various companies for branding, logo creation, and website issues and may solicit two more. At that point she will have to determine a process for having perhaps two Commissioners meet with her and have a presentation. She is working on the speaker’s bureau and that is going well. She will be getting information out on the Western Mass Forum to maximize attendance.

Speaking Engagements - Before leaving the meeting Chairman Crosby stated that Senator Rosenberg has announced to both caucuses in the Senate that the Commission is willing to go to districts to speak to municipal leadership groups. Senator Pacheco has asked that Chairman Crosby speak in his district. Commissioner Stebbins stated that he has one speaking engagement request to address the Western Mass Eldercare Professionals.

Western Mass Forum – Commissioner Stebbins stated that the date for this forum has been confirmed as August 8 in Springfield at Western New England University. The topics will be community mitigation, tourism, and workforce.

Research Agenda:

See transcript pages 126-152.

Commissioner Stebbins stated that Professor Richard McGowan from Boston College, who was scheduled to speak, is not able to attend today's meeting. He introduced Professor Robert Goodman, who has national expertise in the area of gaming. Professor Goodman addressed the Commission to discuss problem gambling and economic development. He provided his background and stated that in the past he was given a grant from the Ford Foundation which he used to study gambling as a strategy for economic development. He stated that there was no serious economic impact study done in Massachusetts. He provided examples from other states and how gaming impacted their economies.

Commissioner McHugh suspended the 16th Commission meeting to continue the 17th Commission meeting.

Reconvening of Meeting: Commissioner McHugh reconvened the 16th Commission meeting.

Professor Goodman continued his presentation. He stated that in many cases, state governments end up subsidizing casinos when they get into trouble in order to protect jobs, as happened in the racing industry in some states. He said that casino revenues will likely be very high in the beginning, the revenues will then decline and even out, especially as other states, such as New Hampshire, consider adding casinos. He stated that aside from economic impacts, another impact is political change that has happened in the states where gaming was legalized. The casino industries in those states became very powerful political players in the state and the state shifted from being a gambling regulator to a gambling promoter. He advised the Commission to halt the whole process until a serious economic analysis is done to determine the impact on other businesses in the state, and the cost of problem gambling.

A brief recess was taken.

Commissioner McHugh asked if there are were any questions for the Professor. Commissioner Zuniga stated that a Harvard professor who spoke at the problem gambling forum talked about the idea of adaptability. As Commissioner Zuniga recalled, she said that when casinos have come into other jurisdictions there has been an increase in the rate of gambling, and an increase in problem gambling, but after a period of time that trend reverses. Her thesis was that, after the introduction of gaming, the population adapts and problems that occur initially are mitigated. Professor Goodman stated that he is not familiar with the professor's thesis of the studies on which it is based, but is skeptical. Commissioner Stebbins stated that there is a provision in the expanded gaming legislation that gives the Commission authority to promulgate regulations regarding design and construction of gaming facilities. He asked if the Professor knew of any guidelines to follow in the creation of such regulations. Professor Goodman stated that he has no experience in the design of casinos.

Other Business: Commissioner McHugh stated that the commission's consultants from Spectrum alerted the Commission that the Rhode Island Lottery has disseminated an RFP for casino consulting services in two phases. The first deals with the review of documents prepared by consultants to Twin River and Newport Grand, two slot parlors that desire to proceed with

full table games and other issues. The second phase of the RFP is for consulting services if a referendum passes allowing expanded casino gaming in Rhode Island. In effect, the RFP seeks services for the same kinds of tasks as Spectrum is now performing for the Commission in Massachusetts. The question from Spectrum is whether the Commission has any concerns about its responding to the RFP or carrying out the duties and functions if it became the successful bidder. Commissioner Zuniga stated that he does have reservations about a potential conflict. He stated that the engagement with Spectrum is at a critical point because the Commission is formulating a strategic plan and trying to stimulate competition for casino licenses. Their ideas and advice on that strategic plan are critical for Massachusetts. Commissioner Cameron stated that she did not see a clear conflict. She stated that Spectrum has earned the Commission's trust and they could keep the Commission's information separate from the advice they gave to Rhode Island authorities. Commissioner Stebbins stated that he agreed with Commissioner Cameron. Spectrum works with a lot of states but the work does necessarily put them in a conflict with each of those states. Commissioner McHugh stated that he agrees with Commissioner Zuniga and does see the potential for a conflict. He has no doubt in the integrity of the firm, but there is an overlap between the kind of advice they are giving to the Commission and the advice they would be asked to give to those who hired them in Rhode Island. He also expressed concern with the appearance of a conflict by having the Commission's consultant working for a competitor. Commissioner McHugh stated that the Commission will relay to Chairman Crosby, and to Spectrum, the discussion that has taken place today.

Motion made to adjourn, motion seconded and carried 4-0-0.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 17, 2012 Notice of Meeting & Agenda
2. Massachusetts Gaming Commission Meeting Minutes of July 10, 2012
3. Review of Massachusetts State Racing Commission and Industry Report Presented by Annie Allman
4. 7/17/2012 Consultant Memorandum Regarding Wall Street Visits
5. Ombudsman Position Description
6. Massachusetts Gaming Commission Advisory to Massachusetts Communities That May Qualify as "Host" or "Surrounding" Communities Under Massachusetts General Laws Chapter 23 in a Proposal for a Gaming License
7. Massachusetts Gaming Commission Preliminary Budget 2013
8. Biography of Professor Robert Goodman
9. Rhode Island Lottery Request for Information Casino Consulting Services
10. 7/16/2012 Consultant Memorandum regarding Rhode Island RFI

/s/ James F. McHugh
James F. McHugh
Secretary

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes
DRAFT

- Date:** July 17, 2012
- Time:** 3:00 p.m.
- Place:** Division of Insurance
1000 Washington Street
1st Floor, Meeting Room E
Boston, Massachusetts
- Present:** Commissioner Stephen P. Crosby, Chairman (during the first phase of the meeting only)
Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga
- Absent:** Chairman Crosby (during the second phase of the meeting only)

Call to Order:

See transcript pages 2-7.

Chairman Crosby opened the 17th Commission meeting at 3:00 PM. He stated that this meeting was scheduled to entertain public comment on the Commission's transition from Emergency Racing Regulations to Permanent Racing Regulations.

There was no one present to comment on these regulations. Chairman Crosby stated that this meeting will be suspended and if anyone comes in who wants to discuss these regulations the meeting will be reconvened.

Nina Pickering-Cook of Anderson & Kreiger asked if the Commission has received any written comments on the regulations. Commission McHugh stated that the Commission received no written comments.

Motion made by Commission McHugh to suspend the 17th Commission meeting and return to the 16th Commission meeting. Motion seconded by Commissioner Cameron. The motion passed by a 5-0-0 vote.

Commissioner McHugh reconvened the 17th Commission meeting in Chairman Crosby's absence. He asked if anyone present wished to make comments on these regulations. Hearing no response and that it was now shortly after 4:00 PM, Commissioner McHugh stated that he would make motions designed to promulgate the permanent racing regulations.

Motion made by Commissioner McHugh that the Gaming Commission issue an amended small-business impact statement pursuant to General Laws 38 Section 5 regarding proposed 205CMR 13:00 in substantially the form that is part of the packet that has been distributed to all of the Commissioners and to those here in the audience, and to authorize Commissioner Cameron to take any action she may deem appropriate to finalize and submit said statement to the Secretary of the Commonwealth and to publish the statement on the Commission's website and the Massachusetts Register of the Secretary of the Commonwealth or otherwise. Motion seconded by Commissioner Stebbins. The motion passed by a 4-0-0 vote.

Motion made by Commissioner McHugh that the Gaming Commission promulgate the proposed regulation 205CMR 13:00 to provide for the orderly transition of the regulation of horseracing, harness horseracing, pari-mutuel wagering, simulcasting, and the humane handling, care, treatment, and transportation of racing greyhounds, and related subject matters, from the Massachusetts State Racing Commission to the Massachusetts Gaming Commission in substantially the form, again, that has been distributed to all Commissioners and is part of the packets distributed to all in attendance, and to authorize Commissioner Cameron to take all necessary action, including without limitation, filing the regulations with and making any corrections as may be necessary to conform to the requirements of the Massachusetts Secretary of the Commonwealth for proper promulgation of these regulations. Motion seconded by Commissioner Zuniga. The motion passed by a 4-0-0 vote.

Attorney Pickering-Cook stated that she will take the next steps necessary, in conjunction with Commissioner Cameron, to get these matters filed with the Secretary of State.

Motion made to adjourn, motion seconded and carried 4-0-0.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 17, 2012 Notice of Public Hearing
2. Proposed 205 CMR 13:00: Massachusetts Gaming Commission's Regulations and Memoranda

/s/ James F. McHugh
James F. McHugh
Secretary

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes
DRAFT

Date: July 26, 2012

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-B
Boston, Massachusetts

Present: Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: Commissioner Stephen P. Crosby, Chairman

Call to Order:

Commissioner McHugh opened the 18th public meeting in Chairman Crosby's absence.

Approval of Minutes:

See transcript page 3.

Commissioner McHugh stated that the minutes for July 17 have not been distributed and will be voted on at the next Commission meeting.

Administration:

See transcript pages 3-18.

Executive Director Search Update – Commissioner Stebbins stated that JuriStaff has called an initial contact and outreach list of approximately 50 contacts to gauge interest and collect additional names. Initial quotes have been submitted for an ad to be published in industry publications. After discussion, however, they have decided to not to buy an ad at this point, as there are free media that can be utilized for advertising. The position also will be posted on job search websites like Monster and Careerbuilder. Elaine Driscoll has been involved in discussions regarding creating a PowerPoint presentation about the Gaming Commission that a prospective candidate can review to gain information about the position. Commissioner Stebbins stated that a few revisions have been made to the job description. Commissioner Cameron stated that a decision will have to be made relative to whether the racing responsibilities should be included in this position, or whether a separate Executive Director should be hired solely for racing. Commissioner Stebbins stated that he does see the Executive Director as having some

responsibility for racing and language in the current the job description indicates such responsibility. Commissioner Cameron stated that she was comfortable with leaving that language in the job description. It was the consensus that the Commission would move forward with the current Executive Director job description.

Commissioners McHugh and Stebbins reported that they had had had a discussion with the Attorney General's office regarding the ability to keep the names of candidates confidential. Two strategies were discussed, the first having one Commissioner involved in the interview process and the second having a subcommittee of two Commissioners. Their discussions with the Attorney General revealed that both strategies would afford confidentiality to the candidates, although the subcommittee strategy would be somewhat more complicated. Commissioner McHugh stated that he would like to wait until Chairman Crosby is present to make a decision on this matter.

Additional Hires – Commissioner Zuniga stated that he drafted a job description for a staff attorney. He is in the process of getting quotes from three search firms and will have an update on this process soon.

Discussion of MGC Internal Policies – Commissioner Zuniga stated that he distributed the first draft of the employee manual which consists of six chapters. Eileen Glovsky, the Commission's new Director of Administration, has reviewed this and provided comments. No vote will be taken on the manual until Chairman Crosby returns.

Project Management Consultant – Commissioner Zuniga stated that a contract has been executed with the consultant, PMA, and they have begun working on the database.

Racing Division:

See transcript pages 18-36.

Update – Commissioner Cameron stated that she has prepared a memo outlining the next steps based on the racing consultant's recommendations. She has assembled a group of volunteers who have agreed to participate in a working group to help facilitate the implementation process. Annie Allman has agreed to coordinate this working group. Commissioner Cameron also stated that she recommends that the Commission post for an Executive Director of Racing. Commissioner Zuniga stated that facilitation of the working group was not included in the scope of Ms. Allman's original contract so he will be working on the process of extending her current contract with the Commission. Commissioner McHugh stated that he would like to have a greater understand of how the working group will interact with the Commission. He would also like to discuss how the Executive Director position would be integrated into the Commission.

Commissioner Cameron summarized two adjudicatory hearings she recently held. The first hearing, held on July 22, 2012, was an appeal by Ramon Antonio Acevedo Fuentes, formerly a licensed groom at Suffolk Downs, who was ejected in 1995, and whose license was suspended in 2010. Commissioner Cameron has tentatively decided to uphold the ejection and suspension.

The appellant will be given notice that he has 30 days to seek reconsideration of this tentative decision. The second hearing, held on July 19, 2012, was an appeal by Jacqueline B. Davis, a licensed jockey, who was suspended for three calendar days and disqualified from her second place finish in a race that was held on June 23, 2012, based on a ruling that she crowded other horses during a race in violation of Commission regulations. Commissioner Cameron has tentatively decided to uphold the three day suspension and disqualification. The appellant will be given notice that she has 30 days to seek reconsideration of this tentative decision. Commissioner Cameron filed these two decisions with the full Commission.

Commissioner Cameron provided a summary of the New Commissioner Training she attended in Saratoga, which was a very informative and comprehensive program.

Project Work Plan:

See transcript pages 36-69.

Consultant Status Report – Commissioner Zuniga stated that the Commission has the ability to extend the consultants’ contracts for the same type of activities that the Commission procured initially. He has asked the consultants to provide him with a plan for the months subsequent to September 30 for budgeting purposes.

Commissioner McHugh stated that the Commission is currently working under a schedule that will allow for the Phase 1 application to be ready for mid-October. In order to do this the regulations that govern the application process will have to be in place, as well as regulations that deal with Commission structure that is necessary to have in place to support the application process. The present schedule calls for these regulations to be in the hands of the Secretary of State so that they can be published by the end of September. He provided the Commission with a memorandum outlining policy issues that have to be worked on, with a goal of having the draft regulations finalized by the August 7 Commission meeting. He summarized those issues that are still outstanding and his recommendations on policies the Commission should adopt. The outstanding issues included: early funding for host or surrounding communities; empowering staff to make final decisions; ability to deviate from Commission regulations; political contributions made by applicants; code of ethics; qualification of applicants; graded qualifications; ability to ask for supplemental information once an application is filed; requesting supplemental information not relevant to the application; the role of the Bureau in making findings on violations of the statute or regulations; finality of deadlines; withdrawal of applications; filing fees; adjudicatory proceedings; pre-application consultations; notice to the public of identity of the applicants; and hearings.

Technical and Other Assistance to Communities – Commissioner Stebbins stated that the Ombudsman position has been posted and several resumes have been received. The job description was also forwarded to some of the Regional Planning Agencies, as well as Mass Development. His goal is to allow a couple of weeks for resumes to come in and then narrow down the finalists.

Commissioner McHugh asked if the Commission had any questions about the protocol for interaction with state agencies or the community advisory which were discussed at the last Commission meeting. Commissioner Stebbins stated that he hopes the state agencies and applicants respect this protocol and go through the appropriate channels. He stated that it is his opinion, that, after gaming licenses are issued, there will still be a role for the ombudsman to serve as an advocate for the Commission and the developer to see the regulatory process through. Commissioner McHugh stated that there is a lot more work to be done on thinking through the post license piece.

Charitable Gaming:

See transcript pages 69-77.

Status Report – Commissioner McHugh stated that he has prepared a draft memorandum with a report to the legislature regarding charitable gaming. As of July 31, 2012, the Commission is responsible for regulating bazaars run by charitable organizations. He summarized the report for the Commission. There are four types of charitable gaming in Massachusetts, beano (bingo), charitable gaming tickets, bazaars, and raffles. Beano and charitable gaming tickets account for 73% of the gross amount wagered in charitable gaming. The total is \$75 million, of which \$18 million is retained by the charities. A large portion of the difference is given back in the form of prizes, and the rest goes to expenses and taxes. The Lottery Commission has historically regulated beano and charitable gaming tickets. Anyone who has a beano license can run a bazaar or raffle and the Lottery Commission regulates these as well. Bazaars and raffles not overseen by the Lottery Commission are overseen by the Attorney General. Both entities have issued regulations though in many respects the regulations are not consistent. The draft report recommends that all charitable gaming be consolidated under the Lottery Commission. If the Gaming Commission agrees, then if the Commission would work with the Lottery, the Treasury and the Attorney General to prepare legislation and regulations that would become effective at the beginning of fiscal year 2014. Commissioner Zuniga stated that he agrees with the proposed plan and is happy to see consensus with the other agencies as well. Commissioner Cameron stated that she agrees that housing this with one agency makes a lot of sense. Commissioner Stebbins agreed as well. Commissioner McHugh stated that he will move forward to finalize this report and have it ready for approval at a future meeting. It was decided to have a Commission meeting on July 31, 2012, with consideration of the report being the only agenda item.

Finance/Budget Update:

See transcript pages 77-79.

Commissioner Zuniga stated that he submitted to the Commission a preliminary budget for FY 2013 and is currently working on putting that budget in the object codes of MMARS, which is the accounts payable system, and will help the Commission track the budget. Director Glosky has been helping with this and he is contemplating having a budget ready for approval at the August 7 Commission meeting.

Public Education and Information:

See transcript pages 79-96.

Community Outreach/Responses to Requests for Information – Commissioner Stebbins stated that he has prepared a memorandum outlining how the Commission can deal with speaking requests and has put these requests into four categories. He has obtained input from Janice Reilly, as well as Director Driscoll, to incorporate his thoughts with the speakers bureau she is developing. He asked the Commission to review the memorandum and provide feedback at a future meeting.

Report from Director of Communications and Outreach – Director of Communications Elaine Driscoll stated that she has been working on a speaker's bureau and after conducting an audit of other agencies with successful speaker's bureaus, she developed a number of criteria, including a minimum of 30 attendees and submission of requests for speakers 30 days in advance. She has created a request form on the Commission website. She also has put together a press release, as well as releases for Twitter, Facebook, and e-mail, to let people know about the bureau. She stated that she is getting far along in the process of finding a company to create a logo, website, and brochure. She is hoping to create a subcommittee to choose the final three proposals, with the goal of having this work completed by September. By consensus, the Commission decided that those who wish to speak at a public Commission meeting should be submit a request via the Commission website. Director Driscoll will review the request and, if appropriate, facilitate the appearance of the person who made it.

Western Mass Forum – Commissioner Stebbins stated that this forum will be held on Wednesday, August 8 in Springfield at Western New England University. The topics will be community mitigation, tourism, and workforce development and job training.

Research Agenda:

See transcript pages 96-99.

Commissioner Zuniga stated that he met with the Inspector General's staff to get more information about entering into an interagency service agreement with U. Mass for some of the research that the legislation requires. The commission agreed to initiate an RFI process identifying the sections in the expanded gaming legislation that describe the baseline study. The hope is that U. Mass, as well as other institutions, may respond.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission July 26, 2012 Notice of Meeting & Agenda
2. Position Description: Executive Director

3. July 26, 2012 Memorandum Regarding Racing Division Workgroup
4. Tentative Decision and Order of Suffolk Steward Ruling No. 1011

5. Tentative Decision and Order of State Police Ejection and Suffolk Steward Ruling 1059
6. Protocol For Prospective Gaming Developers' Interactions with Massachusetts Agencies
7. July 26, 2012 Memorandum Regarding Policy Questions in Connection with the Draft Phase 1 Regulations
8. Draft of Charitable Gaming Massachusetts Gaming Commission Report to the Legislature
9. July 18, 2012 Memorandum Regarding Meeting/Speaking Request Policy, Public Speak-Out and Expert Testimony
10. July 25, 2012 Memorandum Regarding Speakers Bureau

/s/ James F. McHugh
James F. McHugh
Secretary

Massachusetts Gaming Commission Possible Executive Director Search Scenarios

Scenario one: Responsibility for screening process delegated to one Commissioner

The Commission has hired a search firm to assist with searching for and screening candidates for the position of permanent Executive Director. The search firm will separately interview individual Commissioners to obtain their thoughts regarding the contents of the job description. After those interviews, the search firm will appear in a public session to present to the Commission its thoughts with respect to that content, the structure the firm intends to use to conduct the search, the time frame within which is anticipated the search will be carried out and other structural aspects of the search. The Commission will approve those details in a public session.

In a public session, the Commission will also designate a single Commissioner to work with the search firm in carrying out the search. The appointed Commissioner will interact with the search firm on a regular basis, will review all resumes and other components of applications submitted to him or her by the search firm, will conduct screening interviews of some applicants, and, with the assistance of the search firm, will recommend several finalists for interviews by the full Commission. The single Commissioner may periodically consult with others as the search progresses. Nevertheless, control of the search process and selection of the finalists will be the sole responsibility of the designated Commissioner. From time to time, the search firm may appear before the Commission to discuss the search's progress, albeit in a manner that does not disclose the identities of applicants.

Applicants will be told that they may include in the covering letter they submit with their application a request that all of their application materials remain confidential. Whether or not an applicant make such a request, all application materials submitted by applicants other than the candidate who is hired will be exempt from public disclosure under the personnel records exemption embodied in G.L. c. 7, § 4, twenty-sixth (c).

Scenario two: Responsibility for screening process delegated to a screening subcommittee

The Commission has hired a search firm to assist with searching for and screening candidates for the position of permanent Executive Director. The search firm will separately interview individual Commissioners to obtain their thoughts regarding the contents of the job description. After those interviews, the search firm will appear in a public session to present to the Commission its thoughts with respect to that content, the structure the firm intends to use to conduct the search, the time frame within which is anticipated the search will be carried out and other structural aspects of the search. The Commission will approve those details in a public session.

In a public session, the Commission will designate a subcommittee consisting of two Commissioners and perhaps others to work with the search firm in carrying out the search. The subcommittee will interact with the search firm on a regular basis, will review all resumes and other application components submitted to it by the search firm, will conduct screening interviews of some candidates and, with the assistance of the search firm, will recommend several finalists for interviews by the full Commission. Although the subcommittee will work closely with the search firm in the screening process, control of that process and selection of the finalists will be the sole responsibility of the subcommittee. From time to time, the search firm may appear before the Commission to discuss the search's progress, albeit in a manner that does not disclose the identities of applicants.

Applicants will be told that they may include in the covering letter they submit with their application a request that all of their application materials remain confidential and the reason for their request. If, as is likely, it appears that public subcommittee screening interviews will have a detrimental effect on the Commission's ability to attract qualified applicants, the screening interviews will take place in an executive session following a posted notice of a subcommittee meeting.

All application materials submitted by applicants other than the candidate who is hired will be exempt from public disclosure under the personnel records exemption embodied in G.L. c. 7, § 4, twenty-sixth (c). Minutes of the subcommittee meetings will not be available for public inspection until the Executive Director has been hired. At that point, the Attorney General's position is that the purpose for confidentiality of the minutes has ended. However, when the minutes are made public, the names of the candidates may be redacted as may any portions of the minutes that would tend to reveal the candidate's identity. Application materials would remain exempt from disclosure even after the minutes became public.

Both Scenarios

The search committee will select finalists – presumptively three – who will undergo background investigations. After they clear the background investigations, the Commission will interview them in a public session following which the Commission will vote, again in a public session, on the candidate whom it wishes to hire.

Position: Director of Racing Massachusetts Gaming Commission (MGC) (August 2012)

Scope

The Director of Racing shall be appointed by and serve at the pleasure of the Commission, directly reporting to the Executive Director. The Director of Racing will be the operational and administrative head of the MGC Racing Division and shall be responsible for executing, administering and enforcing the provisions of law relative to the MGC Racing Division.

The Director of Racing shall oversee and be the responsible regulatory authority for all racing related activities. This authority and responsibility shall also include licensing, compliance, investigatory and enforcement oversight.

The Director of Racing shall be responsible for staffing, establishing, maintaining, and changing administrative units as may be appropriate, subject to the approval of the Commission and Executive Director. The Director plans, directs, executes, and coordinates all racing activities and assists the Commission and Executive Director in adopting regulatory reform according to best practices in the industry.

The Director of Racing shall be responsible for fostering the principles of the Mission Statement among the staff and all stakeholders. These principles include assisting with the creation of a fair, transparent and participatory process for implementing the expanded Commonwealth gaming law while seeking to provide economic development benefits and revenues to the people of the Commonwealth and reduce, to the maximum extent possible, the potentially negative or unintended consequences of the new legislation as it relates to racing.

General Duties and Responsibilities

Under the supervision of the Commission and Executive Director:

- a) Maintains efficient and effective day-to-day operations of the Racing Division of the MGC, its employees, and agents
- b) Manages and employs a diverse group of employees
- c) Oversees the implementation of regulatory reform to include the adoption of the ARCI Model Rules of Racing and other best practices in the industry
- d) Develops administrative procedures, and internal controls for the MGC Racing Division, which ensures the highest integrity and efficiency
- e) Establishes relationships and credibility for the MGC, with local, state and federal agencies and all other stakeholders in the racing industry in the Commonwealth

- f) Attends and participates in all Commission meetings and works with staff to manage correspondence and communication with all racing matters reflecting the official actions of the Commission and assists the Commissioners in all functions as needed
- g) Develops and administers appropriate training for MGC Racing Division Staff, ensuring all are competent and knowledgeable of all regulations, laws and policies and procedures
- h) Oversees the development and preparation of the MGC Racing Division budget
- i) Reviews operations to assess performance against budget and legal requirements, and implements corrective action as necessary
- j) Attends trade shows, racing seminars and other events necessary to maintain knowledge of current racing issues. Interacts effectively with National racing officials with regard to policy updates
- k) Performs other such duties which may be deemed necessary to effectuate the plans of the MGC

Minimum Qualifications

- a) At least five years of relevant experience in management
- b) A bachelor's degree required, professional degree preferred
- c) Regulatory experience in the racing industry or other regulatory compliance experience
- d) Excellent management and communication skills
- e) Candidate will be subject to an extensive background investigation, including a pre-employment drug screen

Candidate Knowledge and Preferred Abilities

- a) Significant knowledge of racing regulatory requirements
- b) Demonstrated competence in management of varied staff
- c) Excellent track record of communication skills with private industry and public agencies including law enforcement, legal authorities and other stakeholders
- d) Excellent judgment of the character and potential of employees, and experience in recruiting, mentoring, promoting and retaining a diverse group of talented colleagues
- e) Highest level of good character, honesty, and integrity
- f) Capable of handling many tasks that are time sensitive in pressure situations
- g) Demonstrated ability to work at a highly independent level
- h) Ability to maintain a steady state of operation as an entity's infrastructure evolves
- i) Ability to influence and build consensus amongst competing interests within the organization and when dealing with stakeholders and the public
- j) Ability to keep all stakeholders informed and engaged
- k) Attention to detail and ability to implement plans efficiently and effectively
- l) Ability to summarize and disseminate important details in a timely manner
- m) Exceptional writing skills

- n) Ability to understand statistical information
- o) Ability to read, analyze and interpret business and financial reports

Salary commensurate with experience.

Please submit cover letters and resumes to:

Janice Reilly
Chief of Staff
Massachusetts Gaming Commission
84 State Street, Suite 720
Boston, MA 02109
617-979-8402
janice.reilly@state.ma.us

It is the policy of the MGC and the Commonwealth of Massachusetts to afford equal employment opportunities to all qualified individuals, without regard to their race, color, ancestry, religion, sex, sexual orientation, national origin, age, physical or mental disability, citizenship status, veteran status, gender identity or expression, or any other characteristic or status that is protected by federal, state or local law.

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205 CMR: MASSACHUSETTS GAMING COMMISSION

101.00: MGL c. 23K ADJUDICATORY PROCEEDINGS

- 101.01: Hearings before the Commission
- 101.02: Hearings before the Bureau
- 101.03: Special Procedures for Hearings before the Commission
- 101.04: Special Procedures for Hearings before the Bureau

102.00: CONSTRUCTION AND APPLICATION

- 102.01: Authority
- 102.02: Definitions
- 102.03: Construction and Amendments
- 102.04: Words and Terms; Tense, Number and Gender
- 102.05: Computation of Time
- 102.06: Effective Date

103.00: ACCESS TO AND CONFIDENTIALITY OF COMMISSION RECORDS

- 103.01: Purpose, Authority and Applicability
- 103.02: Availability of Public Records
- 103.03: Official Custodians; Individual Responsible for Personal Data System
- 103.04: Determinations by the Official Custodian, the General Counsel and the Commission
- 103.05: Effect of Requests for Confidentiality
- 103.06: Postponing Denial of Confidentiality Pending Appeal
- 103.07: When Confidential or Exempt Information May Be Disclosed by the Commission
- 103.08: Confidential Information Subject to Promise of Confidentiality
- 103.09: Information Provided in Response to Requests for Applications – Phase 1
- 103.10: Requests for Protecting Confidential Information Defined in 205 CMR 102.02(2)
- 103.11: Procedure for Acting on Requests for Protecting Confidential Information
- 103.12: Reconsidering Confidentiality Determinations
- 103.13: Executive Session Consideration of Confidential or Exempt Information
- 103.14: Security Protocols; Restricted Access
- 103.15: Records Retention

104.00: DELEGATION OF COMMISSION AUTHORITY

- 104.01: Delegation of Commission Authority
- 104.02: Delegation of Chair's Authority

105.00: INVESTIGATIONS AND ENFORCEMENT BUREAU

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- 105.01: Duties and Responsibilities
- 105.02: Subpoena Power
- 105.03: Authority to Require Testimony under Oath
- 105.04: Orders and Directives
- 105.05: Civil Penalties
- 105.06: Seizure of Unlawful Devices, Games or Machines
- 105.07: Coordination with the Massachusetts State Police
- 105.08: Coordination with the Massachusetts Attorney General
- 105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission
- 105.10: Authority to Retain and Utilize Contractor Investigators

106.00 INFORMATION AND FILINGS

- 106.01: Offices; Hours
- 106.02: Communications; Notices
- 106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes
- 106.04: Petitions for Adoption, Amendment or Repeal of Regulations
- 106.05: Advisory Services and Advisory Rulings

107.00 PROFESSIONAL PRACTICE

- 107.01: General Provisions
- 107.02: The Practice of Law
- 107.03: Notice of Appearance by Attorney

108.00 COMMUNITY AND POLITICAL CONTRIBUTIONS

- 108.01: Statement of Governing Principles
- 108.02: Prohibited Political Contributions and Solicitations
- 108.03: Mandatory Disclosure of Political Contributions and Community Contributions

109.00

[Reserved]

110.00 REQUEST FOR APPLICATIONS - PHASE ONE

- 110.01: Phased Process for Request for Applications
- 110.02: Timing of the RFA-P1 Process

111.00 PHASE 1 APPLICATION REQUIREMENTS

- 111.01: Phase 1 Application Requirements

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- 111.02: Business Entity Disclosure Form - Category 1 & Category 2 Entity Applicants and Holding/Intermediary Companies
- 111.03: Multi-Jurisdictional Personal History Disclosure Form
- 111.04: Massachusetts Supplement Form
- 111.05: Withdrawal of Application

112.00 REQUIRED INFORMATION AND APPLICANT COOPERATION

- 112.01: Additional Information
- 112.02: Obligation to Cooperate
- 112.03: Obligation to Provide Truthful Information

113.00 APPLICATIONS FOR RENEWAL

[Reserved]

114.00 FEES

- 114.01: Application Fees
- 114.02: Payment of Application Fees
- 114.03: Community Disbursements
- 114.04: Additional Fees for Investigations
- 114.05: Non-refundable Application Fees

Field Code Changed

115.00 STANDARDS FOR LICENSURE, QUALIFICATION AND SUITABILITY

- 115.01: Phase 1 Determination Standards
- 115.02: Phase 1 Procedures
- 115.03: Phase 1 Investigation and Recommendations by the Bureau
- 115.04: Phase 1 Proceedings by the Commission
- 115.05: Phase 1 Determination by Commission

116.00 PERSONS REQUIRED TO BE LICENSED OR QUALIFIED

- 116.01: Persons Required to be Licensed
- 116.02: Persons Required to be Qualified
- 116.03: Notification of Anticipated or Actual Changes in Directors, Officers or Equivalent Qualifiers
- 116.04: Notification of New Financial Sources
- 116.05: Notification Concerning Certain New Qualifiers of Holding, Intermediary or Subsidiary Companies and New Qualifying Entities
- 116.06 Qualification of New Qualifiers

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117.00 DETERMINATION OF FINANCIAL STABILITY

118.00
[Reserved]

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101.00: M.G.L. c. 23K ADJUDICATORY PROCEEDINGS

Section

101.01: Hearings before the Commission

101.02: Hearings before the Bureau

101.03: Special Procedures for Hearings before the Commission

101.04: Special Procedures for Hearings before the Bureau

101.01: Hearings before the Commission

(1) Except as set forth in M.G.L. c. 23K and 205 CMR 101.03, the Commission will conduct the following types of adjudicatory hearings in accordance with the procedures in 801 CMR 1.01 of the Standard Rules of Adjudicatory Practice and Procedure:

- (a) Hearings before the Commission pursuant to M.G.L. c. 23K, § 17(f), to contest any findings of fact by the Bureau relative to the suitability of the applicant for an initial gaming license or the renewal of a gaming license, including without limitation, recommendations and recommended conditions resulting from the RFA-1 Process pursuant to 205 CMR 115 and the RFA-2 Process described in 205 CMR 110.

(2) Nothing in 205 CMR 101.00 shall govern or affect hearings conducted pursuant to 205 CMR 1.00 through 13.00.

101.02: Hearings before the Bureau

(1) Except as set forth in M.G.L. c. 23K and 205 CMR 101.00, the Bureau will conduct the following types of hearings in accordance with the procedures in 801 CMR 1.01 of the Standard Rules of Adjudicatory Practice and Procedure:

- (a) Hearings before the Bureau pursuant to M.G.L. c. 23K Section 30(g) to contest the findings of the Bureau relative to a key gaming employee license or a renewal application with respect thereto; and
- (b) Hearings before the Bureau pursuant to M.G.L. c. 23K, Section 31(h) to contest the findings of the Bureau relative to a gaming vendor license application or renewal.

(2) Except as set forth in M.G.L. c. 23K and 205 CMR 101.00, the Bureau will conduct the following types of hearings in accordance with the informal procedures in 801 CMR 1.02 of the Standard Rules of Adjudicatory Practice and Procedure:

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- (a) Hearings before the Bureau pursuant to M.G.L. c. 23K, § 30(g) to contest the findings of the Bureau relative to a gaming employee license, or a gaming service employee registration or a renewal application with respect thereto; and
- (b) Hearings before the Bureau pursuant to M.G.L. c. 23K, § 31 to contest the findings of the Bureau relative to non-gaming vendor registration.

101.03: Special Procedures for Hearings before the Commission

(1) **Hearings Concerning Phase 1 Determinations of Suitability:** For hearings before the Commission pursuant to M.G.L. c. 23K, § 17(f) and 205 CMR 101.01(1)(a) concerning the Bureau's Phase 1 recommendations and findings of fact pursuant to 205 CMR 115, the following provisions of M.G.L. c. 23K and 205 CMR 101.00 shall supersede any conflicting provisions of 801 CMR 1.01:

- (a) **Standing:** No person other than an aggrieved applicant shall have automatic standing to participate in the hearing under 205 CMR 101.03(1)(a).
- (b) **Presiding Officer:** Pursuant to M.G.L. c. 23K § 3(h), the Chair may direct that all of the commissioners participate in the hearing and decision of the matter before the Commission. In the alternative, pursuant to M.G.L. c. 23K § 3(h), the Chair with the concurrence of one other commissioner may appoint a Presiding Officer to preside over the hearing. The notice scheduling the time and place for the Pre-Hearing Conference shall specify whether the Commission or a designated individual shall act as Presiding Officer in the particular case.
- (c) **Burden of Proof:** The applicant shall have the affirmative obligation to establish by clear and convincing evidence both its affirmative qualification for licensure and the absence of any disqualification for licensure.

101.04: Special Procedures for Hearings before the Bureau

(1) **Formal Hearings:** For hearings before the Bureau pursuant to 205 CMR 101.02(1), the following provisions of M.G.L. c. 23K and 205 CMR 101.00 shall supersede any conflicting provisions of 801 CMR 1.01:

- (a) **Standing:** Same as 205 CMR 101.03(1)(a).
- (b) **Presiding Officer:** The Deputy Director shall appoint a Presiding Officer to preside over the hearing who may be any of the following:
 - i. An attorney from the Commission, the Bureau, or the attorney general's office;
 - ii. An outside counsel;

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- iii. An administrative law judge from the Massachusetts Division of Administrative Law Appeals;
- iv. A retired Massachusetts or federal judge.

- (c) Burden of Proof: Same as 205 CMR 101.03(1)(c).
- (d) Decision: Pursuant to M.G.L. c. 23K, § 4(15), in its decision after the hearing, the Bureau may approve, deny, limit, condition, restrict, revoke or suspend such finding of suitability, license or renewal as the Bureau deems reasonable to effectuate the purposes of M.G.L. c. 23K. Any orders by the Bureau denying an application, determination of suitability, license, or renewal shall be accompanied by an explanation of the reasons that an applicant did not meet the qualifications for licensure under M.G.L. c. 23K.
- (e) Notice of Decision: The Bureau shall notify the applicant in person or by mail of the decision, of the applicant's right to appeal the decision to the Commission and of the 30 day time limit on the right to appeal.
- (f) Appeal to Commission from Bureau Decision: An applicant aggrieved by a decision of the Bureau after a hearing pursuant to 205 CMR 101.04 may appeal that decision to the Commission by filing a notice of appeal within 30 days of the date of the Bureau's notice of decision under 205 CMR 101.04(i). The notice of appeal shall be filed with the Commission at its main office and a copy shall be simultaneously transmitted to the Bureau.
- (g) Record Review: The Commission shall hear and decide any appeal under 205 CMR 101.04(j) on the record of the Bureau's hearing under 205 CMR 101.04(1).
- (h) No Further Review: The decision of the Commission on any appeal under 205 CMR 101.04(1)(j) shall be final and the applicant shall not be entitled to further review.
- (i) Waiver: If no hearing is timely requested concerning the Bureau's decision under 205 CMR 101.04(1)(a), or if no appeal is timely filed from the Bureau's decision after a hearing under 205 CMR 101.04(1)(j), then the Bureau's decision shall be the final decision of the Commission and the applicant shall not be entitled to further review.

REGULATORY AUTHORITY

205 CMR 101.00: M.G.L. c. 7, § 4H; c. 23K, §§ 3(h); 4(15),(28)(29)(37); 5;13; 17(f), (g); 30(g); 31; 35(g); and 36(c), (d), (e), (f); c. 30A.

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205 CMR 102.00: CONSTRUCTION AND APPLICATION

Section

- 102.01: Authority
- 102.02: Definitions
- 102.03: Construction and Amendments
- 102.04: Words and Terms; Tense, Number and Gender
- 102.05: Computation of Time
- 102.06: Effective Date

102.01: Authority

205 CMR are issued pursuant to M.G.L. c. 23K, §§ 4(37) and 5, unless otherwise specified.

102.02: Definitions

(1) As used in 205 CMR 101.00 through 118.00 the following words and shall have the corresponding meaning as defined in M.G.L. c. 23K, § 2, unless the context clearly requires otherwise:--

Affiliate

Applicant

Application

Bureau

Business

Category 1 license

Category 2 license

Capital expenditure

Cashless wagering system

Chair

Cheat

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Cheating and swindling device or Cheating and swindling game

Close associate

Commission

Commissioner

Complimentary service or item

Conservator

Credit card

Credit instrument

Division

Executive Director

Gambling

Game

Gaming

Gaming area

Gaming device or gaming equipment

Gaming employee

Gaming establishment

Gaming license

Gaming licensee

Gaming position

Gaming service employee

Gaming vendor

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Gaming vendor license

Governing body

Gross revenue or gross gaming revenue

Holding company

Host community

Impacted live entertainment venue

Institutional investor

Intermediary company

Junket

Junket enterprise

Junket representative

Key gaming employee

License

List of excluded persons

Lottery

Major policymaking position

Non-gaming vendor

Operation certificate

Person

Promotional gaming credit

Qualification or qualified

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Rewards card

Slot machine

State Police

Subsidiary

Surrounding communities

Table game

Transfer

Wager

(2) As used in 205 CMR 101 through 117, the following additional words and phrases shall have the following meaning, unless the context clearly requires otherwise:--

Bureau decision is defined in 205 CMR 115.03 and 101.00.

Bureau hearing is defined in 205 CMR 101.02.

Business entity disclosure form ("BED") is defined in 205 CMR 111.01(3).

Candidate means a person seeking nomination or election to any local, county, or Commonwealth public office in Massachusetts, but shall not include a person seeking nomination or election to any Federal public office.

Chief executive officer means (1) As to gaming licensees or applicants the natural person who is ultimately responsible for the daily conduct of the gaming establishment business of one or more affiliated gaming licensees or applicants, regardless of the form of business association of the gaming licensee or applicant or the particular title which that person or any other person holds; and (2) As to gaming vendor licensees or applicants, the natural person who bears ultimate responsibility for the organization and business activities of the enterprise.

Chief financial and accounting officer means the chief financial and accounting officer of the Commission.

Community contribution means a political contribution or contribution in kind made by an applicant for a gaming license to a municipality or a municipal employee as allowed by M.G.L. c. 23K, § 47.

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Competitively-sensitive information means all records which are, and those portions of records which contain, confidential personal or business information which if made publicly available would have a reasonable likelihood of placing a person at a competitive disadvantage, or be detrimental to or otherwise cause substantial damage or irreparable harm to the person such as identity theft, industrial espionage, unfair competition, or similar adverse consequences. Competitively-sensitive information includes without limitation social security numbers, passport numbers and other unique identifying information, research and development information, financial records, banking or lending records, mortgage and credit history, lists of customers or business contacts, pricing information and any other unique information, methodology, technique, system, or feature which is restricted by appropriate security measures in the ordinary course to the individual or person or to top management, counsel, research and development staff, and expert consultants only.

Confidential Information means all records which are, and those portions of records which contain, (1) trade secrets, competitively-sensitive information and other proprietary information provided to the Commission, the Bureau, and their agents and employees in the course of an application or an investigation; and (2) trade secrets and other information protected from public disclosure by a nondisclosure agreement between the gaming licensee and the Commission pursuant to M.G.L. c. 23K, § 21(7).

Confidentiality claimant means any person who makes a claim that any records, material or information submitted to the Commission, the Bureau, and their agents and employees constitutes Confidential Information.

Contractor Investigator is defined in 205 CMR 105.11.

Contribution means a payment, transfer or pledge of money or a thing of value to or for the benefit of a candidate or political organization.

Dependent person means a person who is:

- (1) An employee or co-employee of a prohibited person;
- (2) An employee or co-employee of a person affiliated with a prohibited person; or
- (3) An enterprise or firm, or an officer, director, partner, owner or principal employee of an enterprise or firm, that is a party to any contract with, or is bidding for or seeking to enter any contract with, or regularly represents or provides services to, a prohibited person.

Deputy director means the deputy director of the Bureau.

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Director of gaming enforcement means the assistant attorney general designated by the attorney general as the director of gaming enforcement pursuant to M.G.L. c. 12, § 11M(b).

Director of security means an employee of a gaming establishment in charge of and with overall supervisory responsibility for security of the gaming establishment.

Director of surveillance means an employee of a gaming establishment in charge of and with overall supervisory responsibility for surveillance at the gaming establishment.

Financial stability is defined in 205 CMR 117.00.

Gaming enforcement unit means the gaming enforcement unit established by the colonel of state police pursuant to M.G.L. c. 22C, § 70.

General counsel means the person designated by the Commission as its general counsel.

Investigatory material means any document, record, transcript, complaint, evidentiary material of any nature, correspondence, memoranda, report, work product, or other information concerning any examination, any investigation (whether formal or informal), or any related litigation, which pertains to or may disclose: (1) the possible violation by any person of any provision of any statute, rule, or regulation administered by the Commission, by any other federal, state, local or foreign governmental authority, by any professional association, or by any securities industry self-regulatory organization as well as all written communications from, or to, any person complaining of or otherwise furnishing information respecting such possible violations; (2) information relating to an ongoing investigation that could potentially alert subjects to the activities of investigative officials; (3) confidential investigative techniques the disclosure of which would prejudice future law enforcement efforts; (4) any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness; and (5) the background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Massachusetts Supplement Form ("PHD-MA-S") is defined in 205 CMR 111.01(3).

Money means cash or instruments that are convertible to cash in any negotiable currency.

Multi-Jurisdictional Personal History Disclosure Form ("PHD-MA") is defined in 205 CMR 111.01(3).

Political contribution means a contribution as defined in M.G.L. c. 55, § 1, except for a community contribution as defined herein.

Political organization means any committee of any political party in this Commonwealth, as

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structured and defined in accordance with the provisions of M.G.L. c. 23K, §§ 46 and 47, or any group committee or association organized in support of such political party or any candidate.

Prohibited person means any applicant for or holder of a gaming license, or any holding, intermediary or subsidiary company thereof; or any officer, director, key gaming employee or qualifier of any of these companies; or any person or agent acting on behalf of any of these companies or persons. This definition shall not include that class of licensees who, pursuant to M.G.L. c. 55, § 7A are allowed to make contributions not to exceed \$200.00 per annum.

Proprietary information means all records which are, and those portions of records which contain personal or business information which, owing to its confidential nature, is in the ordinary course subjected to strict measures to preserve its confidentiality including, confidentiality agreements, non-competition agreements, encryption and password protection for electronic information, restriction of access to those with a need-to-know, and other policies, procedures, security measures or markings designed to protect the secrecy of information and to keep the information strictly confidential.

Qualifier is defined as a person whose qualification must be established in evaluating the suitability of an applicant in accordance with the standards and criteria set forth in M.G.L. c. 23K, § 12(a) and 205 CMR 115.00.

Record means a book, paper, map, photograph, recorded tape, financial statement, statistical tabulation, or any other documentary material or data, regardless of physical form or characteristics.

RFA-P1 or RFA-1 process is defined in 205 CMR 110.

Secretary means the secretary of the Commission.

Security Protocols means the system for securing and preserving the confidentiality of records in accordance with 205 CMR 103.14.

Solicitation means a request, suggestion or recommendation made to a particular person, by any means of communication, that the person make a contribution; provided, however, that a statement to a person expressing support for or opposition to the election of any candidate, or support for or opposition to any political organization, which is made without reference to a contribution or a statement intended for and given public dissemination encouraging all persons to make contributions to any candidate or political organization, is not a solicitation.

Thing of value means:

- (1) An item of real, personal or intellectual property that may be converted into

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money by selling it or pledging it as security for a loan or other advance of funds;

- (2) A loan of assets, property, personnel or facilities for use by a candidate or political organization, such as, without limitation, office space, automobiles, telephones or telephone services, or the time and effort of employees or consultants who are paid by the person making the contribution;
- (3) A personal or professional service that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and that has a value to the candidate or political organization;
- (4) A non-reimbursed expense that is not incidental to the expression of a person's ideological beliefs or membership in a political organization, and is of the type normally incurred by the candidate or political organization; or

Any thing, service, expense or other item of value similar to that identified in paragraphs 1 through 4 above which may be identified by the Commission in an advisory ruling or other appropriate proceeding.

Trade secret means all records which are, and those portions of records which contain, anything tangible or intangible or electronically kept or stored, which constitutes, represents, evidences or records a secret scientific, technical, merchandising, production, manufacturing, or management information, design, process, procedure, formula, invention, method or improvement which its owner considers to be and treats as confidential and which is not available to the public by any other source. This definition shall include anything which is a trade secret pursuant to M.G.L. c. 266, § 30(4).

102.03: Construction and Amendments

- (1) The Commission regulations shall be construed in accordance with generally accepted principles of statutory construction in the Commonwealth, including those set forth in M.G.L. c. 23K.
- (2) 205 CMR shall be liberally construed to permit the Commission and the Bureau to effectively carry out their respective statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission and the Bureau.
- (3) Nothing in 205 CMR shall be construed to conflict with any provision of M.G.L. c. 23K.
- (4) In special cases and for good cause shown, the Commission or Bureau may relax, waive or permit deviations from 205 CMR.

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102.04: Words and Terms; Tense, Number and Gender

In construing 205 CMR, except when otherwise plainly declared or clearly apparent from the context: words in the present tense shall include the future tense; words in the masculine shall include the feminine and neuter genders; and words in the singular shall include the plural and the plural shall include the singular.

102.05: Computation of Time

(1) Unless otherwise specifically provided by law, computation of any time period referred to in 205 CMR 101.00 through 118.00 shall begin with the first day following the act which initiates the running of the time period. The last day of the time period is to be included unless it is a Saturday, Sunday, or legal holiday in which event the period shall run until the end of the next business day. When the time period is seven days or less, intervening Saturdays, Sundays, or legal holidays shall be excluded in the computation. When a time period is greater than seven days each intervening calendar day shall be included in the computation.

(2) Whenever a provision of 205 CMR requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday or Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately following such day or date.

102.06: Effective Date

The effective date of 205 CMR 101.00 through 118.00 is , 2012.

REGULATORY AUTHORITY

205 CMR 102.00: M.G.L. c. 23K, §§ 2, 4(37) and 5.

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205 CMR 103.00: ACCESS TO AND CONFIDENTIALTY OF COMMISSION RECORDS

Section

- 103.01: Purpose, Authority and Applicability
- 103.02: Availability of Public Records
- 103.03: Official Custodians; Individual Responsible for Personal Data System
- 103.04: Determinations by the Official Custodian, the General Counsel and the Commission
- 103.05: Effect of Requests for Confidentiality
- 103.06: Postponing Denial of Confidentiality Pending Appeal
- 103.07: When Confidential or Exempt Information May Be Disclosed by the Commission
- 103.08: Confidential Information Subject to Promise of Confidentiality
- 103.09: Information Provided in Response to Requests for Applications – Phase 1
- 103.10: Requests for Protecting Confidential Information Defined in 205 CMR 102.02(2)
- 103.11: Procedure for Acting on Requests for Protecting Confidential Information
- 103.12: Reconsidering Confidentiality Determinations
- 103.13: Executive Session Consideration of Confidential or Exempt Information
- 103.14: Security Protocols; Restricted Access
- 103.15: Records Retention

103.01: Purpose, Authority and Applicability

205 CMR 103.00 is promulgated pursuant to M.G.L. c. 23K, §§ 4(37), and 5. 205 CMR 103.00 are intended to assure that public access to, and the confidentiality of, records made or received by the Commission are in conformity with M.G.L. c. 23K, § 9(b) and § 21(7); M.G.L. c. 66, § 10; M.G.L. c. 4, § 7, cl. 26; and 950 CMR 32.00.

103.02: Availability of Public Records

All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to 205 CMR 103.00 and 950 CMR 32.00, except the following, which shall be exempt from disclosure to the extent permitted by law:

- (1) all records, including without limitation investigatory materials, specifically excluded from the definition of “public record” pursuant to M.G.L. c. 4, § 7, cl. 26;
- (2) all Confidential Information defined in 205 CMR 102.02(2);
- (3) all records which are or which contain “criminal offender record information”, “evaluative information”, or “intelligence information” pursuant to M.G.L. c. 6, § 167, the disclosure of which would not be in compliance with M.G.L. c. 6, §§ 167 through 178;

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(4) all records which are or which contain “personal data” pursuant to M.G.L. c. 66A, § 1, the disclosure of which would not be in compliance with M.G.L. c. 66A; or which are or which contain “personal information” pursuant to M.G.L. c. 93H, § 1, the disclosure of which would not be in compliance with M.G.L. c. 93H; and

(5) all records specifically or by necessary implication exempted from disclosure by statute including, but not limited to, the exemption (a) statutes listed by the supervisor of public records in the Appendix to the official Guide to the Massachusetts Public Records Law.

103.03: Official Custodians: Individual Responsible for Personal Data System

(1) Pursuant to M.G.L. c. 66, § 6, and M.G.L. c. 23K § 3(f) and (i), subject to the oversight of the Chair, the Secretary shall be the official custodian of all books, documents and papers filed by the Commission and of its minute book; the chief financial and accounting officer shall be the official custodian of its books of account and accounting records; the deputy director shall be the official custodian of all records of the Bureau; and the executive director shall be the official custodian of all other records of the Commission. In the case of an absence or vacancy in the office of an official custodian, or in the case of disability as determined by the Commission, the Chair may designate an acting custodian to serve until the vacancy is filled or the absence or disability ceases. Each official custodian may, with the permission of the Chair, from time to time delegate to another commissioner, employee or employees of the Commission or the Bureau responsibility for the custody of some or all public records under his or her jurisdiction.

(2) Pursuant to M.G.L. c. 66A, § 2, subject to the oversight of the Chair, the executive director shall be the individual immediately responsible for any personal data system maintained by the Commission; the deputy director shall be the individual immediately responsible for any personal data system maintained by the Bureau; and each shall conform to the requirements of M.G.L. c. 66A and 801 CMR 3.00 for preventing unauthorized access to or dissemination of personal data under his or her jurisdiction. In the case of an absence or vacancy in the office of an individual immediately responsible for any personal data system, or in the case of disability as determined by the Commission, the Chair may designate an acting person to serve as the individual immediately responsible for any personal data system until the vacancy is filled or the absence or disability ceases. The executive director or the deputy director may, with the permission of the Chair, from time to time delegate to another commissioner or employee of the Commission or the Bureau immediate responsibility for any personal data system under his or her jurisdiction.

103.04: Determinations by the Official Custodian, the General Counsel and the Commission

(1) No information which is exempt from disclosure under 205 CMR 103.02 or which a confidentiality claimant asserts to be Confidential Information defined in 205 CMR 102.02(2) shall be disclosed in response to any request for public records unless the Commission has expressly so authorized in accordance with 205 CMR 103.00.

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(2) Subject to 205 CMR 103.04(1), the official custodian designated in accordance with 205 CMR 103.03 shall determine whether any particular record within his or her jurisdiction is subject to disclosure as a public record or is exempt from disclosure as described in 205 CMR 103.02(1) through (5). Whenever the official custodian has a doubt or question about whether any particular record is subject to disclosure as a public record or exempt from disclosure as described in 205 CMR 103.02(1) through (5), and whenever any confidentiality claimant asserts in writing that any particular record is exempt from disclosure as described in 205 CMR 103.02(1) through (5), the official custodian shall consult the Commission's general counsel who shall, subject to 205 CMR 103.04(1), resolve such doubt, question or dispute, and such request shall be granted or denied, only in accordance with a written determination signed by the general counsel; provided further that the general counsel may refer any such doubt, question or dispute to the Commission for its resolution.

103.05: Effect of Requests for Confidentiality

Whenever a confidentiality claimant requests in writing that particular records be deemed to be or to contain Confidential Information defined in 205 CMR 102.02(2), such records or information shall be treated as confidential and may not be deemed public records until the confidentiality request has been approved or denied pursuant to 205 CMR 103.04, 103.10 and 103.11.

103.06: Postponing Denial of Confidentiality Pending Appeal

Whenever the Commission denies a request to deem records to be or to contain Confidential Information as defined in 205 CMR 102.02(2) exempt from disclosure as described in 205 CMR 103.02(1) through (5), such denial shall take effect ten days after the date thereof so that any person aggrieved by said denial may appeal to another State agency with jurisdiction over the subject matter thereof, or to a court of competent jurisdiction. During this ten-day period, the records in question shall be treated as confidential and may not be deemed public records. This ten-day period may be extended by the Commission in extraordinary situations. Any extension shall be in writing and signed pursuant to 205 CMR 103.06.

103.07: When Confidential or Exempt Information May be Disclosed by the Commission

(1) Notwithstanding any provision of 205 CMR 103.00 to the contrary, Confidential Information as defined in 205 CMR 102.02(2) and information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5) shall be subject to disclosure by the Commission only:

- (a) to the extent necessary to comply with Federal Law;
- (b) to the extent necessary to comply with or carry out the responsibilities contained in M.G.L. c. 23K or other state law;

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- (c) to the extent necessary for any enforcement action, whether criminal or civil, judicial or administrative;
- (d) upon presentation of proper identification, to the person who furnished the specific information to the Commission; or
- (e) upon presentation of a timely and duly executed and notarized authorization by the person who furnished the specific information to the Commission, to any other person making a written request for the specifically identified information.

(2) If Confidential Information is released or otherwise disclosed to any person under any circumstances other than those identified in (1)(d) and (e) above, written notice of such release or disclosure shall whenever practicable be given to the person who furnished the Confidential Information to the Commission, unless such notice may prejudice the possibility of effective law enforcement or otherwise imperil the integrity of the Commission's operations. To the extent known, the notice shall include:

- (a) The name and address of the person to whom the information was released or disclosed;
- (b) A description of the information released or disclosed; and
- (c) The date of the release or disclosure.

(3) Whenever practicable, any such notice of Confidential Information to be released or disclosed shall be given prior to the release or disclosure to provide an opportunity for review.

103.08: Confidential Information Subject to Promise of Confidentiality

For Confidential Information to be protected from public disclosure by a nondisclosure agreement pursuant to M.G.L. c. 23K, § 21(7) or by other promise of confidentiality pursuant to M.G.L. c. 4, § 7, cl. 26(g), the nondisclosure agreement or other promise of confidentiality must be made in writing and signed by the Chair, the Secretary or a person designated by the Commission.

103.09: Information Provided in Response to Request for Applications — Phase 1

(1) In accordance with M.G.L. c. 23K, § 9(b), an application for a license in response to the Commission's Request for Applications-Phase 1, 205 CMR 110.00, shall be a public record except those portions of the application containing information otherwise exempt from disclosure pursuant to 205 CMR 103.02(1)-(5).

(2) As guidance to applicants and the public, the Commission shall issue a set of specimen annotated application forms and distribute such forms together with the Request for Applications-Phase 1 pursuant to 205 CMR 111.00. These specimen annotated application forms shall designate as "Exempt/Redact" all information or categories of information which, at a minimum, the Commission considers to be exempt from disclosure in accordance with 205 CMR 103.02(1) through (5).

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(3) To assist the Commission in protecting from inadvertent disclosure information subject to 205 CMR 103.02(1) through (5), applicants shall follow the procedures in 205 CMR 103.10(1) in completing and submitting the required forms pursuant to 205 CMR 111.00.

(4) All information submitted by an applicant in the RFA Phase 1 application, other than that described as "Exempt/Redact" in 205 CMR 103.09(2), shall be presumed to be available for public disclosure on request unless a confidentiality claimant demonstrates or the Commission otherwise finds that a separable portion of the information is exempt from disclosure pursuant to 205 CMR 103.02(1) through (5). Confidentiality claimants shall make such a demonstration in accordance with the provisions of 205 CMR 103.10 through 103.12.

103.10: Requests for Protecting Confidential Information as Defined in 205 CMR 102.02(2)

Except as set forth in 205 CMR 103.09, no record shall be deemed to be or to contain Confidential Information as defined in 205 CMR 102.02(2) unless a person requests the Commission in writing to protect the information as Confidential Information. The request shall be made and substantiated as follows:

(1) Each record containing information that is the subject of a confidentiality request shall be clearly marked "CONFIDENTIAL". To assist the Commission in complying with 205 CMR 103.02, persons shall separately submit confidential portions of otherwise non-confidential records. If submitted separately, the record that is the subject of a confidentiality request shall be clearly marked "CONFIDENTIAL" and the record from which Confidential Information has been redacted shall be clearly marked "REDACTED".

(2) The request for confidentiality shall be supported with the following information, which shall be treated as a public record:

- (a) The time period for which confidential treatment is desired.
- (b) The reason the record was provided to the Commission, and the date of submittal.
- (c) The basis for the claim that the record contains Confidential Information and, if applicable, the basis for believing that the criteria in 205 CMR 103.12 are satisfied.
- (d) The extent to which the person requesting that the record be kept confidential has disclosed the contents of that record to other persons without a restriction as to confidentiality imposed by agreement or by law.
- (e) A list of all other Federal, State and local agencies to which the same record or contents thereof has been submitted, whether the confidentiality of the information is protected by law in that jurisdiction, which of them have been requested to keep that record confidential, the status of the requests, and a copy of the responses by said agencies or the courts to the requests.
- (f) A statement that the information is not required to be disclosed or otherwise made available to the public under any other federal or state law.

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- (g) How making the record a public record would place the applicant at a competitive disadvantage pursuant to M.G.L. c. 23K, § 9(b), be detrimental to a gaming licensee if it were made public pursuant to M.G.L. c. 23K, § 21(7), or otherwise cause irreparable harm or damage to the person requesting confidentiality.
- (h) If the record was submitted voluntarily for use in developing governmental policy and upon a promise of confidentiality pursuant to M.G.L. c. 4, § 7, cl. 26(g), and not in compliance with a regulation or order of the Commission or a court, whether and if so why making the record a public record would tend to lessen the availability to the Commission of similar records in the future.

103.11: Procedure for Acting on Requests for Protecting Confidential Information

The Commission shall act on a confidentiality request made pursuant to 205 CMR 103.10 subject to the following provisions:

- (1) If the Commission has received a request to inspect or copy a record which is the subject of a confidentiality request on which the Commission has not made a final decision, the Commission shall notify:
 - (a) the person who made the request to inspect or copy the record that:
 - 1. the record in question is the subject of a pending confidentiality request, and therefore not a public record,
 - 2. the request to inspect or copy is initially denied, and
 - 3. a final decision will be made when the Commission determines whether the record in question is entitled to confidentiality protection.
 - (b) the confidentiality claimant of the request to inspect or copy the record.
- (2) The Commission shall determine whether the record, if made public, would divulge Confidential Information as defined in 205 CMR 102.02(2). The Commission shall give notice of its determination(s) to the confidentiality claimant and all persons who requested to inspect or copy the record.
- (3) If the Commission determines that a record would, if made public, divulge Confidential Information as defined in 205 CMR 102.02(2), the record in question shall be deemed confidential and may not be deemed a public record for such length of time, and subject to such terms, conditions and limitations, as the Commission may include in the determination. The Commission shall so notify the person who submitted the record to the Commission, the confidentiality claimant, and all persons making a request to inspect or copy the record in question.
- (4) All notices given pursuant to 205 CMR 103.11(2) and (3) shall be in writing, shall be delivered by hand, by certified mail, return receipt requested, or by electronic mail, and shall include:

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- (a) the reasons for the determination,
- (b) notice that the determination constitutes a final decision of the Commission,
- (c) notice that the determination may be subject to review by one or more other State agencies or by the courts,
- (d) if the determination is that the record in question, if made public, would not divulge Confidential Information as defined in 205 CMR 102.02(2), notice that, pursuant to 205 CMR 103.06, the record in question shall become a public record ten days after the date of the Commission's determination unless, a person aggrieved by said determination appeals the determination to another State agency with jurisdiction over the subject matter thereof, or to a court of competent jurisdiction. This ten-day period may be extended only in extraordinary situations, and any such extension must be in writing and signed by the Commission's general counsel pursuant to 205 CMR 103.04.

103.12: Reconsidering Confidentiality Determinations

If the Commission determines that newly discovered information or changed circumstances make it appropriate for the Commission to reconsider and possibly modify a prior grant of confidentiality, the Commission shall so notify the person who submitted the record to the Commission and the confidentiality claimant. The notice shall give the person and the confidentiality claimant a reasonable period of time to substantiate, pursuant to 205 CMR 103.10, keeping the record in question confidential. The amount of time originally established in the notice may be reasonably extended by the Commission. After this time has passed, or after the Commission has received a written response from the confidentiality claimant, whichever occurs first, the Commission shall make a new determination whether the record in question shall be deemed either confidential or a public record.

103.13: Executive Session Consideration of Confidential or Exempt Information

Pursuant to M.G.L. c 30A, § 21(a)(7), the Commission may meet in executive session to review information which is exempt from disclosure as described in 205 CMR 103.02(1) through (5); or to conduct an in camera inspection of records to enable the Commission to resolve matters as to confidentiality or exemption pursuant 205 CMR 103.04(1) or (2), to act on requests for protecting confidential information pursuant 205 CMR 103.11, or to reconsider confidentiality determinations pursuant 205 CMR 103.12.

103.14: Security Protocols; Restricted Access

- (1) The executive director, subject to the direction of the Commission, shall establish and maintain secure storage areas, methodologies and procedures to protect tangible and electronic Confidential Information defined in 205 CMR 102.02(2) and information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5) contained in the records of the

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Commission or the Bureau. Records containing such information shall be kept, managed, accessed and used in accordance with the Security Protocols.

(2) Records for which Confidential Information claims have been made and related supporting materials, and information for which such claims have been finally adjudicated in favor of the confidentiality claimant, shall be kept, managed, accessed and used in accordance with the Security Protocols. Materials and information for which such claims have been finally adjudicated against the confidentiality claimant may be permanently removed from the protection of the Security Protocols.

(3) The executive director the deputy director and the official custodians shall be responsible for implementing the Security Protocols for records under their respective custody.

(4) Personnel and authorized agents of the Commission or the Bureau who require information contained within the secure tangible and electronic storage areas for the effective performance of their duties may, upon request to its official custodian, examine documents containing such information in accordance with the Security Protocols.

(5) The Commission and the Bureau shall keep the number of tangible and electronic copies of Confidential Information defined in 205 CMR 102.02(2) and information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5) to a minimum and shall ensure that all copies of such information are maintained in a manner consistent with the requirements of the Security Protocols. No copies of such documents or information may be made or transmitted except in accordance with the Security Protocols; where necessary to the authorized duties and operations of the Commission, the Bureau, or their employees and authorized agents; or where release of the Confidential Information is authorized pursuant to 205 CMR 103.00. Any notes concerning such information made by Commission or Bureau employees or agents shall be treated as confidential pursuant to 205 CMR 103.00.

(6) Commission or Bureau employees or authorized agents who violate the procedures required by 205 CMR 103.00 or the Security Protocols established pursuant thereto shall be subject to disciplinary action.

103.15: Records Retention

The Commission shall follow the records retention schedule set forth in the Massachusetts Statewide Records Retention Schedule published by the Records Conservation Board in conjunction with the Massachusetts Archives and the supervisor of public records, which records retention schedule shall apply to all records within the Commission's possession including all records containing Confidential Information defined in 205 CMR 102.02(2) and information otherwise exempt from disclosure as described in 205 CMR 103.02(1) through (5).

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REGULATORY AUTHORITY
205 CMR 103.00: M.G.L. c. 23K, §§ 4(37); 5; 9(b) and 21(7).

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205 CMR 104.00: DELEGATION OF AUTHORITY

Section

104.01: Delegation of Commission Authority

104.02: Delegation of Chair's Authority

104.01: Delegation of Commission Authority

(1) Subject to M.G.L. c. 23K and 30A, the Commission may, in its discretion, delegate the authority of the Commission to perform any of its functions under M.G.L. c. 23K or 205 CMR, with the exception of final decisions regarding Phase 1 and Phase 2 determinations of qualification for Gaming licenses, to a commissioner or commissioners, or to the executive director, the Bureau, the deputy director, or any other employee of the Commission, on such terms and conditions as the Commission may specify. Any action taken and determination made pursuant to such delegation shall not require further approval, ratification or other action by the Commission.

(2) All delegations of Commission authority made pursuant to 205 CMR 104.01(1) shall remain in effect until amended, suspended, modified or revoked by the Commission.

(3) The Commission may review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.

(4) Whenever M.G.L. c. 23K or 205 CMR requires that the Commission provide notice of an action taken or determination made, and such action is taken or determination is made pursuant to delegation pursuant to 205 CMR 104.01(1), such notice shall be provided by the individual or entity exercising delegated authority.

(5) In any delegation to the Bureau, pursuant to M.G.L. c. 23K, § 4(32), the Commission shall not place any restriction upon the Bureau's ability to investigate or prosecute violations of M.G.L. c. 23K or 205 CMR.

104.02: Delegation of Chair's Authority

(1) The Chair may, in his or her discretion, delegate to another commissioner or commissioners or to the executive director the authority of the Chair to perform any of his or her duties and responsibilities under M.G.L. c. 23K or 205 CMR.

(2) All delegations of made pursuant to 205 CMR 104.02(1) shall remain in effect until amended, suspended, modified or revoked by the Chair.

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(3) The Chair may, on his or her own initiative, review, reconsider, amend, modify, suspend or revoke any action taken or determination made pursuant to such delegation.

(4) Whenever M.G.L. c. 23K or 205 CMR requires that the Chair provide notice of an action taken or determination made, and such action is taken or determination is made pursuant to delegation pursuant to 205 CMR 104.02(1), such notice shall be provided by the individual exercising delegated authority.

REGULATORY AUTHORITY

205 CMR 104.00: M.G.L. c. 23K §§ 3(g), 3(h), 3(i), 4(32), 4(37), 5 and 6(a).

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205 CMR 105.00: INVESTIGATIONS AND ENFORCEMENT BUREAU

Section

- 105.01: Duties and Responsibilities
- 105.02: Subpoena Power
- 105.03: Authority to Require Testimony under Oath
- 105.04: Orders and Directives
- 105.05: Civil Penalties
- 105.06: Seizure of Unlawful Devices, Games or Machines
- 105.07: Coordination with the Massachusetts State Police
- 105.08: Coordination with the Massachusetts Attorney General
- 105.09: Coordination with the Massachusetts Alcoholic Beverages Control Commission
- 105.10: Authority to Retain and Utilize Contractor Investigators

105.01: Duties and Responsibilities

(1) The Bureau shall be the primary enforcement agent for regulatory matters under M.G.L. c. 23K and 205 CMR; shall have all of the powers and duties of the Bureau enumerated in c. 194 of the Acts of 2011, M.G.L. c. 23K and 205 CMR.

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(2) The Bureau shall be under the supervision and control of the Deputy Director who shall be the executive and administrative head of the Bureau and shall be responsible for administering and enforcing the laws relative to the Bureau and to each administrative unit of the Bureau. The duties of the Deputy Director shall be exercised and discharged subject to the direction, control and supervision of the Chair or to the Executive Director by appropriate delegation of authority pursuant to 205 CMR 104.02.

(3) The Bureau shall be a law enforcement agency and its employees shall have such law enforcement powers as necessary to effectuate the purposes of M.G.L. c. 23K, including the power to receive intelligence on an applicant or licensee, and to investigate any suspected violations of M.G.L. c. 23K.

(4) With respect to the investigation and enforcement of gaming establishments and licensees, the Bureau may obtain or provide pertinent information regarding applicants or licensees from or to law enforcement entities or gaming authorities and other domestic, federal or foreign jurisdictions, including the Federal Bureau of Investigation, and may transmit such information to each other electronically or via other secure methods.

(5) The Bureau shall conduct investigations into the qualifications and suitability of all applicants, qualifiers and other persons required to be registered or investigated in connection with any form of license or registration pursuant to M.G.L. c. 23K and 205 CMR, including without limitation an investigation of qualifications and suitability to hold a gaming license

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pursuant to M.G.L. c. 23K.

105.02 Subpoena Power

(1) Pursuant to M.G.L. c. 23K, § 4(31) and M.G.L. c. 30A, § 12, the Deputy Director is authorized in the name of the Commission to issue subpoenas, in the conduct of investigations and adjudicatory proceedings, to compel the attendance of witnesses and to produce documents and records, including but not limited to written materials, materials maintained and stored in any form of documentary or electronic media, Internet, intranet, other electronic, analog or digital formats, and at any place or virtual location within the Commonwealth.

(2) Subpoenas pursuant to 205 CMR 105.03(1) concerning an adjudicatory proceeding shall be issued in accordance with M.G.L. c. 30A, § 12, and 205 CMR 101.00.

(3) Subpoenas pursuant to 205 CMR 105.03(1) may be served by Bureau employees and agents, including Contractor Investigators.

105.03: Authority to Require Testimony Under Oath

Pursuant to M.G.L. c. 23K, § 4(31) and M.G.L. c. 30A, § 12, the Deputy Director may designate specific Bureau employees and agents, including Contractor Investigators, to require testimony under oath in Bureau investigations and hearings.

105.04: Bureau Orders and Directives

The Bureau shall have power and authority, without limitation, to issue orders and require compliance pursuant to and in accordance with M.G.L. c. 23K, § 35.

105.05: Civil Penalties

The Bureau shall have power and authority, without limitation, to assess a civil administrative penalty pursuant to and in accordance with M.G.L. c. 23K, § 36.

105.06 Seizure of Unlawful Devices, Games or Machines

Pursuant to M.G.L. c. 23K, § 42, any device, game or gaming device possessed, used, manufactured, distributed, sold or serviced in violation of M.G.L. c. 23K shall be subject to seizure and forfeiture by the division or the Bureau. Forfeiture proceedings shall be conducted as provided in M.G.L. c. 94C, § 47(b)-(j). For purposes of M.G.L. c. 94C, § 47(d) and c. 271A, § 3, the Commission shall be considered a police department and shall be entitled to a police department's distribution of forfeiture proceedings.

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105.07 Coordination with the Massachusetts State Police

The Bureau will coordinate with the Gaming and Enforcement Unit in accordance with the provisions of M.G.L. c. 22C, § 70, M.G.L. c. 23K, § 6, and M.G.L. c. 12, § 11M.

105.08 Coordination with the Massachusetts Attorney General

The Bureau will coordinate with the Massachusetts Attorney General's Division of Gaming Enforcement in accordance with the provisions of M.G.L. c. 12, § 11M, c. 22C, § 70, and c. 23K.

105.09 Coordination with the Massachusetts Alcoholic Beverages Control Commission

The Bureau will coordinate with the Gaming Liquor Enforcement Unit of the Massachusetts Alcoholic Beverages Control Commission in accordance with the provisions of M.G.L. c. 10, §72A and c. 23K.

105.10 Authority to Retain and Utilize Contractor Investigators

- (1) The Commission may pursuant to M.G.L. c. 23K, § 4 and any applicable procurement procedures, retain qualified Contractor Investigators, either directly or pursuant to a contract or contracts with a private investigative business or businesses, to assist the Bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. c. 23K and 205 CMR.
- (2) In retaining Contractor Investigators, the Commission may establish minimum qualifications in terms of education, training, and experience in federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters.
- (3) Prior to entering a contract with the Commission, each prospective contractor investigator and, if applicable, his or her related business shall be subject to an expedited background inquiry by the Bureau through the Gaming and Enforcement Unit, which shall include, without limitation, an examination of prior criminal history, financial stability, reputation for integrity, honesty, good character; and education, training, and experience in federal, state or local, civil or criminal, law enforcement, regulatory and investigative matters. If a Contractor Investigator and, if applicable, his or her business entity is deemed suitable and qualified by the Bureau in its discretion based on this expedited background inquiry, then the Commission on behalf of the Bureau may enter into a contract for the professional services of the Contractor Investigator in a form and with terms such acceptable to the Commission.
- (4) Once retained, each Contractor Investigator shall be provided with the necessary authority and credentials to serve as an official agent of the Bureau in conducting initial suitability, qualification, and background investigations of license applicants and qualifiers in accordance with the criteria set forth in M.G.L. c. 23K and 205 CMR.

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(5) Immediately on being retained each Contractor Investigator shall be sworn to the faithful performance of his or her official duties under M.G.L. c. 23K and 205 CMR. Before a Contractor Investigator can participate in any investigation under M.G.L. c. 23K or 205 CMR, the investigator shall execute a certification acknowledging his full understanding and acceptance of the authority given, applicable confidentiality provisions, and the limits to such an investigative authority.

(6) Each Contractor Investigator shall report to the Deputy Director of the Bureau. In the case of an absence or vacancy in the office of the Deputy Director, each Contractor Investigator shall report to an interim supervisor designated by the Chair to supervise such investigators and investigations.

(7) Any contract entered by the Commission for the services of any Contractor Investigator may be terminated by the Commission, without cause, liability or recourse.

REGULATORY AUTHORITY

205 CMR 105.00: c. 194 of the Acts of 2011; M.G.L. c. 10, § 72A; c. 12, § 11M; c. 22C, § 70; c. 23K §§ 4(37), 5, 6, 35, 36, 42; and c. 30A, § 12.

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205 CMR 106.00: INFORMATION AND FILINGS

Section

- 106.01: Offices; Hours
- 106.02: Communications; Notices
- 106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes
- 106.04: Petitions for Adoption, Amendment or Repeal of Regulations
- 106.05: Advisory Services and Advisory Rulings

106.01: Offices; Hours

The Commission will post on its website and from time to time update the address of the main office and the office hours of the Commission and the Bureau and the address and contact information for public information about the Commission.

106.02: Communications; Notices

- (1) Except as otherwise provided by 205 CMR or as specified by the Commission on its website, all applications, papers, process or correspondence relating to the Commission or the Bureau shall be addressed to, submitted to, filed with or served upon the Commission or the Bureau, respectively, at its main office.
- (2) Service of process upon the Commission or the Bureau shall be made in accordance with Mass. R. Civ. P. 4(d)(3).
- (3) Service of all papers, documents, notices and pleadings in adjudicatory proceedings involving the Commission or the Bureau shall be made in accordance with 205 CMR 1.00
- (4) Except as set forth in 205 CMR 106.05, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the Commission when delivered to the main office of the Commission or to the Chair, a Commissioner, or such employee or employees of the Commission as may be designated by the Chair and posted on the Commission's website. Except as set forth in 205 CMR 106.05, all other applications, papers, documents, notices, correspondence or filings shall be deemed to have been received by the Bureau when delivered to the main office of the Bureau or to the Deputy Director or such employee, employees, or agents of the Bureau as may be specified by 205 CMR 101.00 or as may be designated by the Deputy Director as posted on the Commission's website.
- (5) Except as otherwise specifically provided by M.G.L. c. 23K or 205 CMR, the Commission or the Bureau as applicable (a) will send any notice of public hearing and any decision of the Commission or the Bureau concerning a specific applicant, licensee or registrant to the applicant, licensee or registrant either by in hand delivery, by certified, registered, or

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express mail, or by electronic mail to the address shown in the most recent application or notice of change of address received from such person, and (b) may send any other papers, documents, notices, or correspondence by any method specified in 205 CMR 106.02(5)(a) or by first class mail, postage prepaid. Notices from the Commission or the Bureau shall be deemed to have been received upon the earlier of in hand delivery, electronic mail transmission, or deposit in the United States mail, postage prepaid, and the time specified in any such notice shall commence to run from that date.

(6) Applicants, licensee and registrants shall immediately notify the Commission and the Bureau in writing of any change of address, and shall specifically request that all future notices or other communications be sent by the Commission or the Bureau to the new address.

(7) Any applicant, licensee or registrant who desires to have notices or other communications from the Commission or the Bureau sent to an address other than that specified in the most recent application or notice of change of address on file with the Commission and the Bureau shall file with the Commission and the Bureau a written notice of change of address, and, within a reasonable time after receipt thereof by the Commission and the Bureau, subsequent notices and other communications from the Commission or the Bureau will be sent to the applicant, licensee or registrant at such address.

106.03: Electronic Filing by Applicants during RFA-1 and RFA-2 Processes

(1) The Commission shall develop and post on its website administrative procedures pursuant to which all applications, papers, documents, correspondence and other information submitted by an applicant to the Commission or the Bureau during the RFA-1 Process pursuant to 205 CMR 115 and the RFA-2 Process described in 205 CMR 110 must be filed by electronic means as provided therein. Any document required by 205 CMR to be signed or notarized shall be signed or notarized, scanned and submitted in PDF form. All applicants must comply with those administrative procedures.

(2) All such electronic submissions shall be made in PDF format. Wherever possible, all such submissions shall be machine-readable and text searchable.

(3) In accordance with the administrative procedures, electronic submission may be made via the internet or by filing at the main office of the Commission or the Bureau, as applicable, a disk containing the electronic submission. For electronic submissions via the internet, the Commission or the Bureau will electronically transmit a Notice of Electronic Filing which will constitute confirmation of the filing of the submission with the Commission or the Bureau as applicable. In the event the applicant does not receive a Notice of Electronic Filing, it is the applicant's duty to take appropriate measures to confirm timely receipt of the electronic submission by the Commission or the Bureau as applicable.

(4) Electronic filing via the internet will be generally available 24 hours a day; however, that

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availability shall not alter any filing deadline, whether set by regulation, Commission or Bureau order, or the RFA itself. All electronic submissions of documents must be completed prior to 5:00 p.m. to be considered timely filed that day.

106.04: Petitions for Adoption, Amendment or Repeal of Regulations

(1) Any interested person may file a petition with the Commission pursuant to M.G.L. c. 30A, § 4, for the adoption, amendment or repeal of any regulation. Such petition shall be in writing, be signed by the petitioner or petitioner's attorney, be submitted to the Commission at its main office, and include the following information:

- (a) The name and address of the petitioner and the petitioner's attorney;
- (b) The substance of the requested adoption, amendment or repeal of a regulation;
- (c) The reasons for the request;
- (d) The specific interest of the petitioner affected by the requested regulation;
- (e) Reference to the statutory authority under which the Commission may take the requested action; and
- (f) Such data, views and arguments as the petitioner thinks pertinent to the request.

(2) After receipt of a petition for the adoption, amendment or repeal of a regulation submitted in accordance with 205 CMR 106.04(1), the Commission may consider the petition at an open meeting pursuant to M.G.L. c. 30A, § 20, and determine, in its discretion, whether or not to take any action on or as a result of the petition. At the meeting the Commission may, but shall not be required to, entertain comments or questions from members of the public pursuant to M.G.L. c. 30A, § 20(f). Within 20 days after the meeting, the Commission will notify the petitioner as to its determination, if any, concerning the petition. The Commission may, but is not required to, explain the reasons for any determination on a petition.

(3) The submission of a petition for the adoption, amendment or repeal of any regulation pursuant to 205 CMR 106.04(1), and any action, inaction, determination or notice by the Commission pursuant to 205 CMR 106.04(2) with respect thereto, shall not constitute a regulation and shall confer no legal rights, duties or privileges whatsoever on the petitioner or any other person.

106.05: Advisory Services and Advisory Rulings

The Commission may, in its discretion, provide advisory services pursuant to M.G.L. c. 23K, § 4(7), or make advisory rulings pursuant to M.G.L. c. 30A, § 8.

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REGULATORY AUTHORITY

205 CMR 106.00: M.G.L. c. 23K, §§ 4(37), 5; and c.30A, §§ 4, 8.

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205 CMR 107.00: PROFESSIONAL PRACTICE

Section

107.01 General Provisions

107.02 The Practice of Law

107.03 Notice of Appearance by Attorney

107.01 General Provisions

No person may practice law, accountancy, architecture, professional engineering, land surveying or any other profession or occupation regulated by the laws of the Commonwealth of Massachusetts before the Commission in any manner other than in accordance with law, the ethical standards applicable to the particular profession and 205 CMR. Practice shall include any matter connected with the representation of the interest of a client, including the making of any appearance and the preparing or filing of any necessary written document, correspondence or other paper relative to such interests.

107.02 The Practice of Law

(1) No individual, other than a member, in good standing, of the bar of the Commonwealth of Massachusetts, shall practice law before the Commission; provided, that a member of the bar, in good standing, of any other state may appear and practice, by permission of the Commission, in any particular matter before the Commission as set forth in 205 CMR 107.02(2).

(2) Notwithstanding 205 CMR 107.02(1), an attorney who is a member of the bar of the highest court of any state may appear and practice before the Commission in a particular matter by leave granted in the discretion of the Commission, provided he or she files a certificate that (a) he or she is a member of the bar in good standing in every jurisdiction where he or she has been admitted to practice; (b) there are no disciplinary proceedings pending against him or her as a member of the bar in any jurisdiction; and (c) he or she has read and is familiar with M.G.L. c. 23K and 205 CMR; and provided further, that his or her application for leave to practice before the Commission is on request of a member, in good standing, of the bar of the Commonwealth of Massachusetts, who shall (i) represent the client concurrently as its local counsel on the same particular matter, (ii) appear of record in the particular matter and (iii) be responsible for the conduct of the out-of-state attorney in the particular matter; and provided further that both such attorneys shall sign all papers submitted or filed by counsel with the Commission on behalf of their mutual client.

(3) A natural person who is not a member of the bar and to whom 205 CMR 107.02(1) and (2) are not applicable may appear and practice before the Commission only in his or her own behalf.

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107.03 Notice of Appearance by Attorney

(1) Each attorney practicing law before the Commission shall promptly file with the Commission a notice of appearance in each particular matter and on behalf of each client represented and may be required to file evidence of his authority to act in such capacity. The address of each attorney, telephone number, and e-mail address shall be stated. The signature of an attorney to a document shall constitute an appearance by the attorney who signs it, unless the paper states otherwise, and shall constitute a certificate that the attorney has read the document and that to the best of his or her knowledge, information, and belief there is a good ground to support it.

(2) In the event an attorney changes his or her address during a particular matter in which he or she has appeared, the attorney shall immediately notify the Commission in writing. Unless otherwise provided by 205 CMR 107, an attorney may withdraw from a particular matter by filing written notice of withdrawal with the Commission, together with proof of service on his or her client and any other parties to the particular matter.

REGULATORY AUTHORITY

205 CMR 107.00: M.G.L. c. 23K, §§ 4(37) and 5; c. 221, § 46A.

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205 CMR 108.00: COMMUNITY AND POLITICAL CONTRIBUTIONS

Section

108.01: Statement of Governing Principles

108.02: Prohibited Political Contributions and Solicitations

108.03: Mandatory Disclosure of Political Contributions and Community Contributions

108.01: Statement of Governing Principles

(1) As specified in M.G.L. c. 23K, § 46, no applicant for a gaming license, nor any holding, intermediary or subsidiary company thereof, nor any officer, director, key gaming employee or principal employee of an applicant for a gaming license or of any holding, intermediary or subsidiary company thereof nor any person or agent on behalf of any such applicant, company or person, shall directly or indirectly, pay or contribute any money or thing of value to: (1) an individual who holds a municipal, county or state office; (2) any candidate for nomination or election to any public office in the Commonwealth, including a municipal office; or (3) any group, political party, committee or association organized in support of any such candidate or political party; provided, however, that the provisions of this section shall not prohibit an individual who is a candidate for public office from contributing to the candidate's own campaign.

(2) All political contributions or contributions in kind made by an applicant for a gaming license to a municipality or a municipal employee, as defined in Section 1 of Chapter 268A, of the host community of the applicant's proposed gaming establishment shall be disclosed by the applicant to the Commission in accordance with 205 C.M.R. 111.03 and to the city or town clerk of the host community. Applicants shall also fully and completely comply with all regulations promulgated by the Office of Campaign and Political Finance so as to enable timely and expeditious public reporting.

108.02: Prohibited political contributions and solicitations

(1) No prohibited person shall, directly or indirectly, make any political contribution or solicit any person to make a political contribution on behalf of a prohibited person.

(2) A political contribution shall be considered to have been made on behalf of a prohibited person if, without limitation, it is made:

(a) With money or a thing of value that is owned or controlled by a prohibited person; or

(b) By any person in response to a solicitation by a prohibited person and under such circumstances as established that the political contribution was involuntary or would not have been made but for the influence of the prohibited person over the person making the political

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contribution.

(3) In determining whether a political contribution was made by a person on behalf of a prohibited person pursuant to § 8.03 above, the Commission shall consider all relevant facts and circumstances, including, but not limited to, the following:

(a) Whether the person making the political contribution is a dependent person with regard to the prohibited person

(b) The nature and importance of any economic, business, personal, familial or other relationship between the person making the political contribution and the prohibited person that currently exists, that existed at the time the political contribution was solicited and made, or that is reasonably anticipated to exist in the foreseeable future;

(c) The timing and nature of any communications that may have occurred between the person making the political contribution and the prohibited person regarding the prohibited person's desire to raise funds for the candidate or political organization that received the political contribution;

(d) The ability or inability of the prohibited person to control or affect the actions of the person making the political contribution, and any evidence that any such ability played a role in the decision to make the political contribution;

(e) Any prior political contributions to or expressions of support for the candidate or political organization that was the recipient of the political contribution by the person making the political contribution, and the timing of any such prior political contributions or expressions in relation to the establishment of the relationship between the prohibited person and the person making the political contribution;

(f) Whether the person making the political contribution is a resident of Massachusetts or has significant property or business interests in this Commonwealth;

(g) The timing and nature of any communications that may have occurred between the person making the political contribution and the recipient of the political contribution regarding the prohibited person's solicitations on behalf of or expressions of support for the candidate or political organization;

(h) Whether there is a pattern or regular course of conduct involving political contributions to one or more candidates or political organizations by the person making the political contribution;

(i) Whether there is a pattern or regular course of conduct involving political contributions to one or more candidates or political organizations on the part of employees, contractors or

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other dependent persons of a prohibited person or any affiliated person or entity thereof; and

(j) Whether the prohibited person has, directly or indirectly, reimbursed or offered to reimburse the person making the political contribution for all or any portion of the contribution.

108.03: Mandatory Disclosure of Political Contributions and Community Contributions

(1) An applicant or qualifier shall disclose to the Commission in the Phase 1 application all political contributions and community contributions from November 22, 2011 through the date the Phase 1 application is filed. This duty of disclosure shall continue after the submission of the application and throughout the period of examination and investigation of the applicant and its qualifiers by the Bureau and Commission. The failure to make such disclosures shall constitute a violation of M.G.L. c. 23K, § 13 and 205 CMR 12.00, and may subject the applicant licensee or qualifier to a negative determination of suitability or denial of its application for a gaming license or to a revocation of a gaming license and/or determination of suitability for licensure, and any other remedial actions by the Commission.

(2) The duty to disclose set forth in (1) above shall not prohibit disbursements to host or surrounding municipalities pursuant to 205 CMR 114.03

REGULATORY AUTHORITY

205 CMR 108.00: M.G.L. c. 23K, §§ 4(37), 5, 46 and 47.

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205 CMR 109.00: [RESERVED]

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**205 CMR 110.00: ISSUANCE OF REQUEST FOR CATEGORY 1 AND CATEGORY 2
LICENSE APPLICATIONS**

Section

110.01: Phased Process for Request for Applications

110.02: Timing of the RFA-P1 Process

110.01: Phased Process for Request for Applications

(1) The application process for both a Category 1 license and a Category 2 license shall proceed in two phases. The first phase shall be known as Request for Applications Phase 1 (“RFA-1”) and the second phase shall be known as Request for Applications Phase 2 (“RFA-2”).

Field Code Changed

(2) Only those applicants that are found by the Commission to be qualified pursuant to a determination of suitability at the conclusion of RFA-1 in accordance with 205 CMR 115 shall be permitted to proceed to the second phase, RFA-2.

110.02: Timing of the RFA-1 and RFA-2 Processes

(1) The Commission shall issue a public request for applications including the availability of the RFA-1 or RFA-2 application forms, which shall be published in a manner designated by the Commission.

Field Code Changed

(2) The issuance of the Commission’s RFA-1 for Category 2 license applications shall precede the issuance of the RFA-1 for Category 1 license applications; and the issuance of the RFA-2 for Category 2 license applications shall precede the issuance of the RFA-2 for Category 1 license applications.

(3) The Commission shall establish a deadline for the submission of each type of application which shall be specified in the request under § 110.02(1).

REGULATORY AUTHORITY

205 CMR 110.00: M.G.L. c. 23K, §§ 4(37), 5, 8(a), 12, and 14.

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205 CMR 111.00: PHASE 1 APPLICATION REQUIREMENTS

Section

- 111.01: Phase 1 Application Requirements
- 111.02: Business Entity Disclosure Form - Category 1 & Category 2 Entity Applicants and Holding/Intermediary Companies
- 111.03: Multi-Jurisdictional Personal History Disclosure Form
- 111.04: Massachusetts Supplement Form
- 111.05: Withdrawal of Application

Field Code Changed

111.01: Phase 1 Application Requirements

- (1) The requirements set forth in this part apply to the Phase 1 Determination of Suitability issued by the Commission unless otherwise noted.
- (2) Commission consultation. The Commission or its designees may conduct one or more consultation meetings to provide guidance on Phase 1 standards and procedures and answer any appropriate inquiries.
- (3) Applicants must use the appropriate application forms issued or adopted by the Commission. Each application shall be prepared and submitted in accordance with the applicable provisions of M.G.L. c. 23K and 205 CMR and the instructions on the Commission's forms. Applicants for a Category 1 license or a Category 2 license shall, at a minimum, submit the following completed forms to initiate RFA-1 review: Business Entity Disclosure Form ("BED") under 205 CMR 111.03; Multi-Jurisdictional Personal History Form ("PHD-MA") under 205 CMR 111.04; and a Massachusetts Supplemental Form ("PHD-MA-S") under 205 CMR 111.05.
- (4) At a minimum, the application must contain: (a) all the relevant information required in 205 CMR 111; (b) the license fee pursuant to 205 CMR 114.00; and (c) disclosure of payments or contributions to local governments pursuant to 205 CMR 111.06.
- (5) Applicants have an affirmative responsibility to submit a complete Phase 1 application in the forms specified under 205 CMR 111.02(3) by the deadline established by the Commission. The Commission shall have no obligation to accept or review an incomplete application submitted by the established deadline.
- (6) The Commission may, in its discretion, extend the time for filing a complete application to enable an applicant to cure a deficiency in its application, provided that the application was submitted and the applicable fee was paid before the established deadline, or to provide reasonable additional time for filing in cases in which extraordinary circumstances prevented a timely filing.

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111.02: Business Entity Disclosure Form – Category 1 and Category 2 Entity Applicants and Holding/Intermediary Companies

Field Code Changed

(1) A Business Entity Disclosure Form (“BED”) shall be in the format prescribed by the Commission and may require the applicant to provide the following information and such additional information as the Commission may, in its discretion, determine:

(a) The name, title, phone number and e-mail address of a person to be contacted in reference to the application;

(b) The current or former official trade names used by the business entity, and the dates of use;

(c) The name of the license applicant and, if the applicant is other than the applicant business entity, the nature of the applicant’s business entity’s relationship to the license applicant;

(d) The date of incorporation or formation;

(e) The current or former business addresses and website of the business entity with relevant time frames;

(f) A description of the present and former businesses engaged in by the business entity and its holding companies, subsidiaries and intermediary companies, including, but not limited to:

(1) Competitive conditions in the industry;

(2) The principal products produced, services rendered and methods of distribution;

(3) Information about raw materials essential to the business entity’s operation;

(4) Information relating to intellectual property rights;

(5) A description of any material changes to the business entity’s mode of conducting business;

(6) A description of any former business the business entity was engaged in during the last ten-years and the reasons for the cessation of such business, including relevant time frames;

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- (7) The name, last known address, occupation and date of birth of each incorporator or founding member;
- (8) The name, home address, business address, date of birth, occupation and title of current and former directors, and trustees and the dates such position was held during the ten years and reason for leaving;
- (9) The name, home address, business address, date of birth and title of current officers of the business entity, and the dates of office;
- (10) The name, last known home address, current business address, date of birth and occupation of former officers for the business entity for the last ten years, and the dates of office;
- (11) The annual compensation of officers;
- (12) The name, business address, date of birth and position of each person, other than an officer, who receives annual compensation of more than \$250,000.00 and the length of time employed and amount of compensation;
- (13) A description of all bonus, profit sharing, pension, retirement, deferred compensation or similar plans;
- (14) A description of the nature, type, number of shares, terms, conditions, rights and privileges of all classes of securities or other ownership interest issued or to be issued including the number of shares of each class authorized or to be authorized and the number of shares of each class outstanding;
- (15) The name, home address and date of birth of each shareholder, the class held, number of shares held and the percentage of outstanding voting or non-voting securities or other ownership interest held;
- (16) A description of the nature, type, terms, covenants, conditions and priorities of all outstanding debt and security devices utilized by the business entity;
- (17) The name, address and date of birth of each person holding the debt or security devices in 205 CMR 111.03(1)(f)(16), the type of debt instrument held, the original debt amount and current balance;
- (18) A description of the nature, type, terms and conditions of all securities options, including the title and amount of securities subject to option, the name and address of each option holder and the market value at the time of issuance;

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(19) The following information for each account or the last ten years held in the name of the business entity or its nominee, or otherwise under the direct or indirect control of the business entity:

- (a) The name and address of the bank, savings and loan or other financial institution;
- (b) b. The type of account;
- (c) c. The account number; and
- (d) d. The dates held;

(20) The name and address of all persons with whom the business entity has contracts or agreements of \$250,000.00 or more in value, including employment contracts of more than one-year duration or who have supplied goods and services within the past six months, and the nature of such contract or the goods and services provided;

(21) The name and address of each company in which the business entity holds securities or other ownership interest, type of securities or other ownership interest held, purchase price per share or interest, number of shares held, and percentage of ownership, if more than five percent;

(22) Information regarding any transaction within the last five years involving a change in the beneficial ownership of the business entity's equity securities on the part of any current or former director, officer or beneficial owner of more than ten percent of any class of equity security;

(23) A description of any civil, criminal, administrative and investigatory proceedings in any jurisdiction, for the business entity and each director, trustee or officer as follows:

- a. Any arrest, indictment, charge or conviction for any criminal or disorderly persons offense;
- b. Any criminal proceeding in which such person has been a party or has been named as an unindicted co-conspirator;
- c. Existing civil litigation to which the business entity is a party, if damages are reasonably expected to exceed \$250,000.00;

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- d. Any judgment, order, consent decree or consent order entered against the business entity pertaining to a violation or alleged violation of the Federal antitrust, trade regulation or securities laws or similar laws of any jurisdiction; and
- e. Any judgment, order, consent decree or consent order entered against the business entity pertaining to a violation or alleged violation of any other state or Federal statute, regulation or code which resulted in the imposition of a fine or penalty of \$50,000.00 or more within the past ten years;

(24) For the business entity and any holding or intermediary company, information regarding any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law; and any receiver, fiscal agent, trustee or similar officer appointed for the property or business of the business entity or any holding or intermediary company within the last ten years;

(25) During the last ten years, whether the business entity has had any license or certificate denied, suspended or revoked by any government agency in Massachusetts or any other jurisdiction, the nature of such license or certificate, the agency and its location, the date of such action, the reasons therefore and the facts related thereto;

(26) During the last ten years, whether the business entity or any director, officer, employee or any person acting for or on behalf of the business entity has made any payments, bribes or kickbacks to any employee, company, organization or government official, foreign or domestic, and regardless of whether such incident or incidents was lawful in the jurisdiction of its occurrence, to obtain favorable treatment or to obtain a competitive advantage;

(27) During the last ten years, whether the business entity, its parent, any subsidiary or related entity or individual has:

- a. Donated or loaned the business entity's funds or property for the use or benefit of or in opposing any government, political party, candidate or committee either foreign or domestic;
- b. Made any loans, donations or disbursements to its directors, officers or employees for the purpose of making political contributions or reimbursing such individuals for political contributions, either foreign or domestic; or

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- c. Maintained a bank account or other account, either foreign or domestic, not reflected on the books or records of the business entity, or maintained any account in the name of a nominee of the business entity;

(28) The names and addresses of any current or former directors, officers, employees or third parties who would have knowledge or information concerning 205 CMR 111.03(1)(f)(27)(c) ;

(29) A copy of the following:

- a. Annual reports to shareholder for the last five years;
- b. Any annual reports prepared within the last five years on Form 10K pursuant to Sections 13 or 15d of the Securities Exchange Act of 1934;
- c. An audited financial statement for the last fiscal year, including, without limitation, an income statement, balance sheet and statement of sources and application of funds, and all notes to such statements and related financial schedules;
- d. Copies of all annual financial statements prepared in the last five fiscal years, any exceptions taken to such statements by an independent auditor retained by the business entity and the management response thereto;
- e. The most recent quarterly unaudited financial statement prepared by or for the business entity which, if the business entity is registered with the Securities Exchange Commission ("SEC") may be satisfied by providing a copy of the most recently filed Form 10Q;
- f. Any current report prepared due to a change in control of the business entity, acquisition or disposition of assets, bankruptcy or receivership proceedings, changes in the business entity's certifying accountant, or other material events, which, if the business entity is registered with the SEC, may be satisfied by providing a copy of the most recent filed Form 8K;
- g. The most recent Proxy or Information Statement filed pursuant to Section 14 of the Securities Exchange Act of 1934;
- h. Registration Statements filed in the last five years pursuant to the Securities Act of 1933;

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- i. All reports and correspondence not otherwise submitted in the last five years by independent auditors for the business entity which pertain to the issuance of financial statements, managerial advisory services or internal control recommendations;
- j. The name, address and telephone number of the current outside auditor(s);

(30) A certified copy of the articles of incorporation, charter and bylaws, and all amendments and proposed amendments thereto;

(31) If a business entity:

- a. A current ownership organization chart of the business entity, its parent company and each subsidiary of the business entity
- b. A functional table of organization for the business entity, including position descriptions and the names of persons holding such positions;

(32) If a corporation: copies of Internal Revenue Service Forms 1120 (Corporate Income Tax Return) and 941 (Employer's Quarterly Federal Tax Return) filed for the last five years;

(33) If a partnership, copies of Internal Revenue Service Forms 1065 (Partnership Return Form) and 941 (Employer's Quarterly Federal Tax Return) filed for the last five years;

(34) If a limited liability company, copies of its Federal returns for the last five years; and

(35) A listing of any records, documents or other information submitted as appendices to the BED

(2) In addition to the information in (1) above, a completed BED shall include the following documents, which shall be dated and signed by the president, chief executive officer, partner, general partner or sole proprietor, and notarized:

- (a) A Release Authorization directing all courts, probation departments, selective service boards, employers, educational institutions, banks, financial and other institutions and all governmental agencies, Federal, state, and local, both foreign and domestic, to release any and all information pertaining to the

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business entity as requested by the Commission and/or the Bureau or third-party contract investigators.

(b) A Waiver of Liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process;

(c) Consent to Inspection, Searches and Seizures and the supplying of handwriting exemplars; and

(d) A signed, dated and notarized Affidavit of Truth.

111.03: Multi-Jurisdictional Personal History Disclosure Form

(1) A Multi-Jurisdictional Personal History Disclosure Form (PHD-MA) shall be submitted by each Category 1 and Category 2 qualifier and shall be in a format prescribed by the Commission and may require the applicant to provide the following information and such additional information as the Commission may, in its discretion, determine:

(a) Name, including maiden name and any aliases or nicknames and applicable dates of use;

(b) Date of birth;

(c) Physical description;

(d) Current address and residence history;

(e) Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;

(f) Citizenship and, if applicable, information regarding resident alien status, including information regarding passports;

(g) Martial history, dependents and other family data;

(h) The gaming licensee or applicant, gaming vendor licensee or applicant or holding company, as applicable, with which the applicant is affiliated, and the nature of the applicant's position with or interest in such entity;

(i) Telephone number at the current place of employment;

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- (j) Employment history of the applicant and applicant's immediate family;
- (k) Education and training;
- (l) Record of military service;
- (m) Government positions and offices presently or previously held, and the offices, trusteeships, directorships or fiduciary positions presently or previously held with any business entity;
- (n) Trusteeships or other fiduciary positions held by the applicant and the applicant's spouse, and any denial or suspension of, or removal from, such positions;
- (o) Current memberships in any social, labor or fraternal union, club or organization;
- (p) Licenses and other approvals held by or applied for by the applicant or, where specified, the applicant's spouse, in the Commonwealth of Massachusetts or any other jurisdiction, as follows:
 - (1) Any professional or occupational license held by or applied for the by the applicant or the applicant's spouse;
 - (2) Motor vehicle registrations and operator licenses held by or applied for the by the applicant or the applicant's spouse, and any revocation or suspension thereof;
 - (3) Possession or ownership of any pistol or firearm, or any application for any firearm permit, firearm dealer's license, or permit to carry a pistol or firearm;
 - (4) Any license, permit, approval or registration required to participate in any lawful gambling operation in the Commonwealth of Massachusetts or any jurisdiction held by or applied for by the applicant; and
 - (5) Any denial, suspension or revocation by a government agency of a license, permit or certification held by or applied for by the applicant or the applicant's spouse, or any entity in which the applicant or the applicant's spouse was a director, officer, partner or any owner of a five percent or greater interest;

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(q) Any interest in or employment presently or previously held by the applicant with any entity which has applied for a permit, license, certificate or qualification in connection with any lawful gambling or alcoholic beverage operation in the Commonwealth of Massachusetts or any other jurisdiction; and any current employment or other association by the applicant's family with the gambling or alcoholic beverage industries in the Commonwealth of Massachusetts or any other jurisdiction;

(r) Civil, criminal and investigatory proceedings in any jurisdiction, as follows:

(1) Arrests, charges or offenses committed by the applicant or any member of the applicant's immediate family;

(2) Any instance where the applicant has been named as an unindicted party or co-conspirator in a criminal proceeding or held as a material witness;

(3) Any appearance before, investigation by or request to take a polygraph examination by any governmental agency, court, committee, grand jury or investigatory body, and any refusal to comply with a request to do so;

(4) Any pardons, dismissals, suspensions or deferrals of any criminal investigation, prosecution, or conviction;

(5) Lawsuits to which the applicant was or is a party;

(6) Any citation or charge for a violation of a statute, regulation or code of any jurisdiction, other than a criminal disorderly persons, petty disorderly persons or motor vehicle violation; and

(7) Any use, distribution, or possession of any narcotic, hallucinogenic, drug, barbiturate, amphetamine or other substance listed in MGL c. 94C other than pursuant to a valid prescription issued by a licensed physician;

(s) Any exclusion or barring from any casino, gaming establishment or gambling/gaming related entity in any jurisdiction; and

(t) Financial data, as follows:

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1. All assets and liability of the applicant, and the applicant's spouse and dependent children as indicated on the net worth statement and supporting schedules in a format prescribed by the Commission, including cash, bank accounts, notes payable and receivable, real estate and income taxes payable, loans, accounts payable and any other indebtedness, contingent liabilities, securities, real estate interests, real estate mortgages and liens, life insurance, pension funds, vehicles and other assets;
2. Bank accounts, including any right of ownership in, control over or interest in any foreign bank account, and safe deposit boxes;
3. Real estate interests held by the applicant or the applicant's spouse or dependent children;
4. Businesses owned;
5. Copies of Federal tax returns and related information;
6. Judgments or petitions for bankruptcy, insolvency or liquidation concerning the applicant or any business entity in which the applicant held a five percent or greater interest, other than a publicly traded corporation, or in which the applicant served as an officer or director;
7. Any business entity in which the applicant was an owner, director or officer which has been placed under some form of governmental administration or monitoring;
8. Any garnishment or attachment of wages, charging order or voluntary wage execution, including the amount, court, nature of the obligation and the holder of the obligation;
9. Any repossessions of real or personal property;
10. Any guarantees, co-signatures or insuring of payments of financial obligations of any persons or business entities;
11. Status as executor, administrator or fiduciary of any estate;
12. Life insurance policies on the applicant's life which name someone other than the applicant's family as a beneficiary;

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13. Positions held, assets held, or interest received in any estate or trust;
14. Whether the applicant has ever been bonded for any purpose or been denied any type of bond, including the nature of the bond and if applicable, the reason for denial;
15. Insurance claims in excess of \$100,000.00 by the applicant or the applicant's spouse or dependent children;
16. Referral or finder's fees in excess of \$10,000.00;
17. Loans in excess of \$10,000.00 made or received by the applicant, the applicant's spouse or dependent children;
18. Gifts in excess of \$10,000.00 given or received by the applicant or the applicant's immediate family;
19. Brokerage or margin accounts with any securities or commodities dealer;
20. Currency exchanges in an amount greater than \$10,000.00;
21. Information regarding any instance where the applicant or any entity in which the applicant was a director, officer or holder of a five percent or greater interest has traded in foreign currencies or in a foreign commodities exchange, sold or purchased discounted promissory notes or other commercial paper, or been a party to any leasing arrangements in excess of \$50,000.00; and
22. Information regarding any ownership interest or financial investment by the applicant in any entity which holds or is an applicant for a license issued by the Commission, or in any gambling venture which does not require licensure by the Commission, including persons providing or reasonably anticipated to provide the applicant with support in the financing of such investment or interest; the extent and nature of the applicant's involvement in the management and operation of the entity; whether the applicant has or has agreed to assign, pledge or hypothecate such interest or investment, the nature and terms of any such transaction and a copy of any such agreement.

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(2) In addition to the information in (1) above, a completed PHD-MA shall include the following:

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- (a) The name, address, occupation and phone number of persons who can attest to the applicant's good character and reputation; and
- (b) A Waiver of Liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process;
- (c) Consent to Inspection, Searches and Seizures and the supplying of handwriting exemplars; and
- (d) A signed, dated and notarized Affidavit of Truth.

111.04: Massachusetts Supplemental Form

A Massachusetts Supplemental Form (PHD-MA-SUPP) shall be submitted by each Category 1 and Category 2 license qualifier in a format prescribed by the Commission and may require the applicant to provide the following information and such additional information as the Commission may, in its discretion, determine:

- a. Name, including maiden name and any aliases or nicknames and applicable dates of use;
- b. Date of birth;
- c. Physical description, including a color photograph taken within the past six months;
- d. Current address, mailing and home, if different;
- e. Home and work telephone numbers;
- f. Social Security Number, which information is voluntarily provided in accordance with 5 U.S.C. § 552a;
- g. The gaming license applicant or holding company, as applicable, with which the applicant is affiliated, and the nature of the applicant's position with or interest in such entity;
- h. Citizenship and, if applicable, resident alien status, including any employment authorization with expiration date; country of which the applicant is a citizen, place of birth, port of entry to the United States, and name and addresses of sponsor(s) upon the applicant's arrival;

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i. Whether during the last ten years any entity in which the applicant has been a director, officer, principal employee or a holder of five percent or more interest has:

1. Made or been charged with (either itself or through third parties acting for it) bribes or kickbacks to any government official, domestic or foreign, to obtain favorable treatment or to any company, employee or organization to obtain a competitive advantage;
2. Held a foreign bank account or has had authority to control disbursements from a foreign bank account;
3. Maintained a bank account or other account, whether domestic or foreign, which is not reflected on the books or records of the business or which is in a name other than the name of the business;
4. Donated, loaned or used funds or property for the use or benefit of or in opposing any government, political party, candidate or committee either domestic or foreign;
5. Compensated any of its directors, officers or employees for time and expenses incurred in performing services for the benefit of or in opposing any government or political party domestic or foreign; or
6. Made any loans, donations or other disbursement to its directors, officers or employees for the purpose of making political contributions or reimbursing such individuals for political contributions whether domestic or foreign;

j. Copies of Federal and foreign tax returns and related information for the last five years; and

k. A signed, dated and notarized Release Authorization which shall direct all courts, probation departments, military organizations, selective service boards, employers, education institutions, banks, financial and other institutions and all governmental agencies, Federal, state and local, both foreign and domestic, to release any and all information pertaining to the applicant as requested by the Commission, the Bureau and/or Contractor Investigator.

l. A completed PHD-MA-S shall include the following: (i) The name, address, occupation and phone number of persons who can attest to the applicant's good character and

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reputation; and (ii) a Waiver of Liability as to the Commonwealth of Massachusetts and its instrumentalities and agents for any damages resulting from any disclosure and publication of information acquired during the license or investigation process; and (iii) a signed, dated and notarized Affidavit of Truth.

111.05: Withdrawal of Application

(1) Except as provided in (2) below, a written notice of withdrawal of an application or renewal papers may be filed by an applicant, qualifier, licensee or registrant at any time prior to final Commission action thereon.

(2) A withdrawal request submitted in accordance with (1) above shall be permitted without the need for Commission approval except under the following conditions, in which cases no withdrawal will be allowed without express Commission approval upon a finding of good cause:

- (a) If a hearing on an initial application or renewal has been requested by a party or directed by the Bureau or Commission;
- (b) If the application or renewal matter has been transmitted to a Bureau Presiding Officer;
- (c) If the application or renewal matter has been assigned to any other hearing examiner authorized by law to hear such matter; or
- (d) If the Commission has made a determination to hear the application or renewal matter directly.

(3) If the Commission agrees to grant withdrawal under any of the circumstances in (2), the Commission may condition that withdrawal with appropriate terms it deems necessary, including, but not limited to, a period of time within which the applicant may not re-apply.

(4) Any person or entity holding a credential issued by the Commission, including, without limitation, a license or registration as a key gaming employee, a gaming employee, a gaming vendor, gaming service employee, or a non-gaming vendor may offer to surrender such credential by written request signed by the credential holder or a person authorized to sign on behalf of an entity. Surrender shall be for a term of five years from the date the request is granted by the Commission. No refund of any kind shall be authorized or granted in connection with the surrender of a credential. Surrender shall be granted at the sole discretion of the Commission.

REGULATORY AUTHORITY

205 CMR 111.00: M.G.L. c. 23K, §§ 4(37), 5, 9, and 12.

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205 CMR 112.00: REQUIRED INFORMATION AND APPLICANT COOPERATION

Section

112.01: Additional Information

112.02: Obligation to Cooperate

112.03: Obligation to Provide Truthful Information

112.01: Additional information

(1) The Commission, the Bureau or their agents and employees may request additional information and documents from an applicant throughout the application review process including after the application has been deemed administratively complete under 205 CMR 111. Failure by the applicant to timely submit the additional information as requested by the Commission, the Bureau or their agents and employees may be grounds, in the discretion of the Commission, for denial of the application.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K and 205 CMR shall comply with all requests of the Commission, the Bureau and their agents and employees for information and documents as authorized by the M.G.L. c. 23K and 205 CMR.

112.02: Obligations to Cooperate

(1) Applicants, licensees, registrants and qualifiers shall respond as soon as practicable to the information requests by the Commission, the Bureau and their agents and employees under 205 CMR 112.01.

(2) All applicants, licensees, registrants and qualifiers under M.G.L. c. 23K shall have a continuing duty to provide all information and documents requested by the Commission, Bureau, and their agents and employees and to cooperate in any investigation or hearing conducted by the Commission, Bureau, and their agents and employees, as authorized by the M.L.G. c. 23K. Without limitation, an applicant, licensee, registrant and qualifier shall have a continuing duty to provide updated information to the Commission, the Bureau and their agents and employees in connection with the Phase 1 investigation by the Bureau pursuant to 205 CMR § 115.03 and any hearing by the Commission or the Bureau pursuant to 205 CMR 101.00.

(3) If the Commission determines that an applicant, licensee, registrant, or qualifier has knowingly withheld information, knowingly failed to provide information or documents requested by the Commission, Bureau, or their agents and employees, or knowingly failed to cooperate with any investigation or hearing conducted by the Commission, Bureau, or their agents and employees, the Commission may, with respect to such person:

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- (a) Find that person ineligible to hold a license or registration or be qualified in connection with a license;
- (b) Suspend the relevant license, registration or qualification; or
- (c) Revoke the relevant license, registration or qualification.

112.03: Obligation to Provide Truthful Information

- (1) No applicant, licensee, registrant or qualifier shall knowingly provide materially false or misleading information to the Commission, the Bureau, or their agents and employees.
- (2) If the Commission determines that an applicant, licensee, registrant, or qualifier has knowingly provided materially false or misleading information to the Commission, the Bureau, or their agents and employees, the Commission shall, with respect to such person:
 - a. Find that person ineligible to hold a license or registration or be qualified in connection with a license;
 - b. Suspend, condition or revoke the relevant license, registration or qualification.

REGULATORY AUTHORITY

205 CMR 112.00: M.G.L. c. 23K, §§ 4(37), 5, and 13.

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205 CMR 113.00: APPLICATIONS FOR RENEWAL

[Reserved]

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205 CMR 114.00: FEES

Section

- 114.01: Application Fees
- 114.02: Payment of Application Fees
- 114.03: Community Disbursements
- 114.04: Additional Fees for Investigations
- 114.05: Non-refundable Application Fees

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114.01: Application Fees

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Pursuant to M.G.L. c. 23K, § 15(11), each applicant for a gaming license shall pay to the commission a nonrefundable application fee of \$400,000 to defray the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission within 30 days after notification of insufficient fees or the application shall be rejected.

114.02: Payment of Application Fees

(1) For a gaming license, the applicant shall pay the initial non-refundable application fee of \$400,000 by certified check or secure electronic funds transfer made payable to the Massachusetts Gaming Commission. The applicant shall submit this initial non-refundable application fee with its initial application and response to the RFA-1 process set forth in 205 CMR 110; provided, however, that an applicant for a gaming license may submit the initial non-refundable application fee before the submission of the initial application and response to the RFA-1 process provided that such early submission shall be accompanied by a certification in a form required by the Commission confirming the applicant's intention to apply for a gaming license pursuant to M.G.L. c. 23K and the applicant's acknowledgement that the fee is non-refundable.

114.03: Community Disbursements

(1) Pursuant to M.G.L. c. 23K, § 15(11), not less than \$50,000 of the initial application fee for a gaming license shall be used to reimburse the host and surrounding municipalities in accordance with 205 CMR 114.03 for the cost of determining the impact of a proposed gaming establishment and for negotiating community mitigation impact agreements.

(2) Based on a letter of authorization to the Commission signed by authorized representatives of an applicant and a host or surrounding municipality, the Commission may, at any time and from time to time, make community disbursements to that host or surrounding municipality from available amounts paid by that applicant to the Commission for community disbursements. If

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the total amount of payments authorized by an applicant exceeds the initial \$50,000 amount, the applicant shall immediately pay to the Commission all such additional amounts authorized by such letters of authorization for community disbursements. If the applicant fails to pay any such additional amount to the Commission within 30 days after notification from the Commission of insufficient funds, the application shall be rejected.

(3) If thirty days have elapsed after the final issuance, denial or withdrawal of an application for a gaming license and there remains a balance of funds previously paid by the applicant for community disbursements and not previously encumbered or disbursed pursuant to 205 CMR 114.03(2), the Commission in its discretion may disburse the remaining balance of such funds to the applicant's host or surrounding municipalities as the Commission in its discretion may determine and in accordance with such policies and procedures as the Commission may determine.

(4) The provisions of this paragraph do not prohibit community contributions permitted and reported in accordance with M.G.L. c. 23K, § 47, and 205 CMR 108.03.

114.04: Additional Fees for Investigations

(1) Pursuant to 205 CMR 114, the applicant shall be responsible for paying to the Commission all costs incurred by the Commission, directly or indirectly, for conducting any investigation into an applicant. As required by the procedure established pursuant to 205 CMR 114.04(5), the applicant shall pay to or reimburse the Commission for all such investigation costs that exceed the initial application fee.

(2) For purposes of 205 CMR 114, the costs for conducting any investigation into an applicant shall include, without limitation:

(a) All costs for conducting an investigation into an applicant and its qualifiers, the applicant's affiliates and close associates, and any other person subject to the jurisdiction of the commission under M.G.L. c. 23K relating to the application in question; and

(b) All fees for services, disbursements, out of pocket costs, allocated overhead, processing charges, administrative expenses, professional fees, and other costs directly or indirectly incurred by the Commission, including without limitation all such amounts incurred by the Commission to and through the Bureau, the division, the gaming enforcement unit, the gaming liquor enforcement unit, and any Contractor Investigator.

(3) The Commission in its discretion shall establish, post on its website and from time to time amend a schedule of hourly fees, wages, applicable fringe benefits, payroll taxes, overhead

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rates and other charges to be assessed by the Commission to applicants for in-house personnel, services and work of the Commission, the Bureau, the division, the gaming enforcement unit, and the gaming liquor enforcement unit for conducting investigations into an applicant pursuant to 205 CMR 114.

(4) The Commission shall assess all other costs paid by or for the Commission, directly or indirectly, to any other person for conducting an investigation into an applicant shall be assessed by the Commission to the applicant at the Commission's cost plus an appropriate percent for overhead, processing and administrative expenses.

(5) The Commission in its discretion shall establish, post on its website, and from time to time amend a procedure by which it will calculate, assess, invoice, collect, require payment for, account for and reconcile payments by applicants to the Commission for the costs for conducting any investigation pursuant to 205 CMR 114. In the case of a gaming license applicant, this procedure may include, without limitation, the requirement for the applicant to fund in advance a force account held by the Commission and to maintain therein and replenish a minimum required balance of at least \$100,000 against which the Commission may charge, with interest at 1% per month and late payment penalties, any costs for conducting the investigation not timely paid by the applicant in response to an invoice from the Commission.

114.05: Non-refundable Application Fees

(1) All required application fees and community disbursements pursuant to 205 CMR 114 shall be non-refundable, due and payable notwithstanding the withdrawal or abandonment of any application.

(2) In connection with an application for a gaming license, the applicant, its affiliates, and each party to any agreement to purchase or lease the land for a gaming establishment, to own the gaming establishment, or to manage the gaming establishment shall be jointly and severally liable for any amounts chargeable to the applicant pursuant to 205 CMR 114.

REGULATORY AUTHORITY

205 CMR 114.00: M.G.L. c. 23K, §§ 4(26), 4(37), 5, 10(d), 15(11), 19(b), 20(f), 21(b), 22, 23(c), 26, 30, and 31.

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205 CMR 115.00: PHASE 1 SUITABILITY DETERMINATION STANDARDS AND PROCEDURES

Section

115.01: Phase 1 Determination Standards

115.02: Phase 1 Procedures

115.03: Phase 1 Investigation and Recommendations by the Bureau

115.04: Phase 1 Proceedings by the Commission

115.05: Phase 1 Determination by Commission

115.01: Phase 1 Determination Standards

(1) Phase 1 Determination Standards. The Commission shall not issue an affirmative determination of suitability for any Category 1 or Category 2 applicants unless:

- (a) The applicant meets the standards in M.G.L. c. 23K, §§ 12, 16, 46 and 47.
- (b) The applicant complies with the provisions of 205 CMR 111 and 115.
- (c) The Commission has determined that the applicant has demonstrated financial stability pursuant to 205 CMR 117.
- (d) All qualifiers under 205 CMR 116.02 have been determined to be suitable by the Commission or received a waiver under 205 CMR 116.03.

(2) Burden of Proof. All applicants for a Phase 1 suitability determination must establish their qualifications by clear and convincing evidence.

115.02: Phase 1 Procedures

(1) When a completed RFA-1 application is filed, the application shall be referred by the Commission to the Bureau for a determination of completeness and investigation.

(2) Determination of Administrative Completeness. After receiving the application containing the information required by 205 CMR 111.02 the Bureau will either determine that the application is sufficiently complete for purposes of initiating substantive review or request additional information from the applicant.

(3) Notice. After the Bureau has determined the application to be administratively complete pursuant to 205 CMR 111.02(2), the Commission shall notify the applicant of the determination and notify the public that an application has been filed.

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115.03: Phase 1 Investigation and Recommendations by the Bureau

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- (1) The Bureau shall conduct an investigation into the qualifications and suitability of all applicants and qualifiers, as provided for in M.G.L. c. 23K, §§ 12 and 16. The Bureau may refer the application for investigation, in whole or in part, to a contractor investigator pursuant to 205 CMR 105.11 or retain the application for investigation by the Bureau.
- (2) At the completion of the Bureau's investigation, it shall submit a written report to the Commission. At a minimum, this report will include: recommendations pursuant to M.G.L. c. 23K, §§ 12, 14 (i) and 16 and findings of fact pursuant to M.G.L. c. 23K, § 17(f) relative to the suitability of the applicant for a gaming license.

115.04: Phase 1 Proceedings by the Commission

- (1) After the Commission has received the Bureau's report under 205 CMR 115.03(2) it shall provide a copy to the applicant and shall initiate a process for the adjudicatory proceeding.
- (2) Applicant's notice of claim. If the applicant contests any of the Bureau's recommendations or findings of fact it shall file a notice of claim with the Commission within 30 days of receipt of the Bureau's report.
- (3) Adjudicatory Proceeding. The Commission shall conduct an adjudicatory proceeding pursuant to 205 CMR 101.03(1) on each Phase 1 report by the Bureau pursuant to 205 CMR 115.03(2). The Commission will issue a public notice in advance of the adjudicatory proceeding stating the date, time and place of the hearing.

115.05: Phase 1 Determination by Commission

- (1) After the proceedings under 205 CMR 115.04, the Commission shall issue a written Determination of Suitability pursuant to M.G.L. c. 23K, §§ 4(15), 12 and 17.
- (2) Negative Determination. If the Commission finds that an applicant failed to meet its burden of demonstrating compliance with the suitability standards in M.G.L. c. 23K and 205 CMR 115, the Commission shall issue a negative Determination of Suitability.
- (3) Positive Determination. If the Commission finds that an applicant has met its burden of demonstrating compliance with the suitability in M.G.L. c. 23K and 205 CMR 115, the Commission shall issue a positive Determination of Suitability which may include conditions and restrictions.
- (4) The Commission shall not entertain a Phase 2 application for any applicant unless and until the Commission has issued a positive Suitability Determination on that applicant.

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(5) No appeal from Commission's Determination of Suitability. Pursuant to M.L.G. c. 23K, § 17(g) the applicant shall not be entitled to any further review.

REGULATORY AUTHORITY

205 CMR 115.00: M.G.L. c. 23K, §§ 4(37), 5, 12, and 13.

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205 CMR 116.00: PERSONS REQUIRED TO BE LICENSED OR QUALIFIED

Section

116.01: Persons Required to be Licensed

116.02: Persons Required to be Qualified

116.03: Waivers

116.04: Notification of anticipated or actual changes in directors, officers or equivalent qualifiers

116.05: Notification of New Financial Sources

116.06: Notification Concerning Certain New Qualifiers of Holding, Intermediary or Subsidiary Companies and New Qualifying Entities

116.07: Qualification of New Qualifiers

116.01: Persons Required to be Licensed

No Category 1 or Category 2 license shall be issued by the Commission or shall remain in effect unless and until the Applicant and all qualifiers identified in 205 CMR 116.00 have been found by the Commission to meet all standards necessary for a Phase 1 Determination of Suitability under 205 CMR 115.00.

Field Code Changed

116.02: Persons required to be Qualified

(1) The following persons shall be required to qualify as part of the Phase 1 Determination for a Category 1 or Category 2 license:

(a) If the applicant is a corporation:

(1) Each officer

(2) Each director

(3) In the judgment of the Commission in accordance with this M.G.L. c. 23K:

(a) each shareholder holding 15% or more of the common stock of the company

(b) each lender

(c) each holder of evidence of indebtedness

(d) each underwriter

(e) each close associate

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- (f) each executive
- (g) each agent
- (h) each employee

(b) If the applicant is a Limited Liability Corporation:

- (1) Each Member
- (2) transferee of a Member's interest
- (3) Each Director
- (4) Each Manager
- (5) As applicable, in the judgment of the Commission in accordance with M.G.L. c. 23K:
 - (a) each lender
 - (b) each holder of evidence of indebtedness
 - (c) each underwriter
 - (d) each close associate
 - (e) each executive
 - (f) each agent

(c) If the applicant is a Limited Partnership:

- (1) Each General Partner
- (2) Each Limited Partner
- (3) In the judgment of the Commission in accordance with this M.G.L. c. 23K:
 - (a) each lender
 - (b) each holder of evidence of indebtedness

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- (c) each underwriter
- (d) each close associate
- (e) each executive
- (f) each agent

(d) If the applicant is a Partnership:

- (1) Each Partner
- (2) In the judgment of the Commission in accordance with this M.G.L. c. 23K:
 - (a) each lender
 - (b) each holder of evidence of indebtedness
 - (c) each underwriter
 - (d) each close associate
 - (e) each executive
 - (f) each agent

(e) In all cases, any person who, in the opinion of the Commission, can exercise control or provide direction to a gaming licensee or applicant for a gaming license or holding, intermediary or subsidiary thereof.

(2) Other Qualifiers. The Commission may, at its sole discretion, require other persons or companies that have a business association of any kind with the Applicant to undergo a Phase 1 review and determination process under 205 CMR 1115. These affiliated companies or persons include, but are not limited to, holding, intermediary or subsidiary companies of the Applicant.

116.03: Waivers

(1) The Commission may waive qualification requirements for the following persons under the following conditions:

- (a) In the case of applicant corporations and holding, intermediary and subsidiary corporations, those persons holding less than 5% of the common stock of the company;

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(b) In the case of Institutional Investors, if the Institutional Investor holds less than 15% of the stock of the applicant, holding, intermediary or subsidiary company;

(c) Persons involved in the financing of the gaming establishment; or

(d) Any person that, in the opinion of the Commission cannot exercise control or provide direction to a gaming licensee or applicant for a gaming licensee or a holding, intermediary or subsidiary company thereof.

(2) In determining whether to waive qualification requirements under 205 CMR 116.03(l) , the Commission shall consider whether the person seeking the waiver obtained its interest for investment purposes only and does not have any intention to influence or affect the affairs of the applicant or any affiliated companies thereof.

(3) Any party granted a waiver under 205 CMR 116.03 which subsequently anticipates engaging in any activity that will or could influence or affect the affairs or operations of the applicant or the holding, intermediary or subsidiary company thereof, shall provide not less than 30 days' notice to the Commission of such intent and the party shall not exercise any influence or effect on the affairs or operations of the applicant or the holding, intermediary or subsidiary company thereof unless and until the Commission issues a Determination of Suitability under 205 CMR 115 for said party.

116.04: Notification of Anticipated or Actual Changes in Directors, Officers or Equivalent Qualifiers

(1) Each Category 1 and Category 2 applicant or licensee shall notify the Commission, in writing, as soon as practicable, of the proposed appointment, appointment, proposed nomination, nomination, election, intended resignation, resignation, incapacitation or death of any qualifier.

(2) Upon receipt of a notice under this Section, the Commission shall refer the matter to the Bureau for appropriate handling including, but not limited to, a notice to the new qualifier requiring the filing of an appropriate application and the subsequent investigation of that application.

116.05: Notification of New Financial Sources

(1) Each Category 1 and Category 2 applicant or licensee shall immediately notify the Commission, in writing, as soon as it becomes aware that it intends to enter into a transaction bearing any relation to its gaming establishment project that may result in new persons involved in the financing of the gaming establishment.

(2) Upon receipt of a notice under this Section, the Commission shall refer the matter to the Bureau for appropriate handling, including, but not limited to, a notice to the new financial

DRAFT AUGUST 2, 2012

source requiring the filing of an appropriate application and the subsequent investigation of that application.

116.06: Notification concerning certain new qualifiers of holding, intermediary or subsidiary companies and new qualifying entities

(1) Each Category 1 and Category 2 applicant or licensee shall immediately notify the Commission, in writing, as soon as it becomes aware of any new persons required to be qualified in connection with the holding, intermediary or subsidiary company of that Category 1 or Category 2 applicant or licensee in accordance with M.G.L. c. 23K.

(2) Upon receipt of a notice under this Section, the Commission shall refer the matter to the Bureau for appropriate handling, including, but not limited to, a notice to the new person requiring the filing of an appropriate application and the subsequent investigation of that application.

116.07: Qualification of new qualifiers

No new qualifiers may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume until qualified by the Commission.

REGULATORY AUTHORITY

205 CMR 116.00: M.G.L. c. 23K, §§ 4(37), 5, 12, 14, and 16.

DRAFT AUGUST 2, 2012

205 CMR 117.00: DETERMINATION OF PHASE 1 FINANCIAL STABILITY

Field Code Changed

117.01: Determination of Phase 1 Financial Stability

- (1) General. An applicant for a Category 1 or Category 2 license must demonstrate that it has the financial stability to construct and operate a Gaming Establishment.
- (2) Phase 1 Financial Stability Standards. In determining whether an applicant is financially stable at the time of the Phase 1 determination, the Bureau and the Commission shall review the Phase 1 application in accordance with the following standards:
 - (a) The ability to maintain a typical gaming establishment payroll and equivalent provisions adequate to pay winning wagers to gaming establishment patrons when due.
 - (b) The ability to meet ongoing operational expenses which are essential to the maintenance of continuous and stable gaming establishment operations.
 - (c) The ability to pay, as and when due, all local, state and federal taxes, including the taxes and other fund payments imposed by M.G.L. c. 23K.
 - (d) The ability to make necessary capital and maintenance expenditures in a timely manner which are adequate to ensure maintenance of a superior, first-class facility of exceptional quality.
 - (e) To the extent known at the time, the ability to pay, exchange, refinance, or extend debts, including long-term and short-term principal and interest and capital lease obligations, which are expected to mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts.
 - (f) Any other relevant matters that the Commission may deem appropriate for evaluation.
 - (g) The Bureau and Commission may also evaluate the applicant's historic gaming industry or commercial performance, if any, that are relevant to the criteria set forth in 205 CMR 117(2).
- (3) Any finding of Financial Stability for purposes of the Phase 1 determination of suitability, shall not be binding on any finding of Financial Stability for purposes of any Phase 2 determination of suitability by the Bureau or Commission..

Field Code Changed

REGULATORY AUTHORITY

205 CMR 117.00: M.G.L. c. 23K §§ 4(37), 5, 9 and 12.

DRAFT AUGUST 2, 2012

205 CMR 118.00:
[RESERVED]

Massachusetts Gaming Commission

MEMORANDUM

Date: August 6, 2012
To: Commissioners
From: Enrique Zuniga
Re: Recommendation to Execution Certain Contracts

Recommendation #1: That the Gaming Commission approve execution of a contract with Juristaff to assist the Commission with miscellaneous tasks relative to a search for a staff attorney. The amount of the fee is anticipated not-to-exceed \$15,000.

Juristaff Scope of Services Procured and Services to be Rendered

On July 26, 2012 the Commission made a determination to begin a search for a staff attorney.

On July 2, 2012, the Commission had concluded their previous solicitation from search firms in the context of the search for executive director. At that time, the Commission voted to prequalify three firms to conduct additional searches and human resource support as necessary.

I solicited quotes for search support help for the staff attorney. Juristaff's quoted a flat fee of \$15,000. Other quotes included the fees as a percent of the salary (between 30% and 33%). The Commission envisions that a salary for a staff attorney would be in the range of the classification of "Counsel II" of the Commonwealth's Human Resources Division, which is between \$65k - \$85k. Thus the other quotes received resulted in ranges between \$19,500 - \$28,000).

In addition, Juristaff's quote afforded the Commission the ability to move expeditiously to search for a permanent hire. In my opinion, this resulted in the most advantageous of the quotes solicited and received.

Recommendation #2: That the Gaming Commission approve execution of a contract with Mr. Jack Derby of Derby Management to contract services to serve as a group trainer and facilitator at two facilitated sessions and quarterly follow ups. The amount of the fee is anticipated not-to-exceed \$18,000.

Derby Management Scope of Services Procured and Services to be Rendered

Chairman Crosby made an initial determination that the Commission would benefit from training services for commissioners, first in an individual setting and secondly on a facilitated group setting. The objective of such sessions would be to train the Commission and commissioners in areas around roles and responsibilities, and planning aspects about organization and governance.

After a process of inquiry of scope and cost, the chair ascertained that qualified individuals had a similar approach and commensurate daily rates (quotes received ranged between \$3,000 and \$5,000/day). The chair also ascertained that such an exercise would quite possibly consist of two phases: first a day-long diagnostic exercise (including individual interviews with Commissioners, with a debrief with the group), and secondly additional periodic session(s) to follow up on substantive discussions. Depending on issues identified in the diagnostic phase, the second phase could require between two and three additional sessions, and possibly some additional consultation afterwards. As such, the current fee amount is estimated assuming that a diagnostic phase could result in three additional sessions. Associated expenses would be billed separately with no mark-up or paid directly by the commission.

Massachusetts Gaming Commission

MEMORANDUM

Date: August 3, 2012
To: Commissioners
From: Enrique Zuniga
Re: Recommendation to Approve the Fiscal Year 2013 Budget

Recommendation: That the Gaming Commission approve the budget presented as attachment to this memorandum for the projected expenditures of \$7,411,652 for Fiscal Year 2013 (beginning July 1, 2012 and ending June 30, 2013).

Brief Description of Budget Document

I have divided the Budget document into two major components:

- 1) **Expenditures directly allocable to the general operations of the Commission.** These expenditures include salaries, consultants, rent and other office related expenses. Some expenses in this category include capital expenditures (i.e., equipment and other fixed assets).
- 2) **Expenditures that may be allocable to other sources including:**
 - a. Research agenda costs that may be allocable to the Public Health Trust fund defined in section 58 of chapter 23K. Secretary of Health and Human Services is trustee of this fund.
 - b. Investigations costs. The costs of the suitability of applicants are assumed to be partially offset by the application fees assessed to applicants. I have assumed that there will be incremental costs on the investigations (i.e., investigations may end up costing more than \$350,000 per applicant). Incremental costs on these investigations would be assessed to those applicants as well.
 - c. Costs of the commission that may be allocable to racing operations. Current costs are relatively small (\$50,000 + 0.5 FTE), but we may anticipate incremental costs to improve operations.

Considerations on Revenue and Available Monies

Revenue assumptions for the FY13 budget are as follows:

- 1) The Balance on the Commission's appropriation at the beginning of the FY13 fiscal year
\$14,216,604
- 2) The Commission anticipates collecting application fees in this FY13 (statutorily set at a minimum of \$400,000 per applicant). Those monies will be expended in:
 - a. \$50,000 to communities to begin local mitigation negotiations
 - b. The balance of \$350,000 would be consumed in the suitability investigations that the Commission is looking to begin this fiscal year
 - c. There is an assumption that there will be incremental costs for investigations, and those costs would be assessed of applicants
- 3) There will not be licenses awarded in FY13, and thus no revenues due to the Commission for operations from licensees

Highlights of Certain Budget Expenditures and Related Assumptions

- 1) Salaries and Fringe
 - a. Reflects 11 existing FTE's
 - b. There are 10 additional FTE's projected for this fiscal year (though 14 additional individuals joining the commission prior to the end of the fiscal year). These positions have been assumed at different times for the remainder of the fiscal year and result in the lower number in terms of FTE's (10) given the partial year. These positions have been discussed prior based on the consultant's memorandum on critical hires.
- 2) Consulting / Advisors / Professional Services
 - a. This line item assumes need to extend contract with consultants and outside counsel beyond their current contracted amounts and times
 - b. There is a slight decrease assumed in the rate of expenditures of outside counsel given the assumption of an additional hire (i.e., staff attorney)
 - c. Work relative to investigations is not included in this line item, as those costs will be assessed separately
 - d. I have included an allowance of \$250,000 for a financial analyst / financial advisor. The fees in this line item would have to be explored in terms of the desire from the Commission to engage a financial advisor in the early stages of formulation of regulation, and subsequently the need to conduct a formal solicitation. As such, this number is only an estimate at this point.
- 3) Rent / Office
 - a. Assumes that the Commission may start leasing additional space (~ 20,000 square feet) four to six months before the end of the fiscal year (even if the move-in date is later in order to allow for some design and build-out time)

- b. Assumes a small budget for communications and graphics consultation of \$71,000
- 4) Chargebacks
 - a. The Commission will start to be assessed certain chargebacks from the Commonwealth relative to work that certain agencies do on behalf of the Commission. These chargebacks are small at this point, though may not be representative of chargebacks at the end of the fiscal year due to the start-up nature of the commission.
- 5) Capitalized Costs
 - a. This line item calls out costs for equipment and other fixed asset items. The assumptions behind these costs are similar to those on line item #3, which includes addition of approximately 20,000 square feet towards the end of this fiscal year (i.e., for only a partial year)
- 6) Events / Hearings / Travel
 - a. Certain costs for two public educational forums from last fiscal year will be reflected in this fiscal year expenditures. I have assumed an additional public educational forum (August 8, 2012)
 - b. I have also assumed 4 public hearings, related to promulgation of regulations or other in-state travel that the Commission may wish to undertake during this fiscal. Additional costs for in-state and out-of-state travel, as well as membership are reflected in this line item.
- 7) Subtotal
 - a. Statewide Cost Allocation Percentage (SWCAP). The state allocates a 10% indirect costs to different agencies. This cost allocation is applied on Salaries, Special Employees/contracted services, consultant contracts and information technology. The SWCAP would likely not be included in chargebacks and certain other miscellaneous costs. However, to be on the conservative side, I have included this percentage on all costs.

Massachusetts Gaming Commission
Preliminary Budget 2013

Massachusetts Gaming Commission
DRAFT Preliminary Yearly Budget
Year: FY2013

| Item | Description | FY2013 Amount | Subtotal | Comments/Assumptions |
|--|--|---------------|--------------|---|
| 1 Salaries and Fringe | | | | |
| 1.1 | Direct Salaries (Current) | \$ 1,067,750 | | 11 FTE's |
| 1.2 | Direct Salaries (projected FY13 only) | \$ 1,072,500 | | Additional positions (partial for year) - 10 FTE's |
| 1.3 | Fringe 27.27% | \$ 583,646 | | Fringe = 25.98%; Payroll tax = 1.29% |
| 1.4 | Prospective employee background checks | \$ 12,000 | | Drug testing, title verification, state police * 15 individuals |
| | Subtotal Salaries | | \$ 2,735,896 | Assumes 11 current FTE's + 10 FTE's FY13 |
| 2 Consulting / Advisors / Service Providers | | | | |
| 2.1 | Outside Counsel (start-up) | \$ 285,809 | | as per contract (\$365,000, expires 11/15/12). \$79,191 of contract expended FY12 |
| | Regulation phase 1 | \$ 135,000 | | Contract extension for writing regulations phase 1 |
| | Outside Counsel (ad-hoc, ongoing) | \$ 450,000 | | Professional services after Nov 15, 2012. Regs Phase 2 and 3 |
| 2.2 | Gaming Consultants | | | |
| | Spectrum Strategic Plan | \$ 250,000 | | as per current contract |
| | Michael & Carroll (local coordination) | \$ 125,000 | | as per current contract (\$125,000 of contract expended FY 12) |
| | Gaming Consultant (ad-hoc, on-going) | \$ 880,000 | | After October 2012. Does not include investigations |
| 2.3 | Auditor (internal controls / internal audit) | \$ 75,000 | | 1/2 engagement estimated at \$150k expended on fiscal year 13 |
| 2.4 | State Racing Review | \$ 50,000 | | As per contract (includes 1 amendment) |
| | State Racing Follow up (phase 2) | \$ 75,000 | | Implementation of recommendations and improvement |
| 2.5 | IT / Knowledge System | \$ 125,000 | | "Open Text" database, may need to spend consulting/advisory fees |
| | IT - Other | \$ 75,000 | | web hosting / e-mail archiving |
| 2.6 | Executive Search Firm & HR Support | \$ 80,000 | | assumes ED plus another position (GC, CFO, IT or other), plus support services |
| 2.7 | Financial Consultant | \$ 250,000 | | Placeholder for financial consultant, modeling, financial evaluations |
| 2.8 | Project Management Firm | \$ 60,000 | | Cost of engagement (\$71k) is not all incurred in FY13 |
| 2.9 | Training | \$ 46,000 | | Gaming expo and problem gambling for 7 people. Governance and board training |
| 2.10 | Procurement Consultant | \$ 25,000 | | Documentation, RFR writing, and procurement follow up |
| | Subtotal Service Providers | | \$ 2,986,809 | Outside Counsel, ED Search, Gaming Consultants, Auditor, State Racing Review, IT (Knowledge System) |
| 3 Rent / Office | | | | |
| 3.1 | Rent 84 State Street | \$ 256,000 | | does not assume rent increase after 1 year term |
| | Additional rent (6th floor? 7th floor? Elsewhere?) | \$ 125,000 | | assumes an additional ~20k square feet (for 1/2 year) |
| | Utilities | \$ 5,400 | | Electricity (suite 720, suite 700) |

Massachusetts Gaming Commission
Preliminary Budget 2013

Massachusetts Gaming Commission
DRAFT Preliminary Yearly Budget
Year: FY2013

| Item | Description | FY2013 Amount | Subtotal | Comments/Assumptions |
|----------|---|---------------|--------------|---|
| 3.2 | Open Meeting Costs | \$ 100,000 | | 50 meetings (one per week) at \$2k - includes stenographer (\$1.2k and streaming). Does not include room rental |
| 3.3 | Office Supplies | \$ 20,000 | | \$1650 per month |
| 3.4 | Parking | \$ 48,960 | | Need current expenditure plus projected |
| 3.5 | Incidentals - outreach | \$ 7,500 | | i.e., fotographer, notices, public hearings |
| | Outreach materials | \$ 10,000 | | Printing / banners / brochures and collateral for speakers bureau |
| 3.6 | Phones (land lines, data, cell phones) | \$ 9,600 | | 8 cell phones |
| 3.7 | Communications Budget | | | |
| | Brand identity / Logo | \$ 35,000 | | Awaiting quotes from qualified firms |
| | Web Design, webmaster services | \$ 25,000 | | assumes may be different from mass.gov for a part of the year |
| | Subscriptions | \$ 2,500 | | Hard copies / on-line of trade publications |
| | Communications equipment | \$ 5,000 | | digital camera / video / film / photo clipping and editing |
| | News service | \$ 4,000 | | Quote Meltwater. |
| | Subtotal Rent / Office | | \$ 653,960 | 1 year lease, office supplies, parking, meeting sites |
| 4 | Chargebacks | | | |
| | Website, payroll, etc. | \$ 24,000 | | \$2k per month. Need to confirm these figures with Comptroller |
| | Other chargebacks | \$ 7,500 | | Need to confirm these figures with Comptroller |
| | Subtotal Chargebacks | | \$ 31,500 | |
| 5 | Capitalized costs | | | |
| | Additional furniture for 84 State | \$ 60,000 | | assumes level of expenses as to date to finish main area |
| | Furniture secondary space (84 state) | \$ 60,000 | | four offices, chairs for meeting room (second area) |
| | Fit out second space (7th floor) | \$ 125,000 | | Additional office? Additional space at 84 state (elsewhere) |
| | Subtotal Capitalized Costs | | \$ 245,000 | Additional furniture, additional fit out 84 State Street |
| 6 | Events / Hearings / Travel | | | |
| | Public Education Forums | \$ 25,500 | | 3 forums at \$8,500 each. 1 Forum's costs were not incurred in FY12. 2 more forums |
| | Staff in state Travel (reimbursements) | \$ 8,700 | | \$75/month *7 people * 12 + some hotel (200*3 hearings * 4 people) |
| | Hearings throughout State | \$ 18,400 | | 4 at \$4,600/hearing (inc. 2.1K video, 1.5 k transcript and \$1k venue) |
| | Staff out of state travel | \$ 26,000 | | 8 miscellaneous in state and out of state trips + 2 overseas trips |
| | Associations / Memberships | \$ 6,100 | | IAGR, Bar Memberships (2 @2500) |
| | Subtotal Events & Travel | | \$ 84,700 | 3 public forums, in state and out of state travel |
| | Subtotal Direct Commission Costs | | \$ 6,737,865 | |
| | Statewide Indirect Allocation (SWCAP) | 10% | \$ 673,787 | Statewide Cost Allocation Percentage |
| | Projected Total Direct Commission Costs | | \$ 7,411,652 | |

Massachusetts Gaming Commission
Preliminary Budget 2013

Massachusetts Gaming Commission
DRAFT Preliminary Yearly Budget
Year: FY2013

| Item | Description | FY2013 Amount | Subtotal | Comments/Assumptions |
|---|---|---------------|--------------|---|
| Additional Costs that may be offset or reimbursed from other sources | | | | |
| 7 | Research Projects | | | Two research projects (economic impact & entertainment venues) |
| | Economic Impact | \$ 100,000 | | |
| | MCC - Entertainment Venues | \$ 50,000 | | |
| | Research Agenda Planning Grant | \$ 75,000 | | |
| | Baseline Study (compulsive gambling) | \$ 937,500 | | Assumes half of the baseline study in this fiscal year (other 1/2, next) |
| Subtotal Research Projects | | | \$ 1,162,500 | Baseline study can be funded through the Public Health Trust Fund |
| 8 | Technical Assistance to Cities and Towns | | | |
| | Local Government Assistance | \$ 85,000 | | Quote from Collins Institute |
| | Grants to Host Communities? | TBD | | (in excess of \$50,000 statutory amounts) |
| | Criteria checklist assistance - 3rd party | TBD | | |
| 9 | Racing Operations | | | |
| | Racing Division (lack of legislative line item) | TBD | TBD | Need to confirm whether this will represent a cost, or could be off-set from racing operations and trust |
| | | | | There may be incremental costs per recommendations from working group |
| 10 | Investigations | | | |
| | Background Investigations RFA Phase 1 | 7 applicants | \$ 2,450,000 | 7 applicants at \$350,000 each. These costs would directly offset from the application fees |
| | Incremental Costs for Investigations | TBD | TBD | Assumes the possibility of additional costs (TBD) for investigations that would later be assessed of applicants |
| | | | TBD | |

TCI

The Commonwealth of Massachusetts

Massachusetts Gaming Commission

CERTIFICATION

I certify that I am the _____ of _____ (the "Company"), a _____ organized under the laws of _____, that I am familiar with the matters herein certified, and I am duly authorized on behalf of the Company to certify the same, and that I do hereby certify on behalf of the Company that:

1. The Company intends to apply to the Massachusetts Gaming Commission ("Commission") for a category ___ gaming license in region ___ pursuant to M.G.L. c. 23K.

2. The Company understands that the Commission is in the process of promulgating regulations which, when issued, will govern applications for and issuance of gaming licenses in the Commonwealth of Massachusetts (the "Regulations"). The Commission will promulgate the regulations, and accept applications, in phases. Phase 1 will focus on the qualifications of the applicant to hold a gaming license authorized by M.G.L. c. 23K. Phase 2 will focus on the applicant's proposed gaming establishment.

3. Prior to the promulgation of the Regulations, the Company desires to, and by enclosed certified check payable to the Massachusetts Gaming Commission hereby does, voluntarily pay to the Commission pursuant to M.G.L. c. 23K, § 15(11) an application fee of \$400,000. The Company acknowledges and agrees that the fee, and any additional amounts the Company pays pursuant to ¶ 4(b)(ii) hereof, are nonrefundable except to the extent set forth in ¶ 5 hereof.

4. The Company acknowledges and agrees that:

- a. It will be bound in all respects by the Regulations when and as the Regulations are issued.
- b. Pursuant to M.G.L. c. 23K and subject to the Regulations, when issued, (i) the Commission may use the nonrefundable application fee to defray the costs associated with processing the application and investigation of the Company, its qualifiers, affiliates and close associates, and any other person subject to the jurisdiction of the Commission, relating to the application in question and (ii) if the costs of processing the application and the investigation under ¶ 4(b)(i) exceed \$350,000 or if the costs incurred to reimburse municipalities under ¶ 4(c) exceed \$50,000, the Company will pay to the Commission an amount or amounts sufficient to defray the additional costs within 30 days after notification of insufficient fees or the Company's application will be rejected.
- c. Pursuant to M.G.L. c. 23K, § 15(11) and the Regulations, not less than \$50,000 of the nonrefundable application fee shall be used to reimburse the host and surrounding

municipalities for the cost of determining the impact of the Company's proposed gaming establishment and for negotiating community mitigation impact agreements.

- d. Pursuant to M.G.L. c. 23K, § 19, the Commission may issue not more than three category 1 licenses throughout the Commonwealth and not more than one such license shall be awarded per region.
- e. Pursuant to M.G.L. c. 23K, § 20(a), the Commission may issue not more than one category 2 license throughout the Commonwealth.
- f. Subject to section 91 of chapter 194 of the Acts of 2011, and within its discretion under M.G.L. c. 23K, the Commission may determine not to issue a request for applications for or any particular category of gaming license in any particular region in the Commonwealth.

5. In the event that the Commission determines not to issue a request for applications for a gaming license of the category and in the region set forth in ¶ 1, the Company understands and agrees that the Commission will thereafter refund to the Company the balance of the application fee less any amounts used by the Commission pursuant to ¶¶ 4(b) and 4(c) prior to that determination.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2012.

Name: _____
Title: _____

Commonwealth/State of _____

County of _____

On this ____ day of _____, 2012, before me, the undersigned notary public, personally appeared _____, proved to me through satisfactory evidence of identification, which was __ photographic identification with signature issued by a federal or state governmental agency, __ oath or affirmation of a credible witness, __ personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that being duly authorized on behalf of the Company s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires: _____

7ci

SECRETARY'S CERTIFICATE

I, _____, am the duly appointed Secretary of _____ (the "Company"), a corporation duly organized and existing under the laws of _____, and as such do hereby certify that on _____, 2012, the Company's Board of Directors approved the following votes:

VOTED: That the Company be and is hereby authorized to pay to the Massachusetts Gaming Commission (Commission") a nonrefundable gaming license application fee of \$400,000 and to execute and deliver to the Commission with that fee a Certification in the form prescribed by the Commission governing the disposition of that nonrefundable application fee and any additional required sums as set forth therein (the "Certification");

VOTED: That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute the Certification, to bind the Company to its terms, and deliver to the Commission the executed Certification and the nonrefundable gaming license application fee of \$400,000 and any additional required sums as set forth in the Certification.

VOTED: That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute and deliver all such other agreements, documents, instruments and certificates and to take such other or further action as may be necessary or in his opinion desirable to effect the intent and purpose of the foregoing resolutions.

These votes have not been rescinded, modified, revoked or amended and are in full force and effect as of the date hereof. There are no proceedings or other actions pending for dissolution, liquidation or reorganization of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2012.

Name: _____
Title: Secretary

COMMONWEALTH/STATE OF _____
County of _____, ss

On this ____ day of _____, 2012, before me, the undersigned notary public, personally appeared _____, the Secretary of _____, proved to me through satisfactory evidence of identification, which was _____ (identify the type of evidence), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

7 c i

MANAGER'S CERTIFICATE

I, _____, am the duly constituted Manager of _____, LLC (the "Company"), a limited liability company duly organized and existing under the laws of _____, and as such do hereby certify that on _____, 2012, the Company took all necessary actions and duly approved the following resolutions:

RESOLVED: That the Company be and is hereby authorized to pay to the Massachusetts Gaming Commission (Commission") a nonrefundable gaming license application fee of \$400,000 and to execute and deliver to the Commission with that fee a Certification in the form prescribed by the Commission governing the disposition of that nonrefundable application fee and any additional required sums as set forth therein (the "Certification");

RESOLVED : That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute the Certification, to bind the Company to its terms, and deliver to the Commission the executed Certification and the nonrefundable gaming license application fee of \$400,000 and any additional required sums as set forth in the Certification.

RESOLVED: That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute and deliver all such other agreements, documents, instruments and certificates and to take such other or further action as may be necessary or in his opinion desirable to effect the intent and purpose of the foregoing resolutions.

These resolutions not been rescinded, modified, revoked or amended and are in full force and effect as of the date hereof. There are no proceedings or other actions pending for dissolution, liquidation or reorganization of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2012.

Name: _____
Title: Manager

COMMONWEALTH/STATE OF _____
County of _____, ss

On this ____ day of _____, 2012, before me, the undersigned notary public, personally appeared _____, the Manager of _____, proved to me through satisfactory evidence of identification, which was _____ (identify the type of evidence), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

7ci

GENERAL PARTNER'S CERTIFICATE

I, _____, am a general partner of _____ (the "Company"), a [limited liability] partnership duly organized and existing under the laws of _____, and as such do hereby certify that on _____, 2012, the general partners of the Company approved the following votes:

VOTED: That the Company be and is hereby authorized to pay to the Massachusetts Gaming Commission (Commission") a nonrefundable gaming license application fee of \$400,000 and to execute and deliver to the Commission with that fee a Certification in the form prescribed by the Commission governing the disposition of that nonrefundable application fee and any additional required sums as set forth therein (the "Certification");

VOTED: That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute the Certification, to bind the Company to its terms, and deliver to the Commission the executed Certification and the nonrefundable gaming license application fee of \$400,000 and any additional required sums as set forth in the Certification.

VOTED: That _____, the _____ of the Company, be and is hereby authorized and directed for and on behalf of the Company, to execute and deliver all such other agreements, documents, instruments and certificates and to take such other or further action as may be necessary or in his opinion desirable to effect the intent and purpose of the foregoing resolutions.

These votes not been rescinded, modified, revoked or amended and are in full force and effect as of the date hereof. There are no proceedings or other actions pending for dissolution, liquidation or reorganization of the Company.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2012.

Name: _____
Title: General Partner

COMMONWEALTH/STATE OF _____
County of _____, ss

On this ____ day of _____, 2012, before me, the undersigned notary public, personally appeared _____, General Partner of _____, proved to me through satisfactory evidence of identification, which was _____ (identify the type of evidence), to be the person whose name is signed on the preceding or attached document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

7d

Sketch of Gaming Commission Diversity and Inclusion Educational Forum:

Date: Week of September 17, 2012

Location:

- (1) Boston Convention and Exhibition Center
- (2) University of Massachusetts at Boston (As school will be back in session, this may be tough)

Timing: 3-4 hours max

Format:

- (1) Opening Session
- (2) Welcome from MA Gaming Commission – Purpose of Forum
- (3) Presentation on Diversity and Inclusion Language in Gaming Act
- (4) Two Panels
 - (a) **Panel 1** focused on Supplier Diversity and Inclusion (60-75 minutes)
 - (b) **Panel 2** focused on Workforce Diversity and Inclusion (60-75 minutes) yes
- (5) **Town Hall Forum** – an opportunity to solicit questions, receive feedback and generate ideas for consideration to be incorporated into the Panels
- (6) 10 minute break is built in between each activity, the event will last approximately 3 hours

Logistics:

1. MC
2. Room(s) needed
3. Marketing/Outreach (Target Audience)
4. Registration
5. Audio visual
6. Refreshments
7. Panel members