

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

PUBLIC MEETING #48
KEY POLICY QUESTIONS

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Bruce W. Stebbins

Enrique Zuniga

January 23, 2013, 1:00 p.m.

OFFICE OF THE DIVISION OF INSURANCE

First Floor, Hearing Room E

1000 Washington Street

Boston, Massachusetts

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

P R O C E E D I N G S :

CHAIRMAN CROSBY: We'll call to order public meeting number 48 of the Massachusetts Gaming Commission on Wednesday, December (SIC) 23.

We're just going to run through another bunch of so-called key policy questions starting out with question number 27, which was the work of Commissioner Cameron.

COMMISSIONER CAMERON: Mr. Chair, it is. The question, question number 27 has to do with when should regulations regarding check-cashing be issued and what should those regulations contain?

Once again, the legislation was pretty specific, addresses check-cashing and credit issuance to patrons. First, the section prohibits a gaming establishment from cashing a check unless in accordance with our regulations promulgated by the Commission. The Commission shall issue regulations prohibiting a gaming establishment from cashing a government issued check. And these regulations should be written in consultation with the Department of Transitional Assistance, the Department of Labor and Workforce Development, the

1 Department of Housing and Community Development
2 and/or applicable administering agency.

3 Also, the law prohibits a junket from
4 engaging in efforts to collect upon checks that have
5 been returned by banks without full and final
6 payment, and prohibits the junket from acting on
7 behalf or under an arrangement with the gaming
8 licensee or a gaming patron with regard to the
9 redemption, consolidation or substitution of the
10 gaming patron's checks awaiting deposit.

11 The law also prohibits gaming
12 establishments from marketing or granting access to
13 check-cashing privileges to persons on any excluded
14 persons list.

15 In addition to the law, our strategic
16 plan on pages 126 through 128 provides guidance.
17 And pages 140 to 150 is a summary of money-laundering
18 and best practices for preventing it. So, there are
19 some specifics there also.

20 Public comment on this issue, Sterling
21 Suffolk addresses this in the same manner they have
22 many other questions, establishing internal
23 controls.

24 And the recommendation on this issue,

1 obviously, we'll have to first set up meetings. And
2 I think we'll have to do this pretty quickly since
3 we're going to start writing these regulations
4 pretty soon. So, this will be part of our phase two
5 Phase-2.

6 In other words, this is not something
7 that we need for the application, Phase-2
8 application, but we will need it shortly after as
9 we will with all of our operations in the casinos
10 themselves.

11 And I think having meetings with these
12 other stakeholders and listening to their ideas on
13 check-cashing is obviously something the law
14 establishes and we should do that.

15 And I think addition to that, the
16 strategic plan lays out some best practices there.
17 So, I think this is an area in which we don't have
18 to reinvent the wheel. We're going to look at those
19 best practices as well as listen to the other
20 stakeholders in the matter.

21 The goal here is to prevent abusive
22 practices by licensee and reduce the chance of
23 money-laundering. So, we will keep those two
24 things in mind in writing these regulations in

1 consultation with our consultants.

2 COMMISSIONER MCHUGH: I think that's
3 thoughtfully done as usual. The only thing that I
4 would add is that at our Compulsive Gambling
5 conference, we heard some testimony from a gentleman
6 who got in trouble in Massachusetts and then --

7 CHAIRMAN CROSBY: Connecticut.

8 COMMISSIONER MCHUGH: -- he went
9 someplace and they shut him off after he bounced a
10 check. And he said that he wished that he had had
11 that wherever it was that he got in trouble in the
12 first place.

13 CHAIRMAN CROSBY: I think he got in
14 trouble in Connecticut and they let him continue to
15 write checks. And then he went to New York and they
16 wouldn't because of his record of bouncing checks.
17 So, there are different standard.

18 COMMISSIONER MCHUGH: Yes. He
19 bounced a single check and that was a flag, and they
20 cut him off. It seems to me we ought to think in
21 addition to money laundering about prevention
22 compulsive gambling when we deal with this and have
23 the regs. deal with this.

24 COMMISSIONER CAMERON: You have

1 prevent abusive practices by licensees. And I
2 think that can apply to the patron and what's in the
3 best interest of the patron, which means very strict
4 policies on check-cashing.

5 COMMISSIONER MCHUGH: Right.

6 CHAIRMAN CROSBY: Commissioner McHugh
7 is right. It's sort of a different angle on it.
8 There are probably people, maybe the consultants
9 have expertise in this area, but there probably are
10 people in the problem gambling area who might have
11 insights to this that are a little different from
12 the normal run-of-the-mill insights.

13 COMMISSIONER CAMERON: Maybe it would
14 be a good idea when we are inviting all of these other
15 folks to a meeting to talk about this issue, we
16 invite the council members.

17 CHAIRMAN CROSBY: I think that's a
18 great idea.

19 COMMISSIONER MCHUGH: Yes. It's
20 really self-inflicted wounds sort of that we're
21 trying to prevent there. So, I think that'd be
22 great.

23 COMMISSIONER CAMERON: I'm adding it
24 to the list so when we have that meeting we'll

1 invite, makes sure we have that group up as well.

2 CHAIRMAN CROSBY: Number 28 is also
3 Commissioner Cameron.

4 COMMISSIONER CAMERON: Yes.

5 Question 28: When should regulations regarding
6 approval of promotional gaming credits be issued and
7 what should those regulations contain?

8 Just referring to the legislation, the
9 Commission shall establish procedures and standards
10 for approving promotional gaming credits provided
11 however that no such credit shall be reported as a
12 promotional gaming credit by an operator of the
13 gaming establishment unless the operator can
14 establish that the credit was issued by the gaming
15 establishment and received from a patron as a wager
16 at a slot machine in the gaming establishment.

17 CHAIRMAN CROSBY: What does that mean?
18 Does that mean you can't transfer from other
19 casinos? Or you can't use your frequent-flyer
20 miles?

21 MR. MICHAEL: I think what it may
22 address is whether or not you can claim that for tax
23 purposes. So, that unless the credit is used, it's
24 not a deduction for you.

1 CHAIRMAN CROSBY: Oh, I see. This is
2 a constraint on the operator.

3 MR. MICHAEL: On the operator, right.

4 CHAIRMAN CROSBY: Not on the
5 recipient.

6 MR. MICHAEL: That's right. You
7 can't claim the credit as an expense unless it's
8 actually wagered.

9 COMMISSIONER ZUNIGA: I'm sorry Guy,
10 but the distinction here for the slot machine does
11 that differentiate let's say a table game?

12 MR. MICHAEL: It would, although
13 typically the credits are issued for slot machines.
14 I don't know of a promotional credit -- There's Max
15 Play, I suppose that is also used at table games.
16 But this one seems to just address slot machines.
17 I don't know why it does -- it makes that
18 distinction.

19 COMMISSIONER CAMERON: Sterling
20 Suffolk responded to this question. Again, and
21 just mentions all of these questions and they
22 pertain to gaming establishment's internal
23 controls. They discuss the same procedure for
24 question 24.

1 Mohegan Sun encourages the Commission
2 to consider regulations on promotional gaming
3 credits in the early effort Phase-2 regulation
4 process but also keep those regulations flexible to
5 adopt to future needs when casinos open in the
6 Commonwealth.

7 Both New York and Connecticut have
8 recognized that a certain amount of promotional free
9 play is pro-competitive and enhances gaming
10 revenues and benefits to the states, but at some
11 point free play if left unregulated can diminish
12 revenues. This was very similar to a question we
13 had yesterday. The same comments and our
14 consultants talked about that as well.

15 Connecticut free play redeemed at two
16 tribal casinos in excess of 11 percent of the net
17 slot win for each month subject to a contribution
18 payment to the state at a rate of 25 percent at a
19 net slot win.

20 CHAIRMAN CROSBY: I don't quite follow
21 that either.

22 COMMISSIONER MCHUGH: I don't either.

23 COMMISSIONER CAMERON: That's the
24 comment from Mohegan.

1 COMMISSIONER ZUNIGA: Isn't that part
2 of the point that was just made earlier that you
3 cannot claim it as a credit if you are the operator?

4 CHAIRMAN CROSBY: Why would an
5 operator -- Don't the revenue and the state -- Don't
6 the operator and the state have the same interest
7 in maximizing gross gaming revenues? Why would we
8 need to regulate them from giving away too much free
9 stuff? Go ahead, Michael.

10 MR. POLLOCK: The way I interpret that
11 last statement, it's not uncommon for states to
12 limit the amount of free play. And in some states
13 as I recall and I don't recall which ones, they
14 actually tax free play as if it was wagered.

15 The way I interpret that last statement
16 is there is a cap in Connecticut of 11 percent. You
17 can't go above 11 percent. If it's over 11 percent,
18 then the free play is taxed -- It's not a tax in
19 Connecticut. It's revenue-sharing of 25 percent.

20 COMMISSIONER ZUNIGA: Because of the
21 compact.

22 MR. POLLOCK: Exactly.

23 COMMISSIONER MCHUGH: What's the
24 business incentive for somebody to give away so much

1 free play that they diminish their economic
2 viability?

3 MR. POLLOCK: That something's wrong
4 in that situation because it defies business logic.
5 Those are poor business decisions that clearly are
6 being made. They are giving way too much money and
7 not getting sufficient return.

8 COMMISSIONER MCHUGH: So, the
9 regulation to limit the amount of free play would
10 be a regulation to prevent the business entity from
11 harming itself.

12 CHAIRMAN CROSBY: Kevin, did you write
13 this?

14 MR. CONROY: Yes.

15 CHAIRMAN CROSBY: Could you explain
16 it? What are we missing? Come on up. Michael,
17 stay there if you have something to say. But we
18 happen to have the maestro here who wrote this.

19 MR. CONROY: My understanding is that
20 in other jurisdictions what we've seen is that the
21 free play has become an entity that casinos use to
22 compete with each other. And sometimes at these
23 casinos what we've seen is that the free play sort
24 of overtakes -- become such a hot topic, such a hot

1 area of competition among casinos that you see them
2 giving so much away.

3 And what we've seen in some states is
4 what the response to that has been is that they're
5 going to limit it, and you're exactly right, above
6 a certain percent. They're going to treat just like
7 they treat casino revenues. So, they're going to
8 call it the tax rate, call whatever it is.

9 So, what some states would say and I
10 think what our comments encourage you to do is at
11 least think about whether you want to put some sort
12 of limit on free play because the free play amounts,
13 if you don't put some sort of limit on it, what you
14 see is that it becomes a really hot -- could become
15 a hot competition and potentially the state could
16 lose revenues, again, because you're not --

17 CHAIRMAN CROSBY: It is as
18 Commissioner McHugh said, we're looking for a reg.
19 to protect the industry from itself, sort of?

20 MR. CONROY: I think one could look at
21 it that way. I wonder if you're looking for a reg.
22 that in essence potentially protects your revenues,
23 because --

24 CHAIRMAN CROSBY: But in theory,

1 they're competing presumably because they are
2 trying to protect and drive up their own revenues.
3 So, they have the same objective. They think that
4 giving away free means you're going to keep more
5 people, which means you're going to get more money.
6 They're not giving away free play because they think
7 it's going to reduce their revenue.

8 MR. CONROY: Right. Obviously, this
9 free play also gets people in the casino door and
10 means that they spend money on other things other
11 than casinos that you don't necessarily tax at the
12 same share.

13 So, that's been what we've seen in some
14 states is it's been a way to get people in the door
15 and they don't necessarily therefore spend their
16 money at the table. They spend it in different
17 ways.

18 I think our comment wants you to at
19 least consider -- And I think too you may want to
20 look at this was a subject of at least some
21 discussion among the Legislature as part of the
22 crafting of the bill. And you may want to go back
23 and at least take a look at what -- I think you read
24 what the actual legislation had, but there was some

1 debate about this at the legislative level.

2 And I think our comments says to you you
3 may want to at least consider whether you want to
4 put a cap on this and sort of the some of the revenue
5 implications for the State as part of this.

6 COMMISSIONER ZUNIGA: There's also
7 companies at different times make short-term
8 decisions or longer-term decisions. And I wouldn't
9 characterize it as protecting it from itself, but
10 the incentives, depending on their finances, let's
11 say, may change at different times.

12 They may be being too aggressive, let's
13 say, for short-term revenues given a lot of things
14 going on elsewhere outside of Massachusetts, let's
15 say, in their corporate structure.

16 So, from Massachusetts standpoint, in
17 addition to what Kevin says, this would be a way to
18 protect the interest of the Commonwealth, which are
19 long-term by its very nature.

20 COMMISSIONER MCHUGH: But on the other
21 hand -- I'm not disagreeing with that. On the other
22 hand, it seems to me that the use of free play,
23 particularly in a region like New England where the
24 travel distances are relatively short, could be used

1 as an incentive to get people away from -- to draw
2 people into the State who otherwise would be going
3 someplace else.

4 You could have a free play war between
5 a Massachusetts casino and an out-of-state casino
6 that would draw people in. And then once in, use
7 the other devices that keep people in to keep them
8 coming back. That's a theoretical possibility at
9 least, right?

10 COMMISSIONER ZUNIGA: And for that
11 instance, I would perhaps make the argument that if
12 we were to cap it at 12 percent, let's say one percent
13 higher than Connecticut that could incentivize
14 somebody to come back to -- I don't want to speak
15 harass but the point is that I do believe that some
16 sort of cap would be relevant.

17 CHAIRMAN CROSBY: Why is it in the
18 interest of Mohegan Sun to make this recommendation?

19 MR. CONROY: I think my sense and what
20 Mohegan Sun was wondering and this came out a little
21 bit in the legislative debate is that I think you've
22 characterized it couple of times as the industry
23 sort of needing you to regulate and protect it from
24 itself. And I think what Mohegan Sun's point of

1 view on this is some sort of regulation in this area
2 may make sense.

3 Because it not only protects the
4 casinos, it tells the casino you can limit free play,
5 but it protects the State's revenues. One of the
6 things Mohegan Sun wants to make sure is that when
7 it gets its license that the State thinks it's
8 getting its fair investment out of Mohegan Sun.

9 And I think what they've seen in other
10 jurisdictions is that if there is not some sort of
11 cap on free play that it becomes a big competition,
12 which hurts not only the casinos but it hurts the
13 State's revenues.

14 COMMISSIONER MCHUGH: I want to push
15 that farther. If you turn it around, I understand
16 the state revenue piece. But why can't it also be
17 viewed as a pricing floor, sort of an unofficial
18 pricing floor that works against market forces that
19 ordinarily are going to the highest yield to the
20 highest yield these people are smart?

21 CHAIRMAN CROSBY: Or the best consumer
22 deal on the other hand, driving prices down in
23 effect.

24 COMMISSIONER MCHUGH: Which is maybe

1 antithetical to the interests that the State has.

2 CHAIRMAN CROSBY: In one sense, but on
3 the other sense -- Right.

4 COMMISSIONER MCHUGH: Right.

5 MR. POLLOCK: One other point is that
6 putting a floor and putting a tax -- taxing free play
7 at a certain level does not necessarily eliminate
8 free play. There are states where it is taxed and
9 operators still pursue it, but they price that into
10 their decisions.

11 And I also note that we could easily and
12 relatively quickly summarize how all states are
13 doing this and handling this and get that to you.

14 CHAIRMAN CROSBY: That'd be great.

15 COMMISSIONER MCHUGH: That'd be
16 helpful.

17 CHAIRMAN CROSBY: I interrupted you,
18 Commissioner, you didn't get an answer to your
19 question.

20 MR. CONROY: I was pretty happy you
21 saved me, Chairman.

22 COMMISSIONER MCHUGH: Giving him time
23 to think. That's very helpful.

24 MR. CONROY: Again, my sense on this is

1 this is debate the Commission has, it goes to nearly
2 everything the Commission thinks about, which is do
3 we need to regulate in this area or do we want to
4 leave it up to the casinos to and allow market forces
5 to decide.

6 Mohegan's sense on this is that because
7 this affects not only casino competition but really
8 affects the revenues that the Commonwealth is
9 bringing in that it's probably an area that you want
10 to think a little bit more about regulation than
11 allowing to leave this to market forces.

12 It's a good question. And one that you
13 debate and think about every day. I will note that
14 I think our comments are maybe a grand total of a
15 paragraph on this issue. And we would be happy to
16 supplement that as well and provide some further
17 thoughts on that. I don't think they're as in-depth
18 -- We can make those much more comprehensive and we
19 will.

20 COMMISSIONER CAMERON: We would
21 welcome those comments.

22 CHAIRMAN CROSBY: Both of those, your
23 offer Michael also and Kevin's as well would be
24 great, because it's a fascinating intellectual

1 issue.

2 COMMISSIONER STEBBINS: Michael,
3 don't go away.

4 COMMISSIONER CAMERON: So, just to
5 finish up on -- oh, I'm sorry. Go ahead.

6 COMMISSIONER STEBBINS: I'm thinking
7 if we did set some type of level, would we be
8 constantly coming back because now all of a sudden
9 a neighboring state is loosening up their
10 restrictions and we're constantly having a
11 back-and-forth about raising the limit or lowering
12 the limit?

13 MR. POLLOCK: If in other words, if I
14 understand your question, do states sort of get into
15 pricing wars with each other using this, I'm not
16 aware of that. It's certainly a possibility.

17 COMMISSIONER STEBBINS: But to the
18 Chairman's point, we're in closer proximity here
19 than maybe other jurisdictions.

20 MR. POLLOCK: Highly unlikely,
21 particularly in Connecticut's case that it would
22 require presumably renegotiating the compact in
23 order for that to happen. Highly unlikely, but it's
24 certainly a possibility.

1 COMMISSIONER ZUNIGA: There's an
2 overarching goal as part of the strategic plan that
3 you've also mentioned in general starting from a
4 regulatory standpoint starting tighter if you will
5 and then if conditions change over time, loosening
6 up certain pieces of regulations.

7 Is this one that you would see as
8 potentially starting at some level and then
9 loosening up based on market conditions and some
10 maturity in the industry here in Massachusetts?

11 MR. POLLOCK: Good question. As you
12 know, we fully endorse the concept of starting
13 strict and then as experience dictates loosening or
14 reformat regulations.

15 I'm not sure this would fall under
16 that. I think the experience will dictate whether
17 or not, at whatever level you decide to set it at,
18 experience can dictate whether or not you set it at
19 the correct level. And you can certainly adjust
20 based on whether or not such adjustments will --
21 presumably would increase overall gross revenue,
22 which would then be taxed.

23 I wouldn't call it overregulation, but
24 I think it's certainly something that as time goes

1 on can be adjusted. And my recollection is that
2 certain states have done precisely that.

3 COMMISSIONER STEBBINS: You're going
4 to give us a comparison of what other states have
5 done. Is there also empirical information to say
6 that when they set it at X revenue projections went
7 to a certain amount?

8 Is there enough historical data to show
9 when some of these amounts were adjusted, what that
10 did? To Kevin's point, we need to be mindful of
11 assessing the impact of the revenue to the
12 Commonwealth.

13 MR. POLLOCK: That's a tough one. I
14 know we have done hypothetical scenarios that we've
15 done hypothetical scenarios where we run through
16 precisely that if free play works as expected at a
17 certain level and not taxed, it can generate
18 X-amount of revenue.

19 I'm not sure if we can identify any
20 state how it's translated into action. If they've
21 adjusted it and what happened as a result, where they
22 can tie in a clear cause-and-effect. But
23 hypothetically, it's very easy to do.

24 CHAIRMAN CROSBY: Thank you. Well,

1 that was more than you were expecting.

2 COMMISSIONER CAMERON: Well, no.
3 It's interesting. There is one piece that I'd like
4 Kevin to speak to also, because I think our
5 consultants have -- it's the intention that this
6 matter would be handled phase two Phase-2, correct?

7 MR. MICHAEL: Correct.

8 COMMISSIONER CAMERON: So, it's not
9 something we need to address before that Phase-2
10 application. But I see that Mohegan Sun does
11 recommend considering it early on. Is there a
12 reason for that?

13 MR. CONROY: Commissioner, I think our
14 sense is that this certainly falls below the
15 licensure questions that you need to resolve. And
16 that this one that fall below that and can be done
17 after that.

18 I think on the other hand, it does
19 affect how various applicants are thinking about
20 this and how they're going to make their decisions.
21 So, we would encourage that. But I think the phase
22 two Phase-2, as the Commission has now developed the
23 term yesterday, I think it's going to be appropriate
24 for Mohegan Sun and the other applicants.

1 COMMISSIONER CAMERON: Okay. Thank
2 you very much. And as you can see, I left the
3 generic -- rather the recommendation pretty
4 generic, which it will be done in the second half
5 of Phase-2, which is soon, by the way. It's just
6 a couple of months here. We should approve a
7 minimum amount of promotional gaming credit in order
8 to enhance the competitive environment but not so
9 much as to destroy the viability of the industry.

10 So, it's pretty generic. So, it gives
11 us room to really think about. And we look forward
12 to those two documents to help us decide if it should
13 be a clear percentage or not.

14 CHAIRMAN CROSBY: Is promotional
15 gaming credits synonymous with free slot play? Is
16 that what promotional gaming credits means?

17 MR. MICHAEL: Yes.

18 CHAIRMAN CROSBY: Basically.

19 MR. MICHAEL: Slot play would be a
20 subset of promotional gaming credits. All slot
21 play or slot credits are promotional gaming credits,
22 but not all promotional gaming credits are slot
23 play.

24 CHAIRMAN CROSBY: Most of them are.

1 It sounds from what you said it's basically in the
2 slots that there's kinds of promotional --

3 MR. MICHAEL: For the most part.
4 There's what's called Max Play on table games where
5 if you place a certain amount, you are given the same
6 amount to play in addition to that. So, that's
7 usually at table games. But that would also be a
8 promotional gaming credit.

9 COMMISSIONER STEBBINS: Do you see
10 casino operators using this more frequently at the
11 opening of a facility to draw people in or has it
12 remained pretty consistent across operational time?

13 MR. MICHAEL: For the most part, the
14 operators that have expressed an interest in coming
15 to Massachusetts are experienced operators who will
16 bring with them marketing plans that they have used
17 successfully in the past in other jurisdictions,
18 which would include these kinds of credit play and
19 promotional offers from the outset.

20 COMMISSIONER STEBBINS: Okay.

21 COMMISSIONER CAMERON: Thank you.

22 Question 29.

23 CHAIRMAN CROSBY: Yes.

24 COMMISSIONER CAMERON: When should

1 regulations regarding excluded person be issued and
2 what should those regulations contain?

3 Our law does speak to this. Requires
4 the Commission to issue regulations creating an
5 excluded persons list and a list of self-excluded
6 person and it provides some of the factors. The
7 section also deals with punishment, adjudicatory
8 hearings, privacy of the list and interstate
9 compacts.

10 The only public comment is the same
11 comment from Sterling that this matter should be
12 developed with our internal controls.

13 I think there is no -- We're talking
14 about again, phase two here, phase two of Phase-2.
15 It isn't something that we needed to have in place
16 before operations begin.

17 I talked about this with all of the
18 consultants and we talked about other
19 jurisdictions. Some of them have a five-year, a
20 one-year. It was pretty much the consensus of our
21 consultants that we talk about a three-year period,
22 and with the option to exclude persons for a longer
23 period of time.

24 This may also be a question we invite

1 the compulsive gaming folks in to just hear what they
2 have to say on this matter. Steve, you have --

3 MR. INGIS: I wanted to draw the
4 distinction, as you began to do, between the
5 involuntary exclusion list and the self exclusion
6 list.

7 Generally, the involuntary exclusion
8 list, you're placed on it. And then the
9 jurisdiction may have mechanisms for removal from
10 that list. But without that being in place, they
11 are generally lifetime placement on the exclusion
12 list.

13 The disparity with respect to the
14 duration is that it pertains to voluntary self
15 exclusion list. Some jurisdictions have imposed a
16 lifetime self exclusion list. So, you place
17 yourself on that list and it's irrevocable and you
18 cannot get off. Missouri has that, for example.

19 New Jersey imposed and I participated
20 in the drafting of the regulations in New Jersey,
21 a one-year, five-year or lifetime. And it's at the
22 option --

23 CHAIRMAN CROSBY: This is on the self
24 exclusion?

1 MR. INGIS: Self exclusion, right.
2 The voluntary, again, just to emphasize the point,
3 the involuntary exclusion list, you are placed on
4 that list and unless you make for an affirmative
5 showing to be removed from that list, you are on that
6 list for a lifetime.

7 In fact, some people are not removed
8 from the exclusion list -- This happened in New
9 Jersey. -- until after they have died. And then
10 there'll be a family member who petition to get
11 someone off an exclusion list. And that actually
12 did happen in New Jersey.

13 COMMISSIONER MCHUGH: Was it granted?

14 MR. INGIS: Yes. It was granted
15 unanimously, I might add. One of the easier
16 judgment calls the commission had to make.

17 With respect the voluntary self
18 exclusion list, New Jersey had a one-year, a
19 five-year and a lifetime. And after one year there
20 were procedures -- If you placed yourself on the
21 one-year list, there were procedures for how you
22 removed yourself.

23 If you didn't follow those procedures,
24 you remained on the list. In other words, you did

1 not come off the list automatically at the end of
2 one year or five years. You had to affirmatively
3 establish that you were no longer a problem gambler.

4 CHAIRMAN CROSBY: Commissioner
5 Cameron, was this referring to both, the self
6 exclusion --

7 COMMISSIONER CAMERON: Well, we need
8 to have both as per the law. We do. We need to have
9 both. This is referring to the self exclusion.

10 CHAIRMAN CROSBY: This is the self
11 exclusion?

12 MR. INGIS: This question I think
13 pertains to both but there's a dichotomy and that's
14 what drew my attention when I saw the
15 recommendation. That the recommendation focuses
16 on the voluntary self exclusion list and not the
17 involuntary exclusion list.

18 And there's a number of issues that
19 come up in the next couple of policy issues that deal
20 with exclusion that you need to focus on that
21 dichotomy again. It has to do with sharing of
22 information.

23 The self exclusion list is a
24 confidential list that the regulatory agency will

1 maintain with strictest of confidence. The
2 information on that list is shared with the casino
3 operators who are sworn to maintain the secrecy of
4 that list, because they are under an obligation, an
5 affirmative obligation not to allow someone on the
6 self exclusion list to patronize their casino and
7 issue credit, comps, whatnot. They are supposed to
8 maintain that list.

9 But there is a confidentiality aspect
10 to it. As opposed to the involuntary exclusion list
11 which is a public document that may be shared.

12 CHAIRMAN CROSBY: Right, right. They
13 seem to me like two very, very different.

14 MR. INGIS: They are. They are.
15 They are totally different paths. They are not on
16 parallel regulatory paths at all.

17 CHAIRMAN CROSBY: So, the
18 recommendation goes to the involuntary exclusion
19 list, not the self exclusion list?

20 COMMISSIONER CAMERON: No, no, no, the
21 opposite.

22 MR. INGIS: No, no, just the opposite.
23 Let me emphasize again. The involuntary list is a
24 lifetime. You are placed on that and your

1 regulations, and we'll work through this, will have
2 mechanisms for seeking removal from that list.
3 Most applications to be removed from the list are,
4 frankly, denied. I only know of one instance where
5 it was granted in New Jersey apart from the person
6 who died.

7 CHAIRMAN CROSBY: I'd be for a known
8 gambling cheat, for example?

9 MR. INGIS: Members of organized crime
10 and notorious criminals, people who generally are
11 perceived to have nefarious backgrounds that would
12 create an appearance of impropriety if they entered
13 the gaming establishment.

14 Whereas the self exclusion list is
15 something that came into play in the 1990s. In the
16 early days of New Jersey, there was no such thing
17 and there wasn't in Nevada. And with the more
18 publicity tended to the problem gambling area, there
19 became a cry, so to speak, for a self exclusion list
20 that would work hand-in-hand with problem gambling
21 programs that the different operators had already
22 implemented.

23 The recommendation here is for a
24 three-year period, but that could be discussed.

1 CHAIRMAN CROSBY: For the self
2 exclusion.

3 MR. INGIS: For the self exclusion,
4 that could be discussed further.

5 CHAIRMAN CROSBY: I would say, yes.

6 COMMISSIONER CAMERON: We talked at
7 length about this, frankly. That was a consensus
8 that one year was not enough and five years was
9 considered too much. So, three years was --

10 MR. INGIS: See, the first show at
11 issue that I think you need to address is whether
12 you want it to be a lifetime and nothing else. And
13 if you can resolve that in the negative that you
14 don't want it to be a lifetime, you want the person
15 to be maybe re-examine the issue after whether it's
16 three years, five years, one year, 10 years,
17 whatever, because the person placed on the lifetime,
18 our experience was then it could be two or three
19 years later they're seeking to get off and they
20 can't.

21 And there was litigation, I wasn't
22 properly informed of what the ramifications were.
23 You may place yourself on the self exclusion list
24 in one jurisdiction but you think you can gamble in

1 another. That may not always be the case, because
2 the casino, particularly Caesars, someone is on the
3 self exclusion list, they put themselves on the self
4 exclusion list in New Jersey, they show up in Nevada
5 and Caesars Casinos won't allow them in. Then
6 they'll argue I wasn't told that.

7 COMMISSIONER MCHUGH: Why wouldn't a
8 lifetime only self exclusion list be a disincentive
9 to putting yourself on there too? Is there any data
10 to show that more people are likely to take advantage
11 of it they have the one, five, lifetime choice?

12 MR. INGIS: I don't know if there is
13 any such data. When people make the determination
14 to put themselves on the self exclusion list, at that
15 point in time they're positive it's the right
16 decision.

17 They may have gambled that night, spent
18 all night, lost everything, that day the next day
19 they want to put themselves on the self exclusion
20 list. We had a waiting period so that people
21 actually did this. Because to work, it has to be
22 a completely voluntary thing. And we had people who
23 were actually under duress.

24 The stereotype thing would be the

1 husband shows up, the wife's in the other room. And
2 after two or three questions you can tell that the
3 husband is only there because the wife drove him to
4 the commission office to sign up, and left to his
5 own devices he would not. Well, that's not
6 voluntary. It has to be a voluntary thing, because
7 you are taking away someone's right of expression,
8 for lack of a better term.

9 It's not a criminal act to gamble. So,
10 you want this to be completely voluntary process.
11 The example that I had just given, 48 hours later
12 that person may have decided I don't want to be
13 placed on the self exclusion list. It's a life
14 changing decision for people.

15 And don't kid yourselves, people will
16 frequent the courts and indicate -- And we will do
17 this, we will have very detailed policies and
18 procedures to kind of eliminate the possibility of
19 successful appeals. But people will frequently
20 argue that they were not adequately informed. They
21 did not have the properly informed consent when they
22 placed themselves on the self exclusion list.
23 They'll say I thought that I could get off at any
24 time.

1 COMMISSIONER ZUNIGA: Wouldn't the
2 decision for this Commission and others about the
3 point you make trying to decide whether there should
4 be a lifetime exclusion list or not at all be one
5 question fundamentally of belief in rehabilitation?
6 I mean, aside from the notifications and the proper
7 disclosures, etc.?

8 MR. INGIS: That's a difficult area,
9 because when you speak with experts that are in the
10 problem gambling area from that arena, they will
11 tell you that you are a problem gambler, you will
12 always be a problem gambler. And there is no
13 so-called rehabilitation as there would be from
14 criminal activity.

15 Others will say in the regulatory
16 perspective that I would feel is that there are
17 necessarily different levels of problem gambling
18 and some people may think they're a problem gambler
19 and maybe they're not to the extent that someone else
20 is.

21 I guess one of the things is can you get
22 up and walk away from the table at a particular time?
23 Or do you wait until you've lost everything and then
24 you're forced to get up from the table and credit

1 is denied.

2 CHAIRMAN CROSBY: You're not going to
3 put yourself on the list if you're not pretty clear
4 you --

5 MR. INGIS: No, that's not always
6 true. There are people, again, they might have had
7 one bad experience and they blew their rent check.
8 They had gambled for the last five years nothing out
9 of the ordinary arose, always able to get away. But
10 that one particular day, for whatever reason they
11 couldn't remove themselves from the table and they
12 lost more than they thought.

13 Or they just had a bad streak of luck
14 and it was not so much of getting up and out, but
15 they lost more -- they had gone into the casino
16 thinking that they would spend \$200 and they lost
17 a thousand, which they could not afford to lose.

18 CHAIRMAN CROSBY: From a public policy
19 standpoint, I don't see the problem with if somebody
20 comes in after one bad night, puts themselves on the
21 list, keeping them on the list. I understand that
22 they might change their mind.

23 MR. INGIS: Again, that is a public
24 policy issue. What you want to have is a period of,

1 a length of time so you don't have a revolving door.

2 Certainly, you don't want to have a
3 system where someone places themselves on the self
4 exclusion list and they can remove themselves
5 immediately and then they're back two months later,
6 and it becomes an administrative nightmare. You
7 want to have a duration of a significant length.
8 This is why the minimum is generally one year or
9 three years and five we talked about.

10 Again, just to emphasize the point, and
11 it's a policy issue, which is going to need
12 considerable discussion, of whether you want to
13 limit it to a lifetime. The consultants don't
14 believe that you should have only a lifetime. You
15 could have a lifetime as an option, but we also
16 believe that there should be a shorter duration
17 period.

18 COMMISSIONER CAMERON: That's what we
19 talked about, the ability to exclude for a longer
20 period of time under certain circumstances.

21 CHAIRMAN CROSBY: This is why I
22 thought this was for the other list. You don't need
23 an option to exclude if it's a self exclusion list.
24 You put yourself on it.

1 COMMISSIONER CAMERON: No, no, no.
2 If our policy decision is to have a three-year but
3 if there were certain individuals who their
4 circumstances were so extreme that we had the
5 ability to exclude for a longer period of time. And
6 those are the discussions we had. Do you know what
7 I'm saying?

8 CHAIRMAN CROSBY: Yes.

9 COMMISSIONER CAMERON: In other
10 words, don't have the lifetime ban, but have the
11 ability to exclude in certain circumstances a longer
12 period of time. There's no, as far as I know and
13 we discussed this one at length, there's not a lot
14 of research on is one year better than three years
15 is better than five years, there just isn't.

16 Jurisdictions are all over the board on
17 this one. And what we thought what was reasonable
18 was the three-year with the ability to exclude for
19 a longer period of time.

20 CHAIRMAN CROSBY: Do you happen to
21 know what Iowa does?

22 MR. MICHAEL: I don't.

23 MR. INGIS: No, not off the top of my
24 head.

1 CHAIRMAN CROSBY: They have a
2 tremendously successful list, meaning a lot of
3 people on it. It would be interesting to talk more
4 to the problem gambling people and get their views
5 on this too.

6 COMMISSIONER CAMERON: Agreed.

7 COMMISSIONER MCHUGH: I would like to
8 hear more from them. Insofar as the duress thing
9 is concerned, I understand that it's got to be
10 voluntary, but people make choices all the time.
11 And the couple that comes and one person is brought
12 to the place by the other partner, maybe facing a
13 choice sign up for that or I'm gone. And that's a
14 reasonable choice to make. I don't know why we
15 should want to discourage that. But I'm not wedded
16 to that either. And I just think we need to discuss
17 further.

18 MR. INGIS: I just raise that as
19 something that the Commission and the consultants
20 together, we're going to need to think through.
21 They're different variables and we can draw on our
22 experiences.

23 And I sat through a number of these
24 sessions with someone who was attempting to place

1 themselves on the self exclusion list. Most of the
2 time, they were admitted to the self exclusion list.
3 But we were trained and we trained others later that
4 it was not necessarily going to be 100 percent
5 someone shows up at the door that they're placed on
6 the list. We wanted to make sure it was voluntary.

7 It's somewhat akin to a voluntary
8 confession. You want to make sure that the person
9 is not under duress. Now the fact that someone is
10 driven by their spouse does not negate the
11 possibility of a voluntary placement on the list.
12 I don't want you to misunderstand what I'm saying.

13 CHAIRMAN CROSBY: I'm sort of
14 sympathizing with Judge McHugh that I'm not sure
15 that I agree with that.

16 MR. INGIS: I'm saying right, it could
17 still could be a voluntary.

18 CHAIRMAN CROSBY: Maybe it's not
19 voluntary, but there's no reason why it shouldn't
20 happen.

21 MR. INGIS: That's where I would
22 disagree. I think the notion of the self exclusion
23 list has been put into place, and this has been
24 historically, is that it is a voluntary act. And

1 you need to establish that it's a voluntary act,
2 whatever procedures you want to have in place that
3 establishes that it's voluntary.

4 COMMISSIONER MCHUGH: I understand
5 that. And it's one thing if you need to establish
6 that voluntariness in a therapeutic sense, because
7 it's not going to work insofar as the self exclusion
8 is concerned. He or she is just going to find
9 another way to gamble. That's one thing.

10 But if it's voluntary in the sense that
11 from the gaming establishment's position, you don't
12 want to take away a customer and a source of revenue
13 unless the customer really wants you to do it. That
14 sets up a different set of considerations it seems
15 to me.

16 So, this discussion with the problem
17 gambling folks I think would be a really helpful
18 discussion in working through and then overlaying
19 your experience in that discussion before we make
20 a final decision.

21 MR. INGIS: The other thing that's
22 interesting is that and the Massachusetts statute
23 requires this as does New Jersey, the regulations
24 in New Jersey, the person has to acknowledge that

1 he or she is a problem gambler. And absent that,
2 the statute says that you cannot be placed on the
3 self exclusion list.

4 Now people have been known to state
5 that they are problem gamblers simple to get on the
6 list. Then they'll have signed it and they'll be
7 walking out and say I'm not a problem gambler but
8 if they're telling the truth then or not, you don't
9 know. But that is a requirement that someone
10 actually acknowledges that they are a problem
11 gambler.

12 CHAIRMAN CROSBY: It's in our
13 legislation?

14 MR. INGIS: Yes, it is. It's in 45f.
15 It says they have to file a statement with the
16 Commission acknowledging that the person is a
17 problem gambler.

18 COMMISSIONER MCHUGH: Right.

19 MR. INGIS: And that's standard in
20 the industry.

21 MR. MICHAEL: I came up here when you
22 were talking about Iowa. I don't know if the time
23 has passed. But I was just going to say Iowa, we'll
24 take a look further into the Iowa situation, because

1 they have traditionally been a jurisdiction that has
2 been very careful about the issue of not only problem
3 gambling but over gambling. Iowa initially and I
4 think for a long time I think until recently had loss
5 limits. So, that people who wagered in Iowa casinos
6 were only allowed to lose a certain amount of money.
7 Then they had to leave. So, we'll take a closer look
8 at Iowa.

9 CHAIRMAN CROSBY: We heard him. The
10 guy that runs that program spoke at our forum and
11 I also heard him in Vegas. And he is obviously a
12 really knowledgeable -- It sounds like they have a
13 really effective list, but I'd love to know more
14 about it. Twenty-nine is down.

15 COMMISSIONER CAMERON: Okay, 30.

16 CHAIRMAN CROSBY: Go for it.

17 COMMISSIONER CAMERON: When should
18 regulations regarding the provision of
19 complimentary services, gifts, cash or other items
20 of value be issued and what should those regulations
21 contain?

22 Again, this is phase two Phase-2.
23 It's got to be done before we open the doors. And
24 the law speaks to it. 23K speaks to governing

1 complimentary services to patrons and provides that
2 (A) no gaming licensee shall offer to provide any
3 complimentary services, gifts, cash or other items
4 of value to any person unless the complimentary item
5 consists of a room, food, beverage, transportation
6 or entertainment expenses provided directly to the
7 patron and the patron's guests by the gaming
8 licensee or indirectly to the patron and the
9 patron's guests on behalf of a third-party or the
10 complimentary item consists of coins, tokens, cash
11 or other complimentary items or services provided
12 through a complimentary distribution program, which
13 shall be filed and approved by the Commission upon
14 the implementation of the program or maintained
15 under regulation.

16 The only comment was, again, Sterling
17 Suffolk and have this covered in the internal
18 controls.

19 I think this is very specific and
20 certainly will adhere to this. And I think the
21 important piece here in discussing with the
22 consultants is that whatever complimentary gifts
23 and services according to the law, but that the
24 programs -- we keep strict record keeping of the

1 approved programs and the distribution programs, so
2 that we really do make sure we are tracking these
3 approved programs.

4 Obviously, they have to abide by the
5 law. And then we need to make sure we do a good job
6 keeping track of those approved programs.

7 If I can ask, I know we talked about
8 this, but is this one of those questions that we
9 allow them to say to us, this is the program? It
10 adheres to the law and then we look at it and approve
11 it rather than us dictate the exact program?

12 MR. MICHAEL: Yes. I believe the
13 consultants would recommend that this be included
14 among the list of areas that can be given to the
15 casinos with more discretion. That this would be
16 a program could be submitted to the Commission for
17 approval rather than the Commission dictating to
18 every casino what their programs have to be in
19 detail.

20 COMMISSIONER CAMERON: Okay. And we
21 just need to have a way to make sure that they're
22 adhering to those.

23 MR. MICHAEL: Yes. That would be a
24 function of the regular audit and observation of the

1 casino operation.

2 CHAIRMAN CROSBY: Is that what this is
3 getting at? It's oddly worded. It looks to me like
4 what it means to say is the gaming licensee cannot
5 provide any complimentary anything unless any
6 complimentary anything is approved by the
7 Commission. It really says you can give anything
8 it wants to as long as it's approved by the
9 Commission.

10 MR. MICHAEL: Preapproved. I think
11 what we were talking about is what nature of approval
12 are we talking about here? Certainly, any form of
13 complimentary can be permitted. There are no
14 prohibitions here that I recall in the statute, for
15 example, for cash complimentaries, which some
16 jurisdictions prohibit that.

17 CHAIRMAN CROSBY: It can be any
18 complimentary item or service that is in a program
19 that the Commission approves. It's just a funny way
20 to get that. It could have said any complimentary
21 program and good or service given complementarily
22 has to be approved by the Commission.

23 Instead it goes through this elaborate
24 thing about -- and I just kind of wonder what this

1 was getting at. Because I think what it says is you
2 can give away anything you want to as long as it's
3 a part of a program approved by the Commission.

4 MR. MICHAEL: I think that's what it
5 says to.

6 CHAIRMAN CROSBY: I just wonder it
7 would need to say that, if there was something else
8 they were trying to get at here. Do you agree with
9 that, Commissioner McHugh? That's in effect what
10 it says, right?

11 COMMISSIONER MCHUGH: I thought this
12 was designed to exclude -- And that's why I have a
13 question. -- exclude gaming credits and other forms
14 of non-amenity gifts and complimentary things. And
15 that they only could be given directly to the patron
16 and not to a third-party say. And that they had to
17 be given in accordance with some program that we
18 approve.

19 So, excluding gaming related gifts,
20 complimentary gaming credits and the like, which are
21 regulated under another section or not at all. And
22 then given directly to the patron or the patron's
23 guests and not to third parties.

24 CHAIRMAN CROSBY: Or on behalf of a

1 third-party.

2 COMMISSIONER MCHUGH: For example,
3 you could theoretically I suppose have
4 complimentary things given to a junket operator or
5 to a travel agent or to somebody else who was
6 steering people to the casino.

7 MR. MICHAEL: They wouldn't be
8 complimentary. Essentially, they'd be fees. You
9 pay the junket operators typically to bring you
10 customers.

11 COMMISSIONER MCHUGH: Yes, I see.

12 MR. MICHAEL: Third parties they may
13 mean, I don't know why this would necessarily be
14 prohibited. I wouldn't read it to prohibit it, but
15 if you're giving a customer's wife something rather
16 than the customer themselves that should certainly
17 be permitted.

18 COMMISSIONER MCHUGH: Or the patron's
19 guests.

20 MR. MICHAEL: Would include the wife.
21 Well, it may not necessarily be the wife.

22 CHAIRMAN CROSBY: I don't know that
23 this really matters, but I don't see how this
24 precludes giving credits.

1 COMMISSIONER MCHUGH: To third
2 parties?

3 CHAIRMAN CROSBY: Oh, to third
4 parties, yes. It's limited to you can only give to
5 a patron, to the guests or to the patron or guest
6 on behalf of a third-party but you can give anything
7 to those people --

8 COMMISSIONER MCHUGH: Well, no.

9 CHAIRMAN CROSBY: -- if we approve it.

10 COMMISSIONER MCHUGH: Unless the
11 complimentary item consists of a room, food,
12 beverage, transportation or entertainment expenses
13 approved by the Commission.

14 CHAIRMAN CROSBY: Or other
15 complimentary items or services provided through a
16 complimentary distribution program filed and
17 approved by the Commission.

18 COMMISSIONER MCHUGH: I see how you
19 read that.

20 CHAIRMAN CROSBY: That's the clause
21 that seems to undo the one up above, which is why
22 it's puzzling, but anyway.

23 MR. MICHAEL: What we were addressing
24 was the extent to which the Commission needs with

1 these programs. And our recommendation would be
2 that you not necessarily need to get into the nuts
3 and bolts of every program to say a particular gambler
4 has to have a standard to calculate on what their
5 standard loss would be at a casino. That those
6 standards need to be X-number of dollars for you to
7 get a room. They have to Y-number of dollars for
8 you to get a meal.

9 That you not necessarily have to get
10 into that kind of detail on everyone's program as
11 long as they have a program that gauges the amount
12 of their complimentary on the amount of money
13 wagered. So that they are giving away items in some
14 reasonable manner.

15 CHAIRMAN CROSBY: This is really
16 weird.

17 COMMISSIONER MCHUGH: And now I'm
18 going back to what the Chairman said. And it seems
19 that you can give the room, food, beverage or
20 transportation or entertainment without Commission
21 approval. And then all of this other stuff you can
22 give anything else with approval.

23 CHAIRMAN CROSBY: Or anything else
24 with approval, right. I still don't know exactly

1 what. If coins, tokens, cash -- I don't know.
2 That's weird.

3 So, there's a bunch of stuff they can
4 give willy-nilly, but anything else outside the
5 food, room, beverage, transportation and
6 entertainment has to be a part of a complimentary
7 distribution plan filed and approved by us.

8 MR. MICHAEL: The coins, tokens, cash
9 would be under the credit, gaming credit areas that
10 we talked about previously.

11 COMMISSIONER MCHUGH: So, maybe that
12 ties back into you don't want operators to self
13 emulate. Or you don't want operators to be giving
14 out so much that they're going to do harm to
15 themselves or the Commonwealth of revenue that they
16 otherwise could be collecting.

17 CHAIRMAN CROSBY: Right. This would
18 be an interesting one to talk to the drafters just
19 out of curiosity to see what they were getting at.

20 COMMISSIONER MCHUGH: Right.

21 CHAIRMAN CROSBY: All right. We
22 tortured that one or it tortured us, I guess.

23 COMMISSIONER CAMERON: Yes, more work
24 to be done, right, because we want to really

1 understand what the plans are like.

2 CHAIRMAN CROSBY: I think we need to
3 understand what the Legislature was really trying
4 to do here. I don't really understand exactly.

5 COMMISSIONER CAMERON: I think you
6 clearly articulated and that I think that's the
7 intent that we're not going to get involved or they
8 don't see any a need for us to get involved with room,
9 food, beverage, transportation but we absolutely
10 should approve the coins, the tokens which does get
11 back to how much free play, right?

12 CHAIRMAN CROSBY: Yes. Okay.

13 COMMISSIONER CAMERON: Okay.

14 Question 47.

15 CHAIRMAN CROSBY: Oh, my God. It's
16 still Commissioner Cameron.

17 COMMISSIONER CAMERON: I know.
18 Should the Commission adopt the self exclusion list
19 in effect in other jurisdictions?

20 The law tells us that the Commission
21 shall pursue an interstate compact for the purposes
22 of sharing information regarding the excluded
23 persons list. There are a bunch of comments here
24 on this one.

1 Sterling is pretty specific. They're
2 not aware of any jurisdictions that shares its self
3 exclusion list outside of the state. Self
4 exclusion lists are extremely confidential, highly
5 protected due to the privacy concerns. While some
6 jurisdictions have in the past discussed sharing
7 self exclusion lists, SSR is unaware of any
8 jurisdiction that has done so. So, implications of
9 sharing self exclusion lists across jurisdictions
10 that would need to be addressed.

11 And they list a bunch of issues. The
12 responsibility for the combined list, updating and
13 maintaining information on exclusions and
14 reinstatements across jurisdictions, addressing
15 potential differences in reported information.
16 Assessing whether commissions have statutory
17 authority to exclude a patron based upon on self
18 exclusion request made to the Commission outside of
19 their jurisdiction.

20 Provide an example of treatment of self
21 exclusion lists in other jurisdictions in a Q&A from
22 the Missouri Commission site. SSR believes that
23 the best regulations allow the licensees to extend
24 their self exclusion lists across all of their

1 brands including locations outside the original
2 state. Caesars currently employs this policy
3 across all of its brand. It is worth noting that
4 some jurisdictions will not recognize an exclusion
5 because the request initiated with a commission
6 outside of the jurisdiction.

7 Shefsky, we believe a robust self
8 exclusion policy is in the best interest of the
9 Commonwealth and each host community. Self
10 exclusion lists similar to those used in other
11 jurisdictions should be utilized. Just a generic
12 answer.

13 Again, in discussing this, we should
14 certainly share the information regarding our
15 excluded persons list as the legislation requires,
16 but the list of self excluded persons is
17 confidential. There are many privacy concerns as
18 we just pointed out or Suffolk pointed out to us.

19 With sharing the information of
20 individuals, the self identity has requested
21 exclusion from the gaming facilities, we should
22 allow those individuals to place themselves on self
23 exclusion lists in other states if they so desire
24 but not require it.

1 Also, many casinos use the self
2 exclusion list from one state to exclude those same
3 individuals in their facilities. Caesars just made
4 that point. And while this is a good practice, it
5 should not should not be mandated. This is the
6 recommendation. Steve, you wanted to speak to
7 this?

8 MR. INGIS: Yes. I want to make of
9 couple points. Section 45K speaks of an interstate
10 compact. And although it does not expressly state
11 so, it may be interpreted that the intent of that
12 was to pertain only on the limited basis thought the
13 involuntary exclusion list where there would be a
14 general sharing of information amongst regulatory
15 agencies.

16 On the contrary, the self exclusion
17 lists have been maintained state-by-state on a
18 confidential basis and there is no sharing of that
19 information. The only sharing is from the
20 licensees if a particular jurisdiction allows for
21 it. The licensee may, in New Jersey for example,
22 Caesars shares that information with Caesars
23 properties elsewhere.

24 COMMISSIONER CAMERON: I think that

1 that's correct because when we talk about the self
2 exclusion list and the way the law talks about
3 excluded persons, they are the two different things
4 we just discussed earlier. That's the information
5 to be shared is the excluded persons list.

6 Certainly not -- Which is the recommendation not to
7 share information on the self exclusion list.

8 MR. INGIS: Right and we agree with
9 that. Another point I neglected to mention before
10 and I think it's very important, it pertains to both
11 the involuntary exclusion list and the self
12 exclusion list. The legislation specifically
13 indicates that when you're placed on either one of
14 those lists, you are excluded from the gaming
15 establishment.

16 It's not limited to the gaming area.
17 It's the entire gaming establishment, which is
18 defined very broad in the statute to include
19 non-gaming amenities such as the hotel and
20 restaurants.

21 So, if someone wants to self exclude
22 themselves from gaming activity, they need to be
23 apprised that that will also prohibit them from
24 attending a concert or staying at the hotel or eating

1 in one of the restaurants. It's very broad when
2 you're placed on the exclusion list whether it's
3 involuntary or voluntary.

4 CHAIRMAN CROSBY: Isn't it depending
5 on how you draft the list? It doesn't have to be
6 that way, does it?

7 MR. INGIS: Well, the definition of
8 gaming establishment is written in the broadest
9 senses. And if it's interpreted in that broad
10 fashion, now there's a possibility that it could be
11 narrowly construed, but I don't think that's the
12 favorable interpretation.

13 COMMISSIONER MCHUGH: That's the way
14 it is in other states too.

15 MR. INGIS: Yes, right. It's the
16 entire premises. The notion being that you don't
17 want to tempt the person who's on the self exclusion
18 list and the person who's on the involuntary list,
19 you don't want them anywhere near the facility. So,
20 that is the intent.

21 COMMISSIONER MCHUGH: Could we just
22 test -- As a default, it seems to me that this
23 recommendation is absolutely right, because it is
24 full of private information. But why, New England,

1 again, getting back to the notion that this is a
2 small area. It's an hour drive from Boston to
3 Providence or someplace. Why couldn't the self
4 exclusion list application in addition to giving the
5 applicant a choice of one, five or lifetime
6 exclusion, if that's the way we go, why couldn't it
7 also give them the choice of allowing the self
8 exclusion to be shared with other states?

9 So, that if they really were -- And
10 again, this would have to be voluntary. But if it
11 is voluntary, why couldn't somebody make a decision
12 that I want this list to be shared nationwide? I
13 want to be excluded from every place. And then have
14 some kind of a program where other states could honor
15 that list.

16 COMMISSIONER STEBBINS: It's
17 something to examine, but it heretofore has not been
18 done in any jurisdiction.

19 COMMISSIONER MCHUGH: No, I
20 understand that.

21 MR. INGIS: So, it would something to
22 think about them, certainly.

23 COMMISSIONER MCHUGH: If we talk to
24 the compulsive gaming folks -- It's one thing if

1 you're in the middle of Kansas and it'll take you
2 two days to get to the next gambling place, but if
3 you're here and the next gambling place is an hour
4 away that may pose a different set of circumstances
5 that warrants giving people different choices.

6 COMMISSIONER CAMERON: Wouldn't it be
7 incumbent upon that person to let them know in Rhode
8 Island that I want to be on your list too? And
9 Connecticut, I want to be on your list too?

10 COMMISSIONER MCHUGH: But why put a
11 barrier in the path a person who really wants to do
12 that if they want to do it. It'd have to be
13 voluntary. But check this off and we'll share it
14 with others if that would be helpful to you.

15 MR. INGIS: You recognize there are
16 people that will place themselves on the self
17 exclusion list in one jurisdiction and then free to
18 gamble in another jurisdiction.

19 COMMISSIONER MCHUGH: No, I
20 understand that. I understand that.

21 COMMISSIONER ZUNIGA: I think this
22 goes back to your point of therapeutic. Because
23 what I remember one of the points I remember from
24 our forum on compulsive gambling was that what

1 seemingly was something onerous in some
2 jurisdictions you have to walk through the casino
3 floor into an office to place yourself on self
4 exclusion lists is interpreted by some at least as,
5 because it's an active act and because this is a
6 voluntary act in nature that in and of itself starts
7 the therapeutic aspect of confronting your problem,
8 if you will, by being proactive.

9 But I agree with your notion. If that
10 was a choice given to the person and it was
11 understood, why wouldn't we?

12 COMMISSIONER MCHUGH: Your
13 therapeutic point seems to me the right focus for
14 this, whatever is therapeutically best.

15 COMMISSIONER ZUNIGA: Whatever works.

16 MR. INGIS: You have to recognize with
17 different jurisdictions they may have different
18 durational periods. So, if you place yourself on
19 a self exclusion list in Massachusetts, for example,
20 and it's three years and you say I want to be placed
21 on another state, does that mean you go on the
22 lifetime self exclusion in that other jurisdiction?
23 So, there are variables that need to be examined.

24 MR. MICHAEL: Another variable might

1 be section 45h and an interpretation of that
2 section, which seems to prohibit the sharing or the
3 list to any other than the affiliated casino of the
4 casino that is maintaining the list.

5 Notwithstanding any other general or
6 special order to the contrary, the self excluded
7 person's list shall not be open to public
8 inspection. Nothing in this section however, shall
9 prohibit a gaming establishment from disclosing the
10 identity of persons on the self excluded persons
11 list under this section to affiliated gaming
12 establishments in this Commonwealth or other
13 jurisdictions, and so on. Which doesn't seem like
14 it authorizes, it may not authorize the sharing of
15 that list with other casinos other than the ones
16 affiliated.

17 COMMISSIONER MCHUGH: Would that
18 extend in your view to a voluntary sharing at the
19 request of the self excluded person? It seems to
20 me that that's designed to protect the person who
21 applies for the self exclusion and that person could
22 waive that.

23 MR. MICHAEL: You're the judge.

24 COMMISSIONER MCHUGH: No, no, I'm just

1 one of the Commissioners.

2 MR. MICHAEL: I suppose if it's a right
3 that is afforded the self excluded person then
4 that's a right that I suppose is waiveable.

5 COMMISSIONER MCHUGH: And I don't
6 think it's free of ambiguity. I just don't want to
7 let that issue slide by without thinking about it.

8 MR. INGIS: In New Jersey, the courts
9 actually said that a person cannot waive the
10 confidentiality of it. It was an important public
11 policy to maintain confidentiality.

12 So, when a case comes up in court the
13 initials are used, the names are not used. There
14 was a case that I was involved in, the person was
15 trying to be removed from the list. And the court
16 went to great pains to hide the identity of the
17 individual only using initials in the court caption.
18 Although the person wanted it to become public and
19 was speaking freely to the press, the court would
20 not acknowledge it.

21 CHAIRMAN CROSBY: The whole point I
22 think of Commissioner McHugh's line of thinking, and
23 I agree with it, is if a person wants to be precluded
24 broader than just Massachusetts, there ought to be

1 a way to do it. And we're certainly going to explore
2 the compact idea. And it seems like there would be
3 an awful artificial barrier if a person was unable
4 when he signs up for the Massachusetts list to also
5 sign up for the rest of New England if there's a
6 compact.

7 MR. MICHAEL: There would be nothing
8 which would prevent a person from signing up for as
9 many casinos as they wanted to.

10 COMMISSIONER MCHUGH: That's right.

11 MR. MICHAEL: So, it's not as if they
12 are prevented from doing that it's just whether it's
13 automatic.

14 COMMISSIONER CAMERON: Yes, it's
15 whether or not we can or should facilitate that.

16 COMMISSIONER MCHUGH: Facilitate,
17 right.

18 COMMISSIONER STEBBINS: But it would
19 become a question if we have a certain rule and you
20 sign up for our program at one, three or five years
21 and we'll extend your self exclusion to other
22 jurisdictions that may have more stringent
23 requirements. It would in some respects put us in
24 a position of okay, you signed up for the

1 Massachusetts program, should we have to fully
2 disclose what every other jurisdiction's self
3 exclusion is going to be if you want to have your
4 documentation extended to another jurisdiction. I
5 don't know what position --

6 COMMISSIONER CAMERON: Well, it
7 sounds like no one else at this point would accept
8 it because no one else is doing this. So, we could
9 say hey, we'd like to give you this but it doesn't
10 sound like anyone else is in a position to --

11 MR. INGIS: Not only that but
12 jurisdictions have refused to help each other out.
13 A new jurisdiction has inquired of an existing
14 jurisdiction is so and so on your self exclusion
15 list. And the answer will invariably be we are not
16 at liberty to disclose that information.

17 COMMISSIONER MCHUGH: That's right.
18 But that's because they haven't -- That's the way
19 the law's written and they haven't given the person
20 the choice to say I want my information shared. I
21 don't think we can solve this today.

22 MR. MICHAEL: There's an analogy once
23 you get past of whether a person could waive this
24 confidentiality. If they can waive the

1 confidentiality, the analogy would be with the
2 non-self exclusion list, the involuntary exclusion
3 list. Jurisdictions share those lists all of the
4 time. So that once you're placed on an involuntary
5 exclusion list in one jurisdiction, you're almost
6 automatically placed on every other jurisdiction's
7 involuntary exclusion list.

8 So, if there's a waiver of the
9 confidentiality issue, there would be an ease of
10 facilitating the sharing.

11 CHAIRMAN CROSBY: When I first was
12 asked to do this and I went to Mohegan Sun before
13 we even started -- no, no, I went to Twin Rivers.
14 I met with the Lottery who runs the casinos in Rhode
15 Island. And they brought up the idea of a regional
16 compact for self exclusion.

17 So, it seems to me I'm sure there are
18 pros and cons, but it seems to be something we
19 absolutely for the self exclusion as well as the
20 other, something we actually talk to people about.
21 We ought to talk to the problem gambling people and
22 we ought to talk to other jurisdictions and see. If
23 they don't want to participate, fine. That's the
24 end of that. But if they do, then I think that's

1 something we should seriously consider.

2 COMMISSIONER STEBBINS: I want to
3 build off this question, this topic a little bit and
4 go back to Commissioner Zuniga's point about where
5 physically a person would have to go and sign up.
6 I would think our overall goal would make that as
7 easy and less onerous for a person to do as possible.

8 But because we are granted a
9 jurisdiction to approve the lay out or modifications
10 to the actual gaming floor, can we extend that
11 authority to defining what the process of going on
12 the self exclusion list?

13 MR. INGIS: Regulations would do that.
14 Regulations would set forth the parameters for how
15 someone is to place themselves on the list, where
16 they'd go, what they need to establish. And because
17 you will have a casino, a gaming establishment in
18 the Western part of the State, will there be a
19 Commission's presence there? And that'll all be
20 worked out through the regulations.

21 COMMISSIONER STEBBINS: To his point,
22 the issue is raised with the compulsive gambling
23 folks. Yes, you could go sign up for the self
24 exclusion list, but it's in the middle of the slot

1 floor. Well, in that 100 yards you might be tempted
2 to give it one more shot and decide not to get on
3 the list.

4 MR. INGIS: What we did in New Jersey
5 is the place that most people would come to would
6 be the Commission's office in Atlantic City. But
7 we experimented with remote locations so that
8 someone from northern New Jersey, for example, might
9 be able to go to. And people actually did sign up
10 for them. It wasn't that many so the program didn't
11 last that long.

12 COMMISSIONER STEBBINS: Any
13 jurisdictions that do it online or is it more
14 detailed requirement?

15 MR. INGIS: No, no. I think it --
16 Well, I can't say with a certainty. We'd have to
17 look at it. But I think the notion again is to have
18 a face-to-face and make sure that the person is
19 signing up in a voluntary capacity.

20 The problem with online is you could
21 have a family member sign up another person, a
22 spouse, for example or a child to be on the self
23 exclusion list. That's not the intent of the
24 legislation. The intent of the legislation is you

1 place yourself not another family member on the
2 list. So, I don't think online would work.

3 COMMISSIONER ZUNIGA: By the way,
4 location may have a way in factoring this notion cuts
5 both ways, it cannot be too easy but it cannot be
6 too hard, I guess, for those reasons.

7 MR. INGIS: Precisely.

8 CHAIRMAN CROSBY: This is the good
9 Catholic in you, I think, really hard, if you're
10 going to try to swear off, make it hard for the guy.
11 Let's have our AA meetings in the middle of the bar,
12 really prove --

13 COMMISSIONER ZUNIGA: I'm a very good
14 Catholic, by the way.

15 MR. MICHAEL: One more point, you had
16 asked whether the exclusion had to apply to the
17 entire facility. And just as a point of interest
18 and maybe consideration, the definition of gaming
19 establishment in the Act gives you the discretion
20 to basically define what is considered the gaming
21 establishment.

22 It's the premise approved under the
23 gaming license, it says, which may include but shall
24 not be limited to hotels, restaurants or other

1 amenities.

2 So, there is a discretion there if you
3 wanted have an exclusion from just the gaming area.

4 CHAIRMAN CROSBY: That cuts a lot of
5 different ways, I think.

6 MR. INGIS: It does. When we examined
7 that and we had discussions, we were looking to see
8 if we could in fact limit the gaming establishment
9 because we thought it was too broadly articulated
10 in the statute.

11 But our discussion although we didn't
12 reach a firm conclusion was that it was intended to
13 extend to the nongaming amenities that's why they
14 included the hotel and restaurant language in there.

15 If the intent was to limit the gaming
16 establishment to the gaming area, the statute would
17 have said that and it clearly could have said that,
18 but it did not. So, I think the more logical
19 interpretation unfortunately, is that it's broad
20 definition of a gaming establishment.

21 COMMISSIONER CAMERON: So, the more we
22 discuss policy issues, the more questions we have.

23 MR. INGIS: And you will have them from
24 now until --

1 CHAIRMAN CROSBY: -- until the day we
2 die, right. But I do think when we get to this again
3 I think having the problem gaming people here for
4 a series of these questions would be incredibly
5 interesting.

6 COMMISSIONER CAMERON: And they'll be
7 incredibly informative and they are well versed in
8 this area.

9 COMMISSIONER CAMERON: I agree. That
10 should be a meeting to address all of these questions
11 and we should send it to the head --

12 Mr. Chair, I have another question.
13 Question 48: What criteria person should be used
14 to exclude individuals involuntarily from the
15 casinos?

16 Again, 23k is quite specific on this
17 issue. The Commission by regulation shall provide
18 for the establishment of a list of excluded persons
19 who ought to be excluded from a gaming
20 establishment. In determining the list of excluded
21 persons, the Commission may consider but shall not
22 be limited to whether a person has been convicted
23 of a criminal offense under the laws of any state
24 of the United States that is punishable by six months

1 in a state prison, a house of correction or any
2 comparable incarceration, a crime of moral
3 turpitude or a violation of the gaming laws in any
4 state.

5 Whether a person has violated or
6 conspired to violate this chapter relating to (A)
7 a failure to disclose the interest in the gaming
8 establishment for which the person is required to
9 obtain a license or (B) willful evasion of fees or
10 taxes.

11 Whether a person has a notorious or
12 unsavory reputation which adversely affect public
13 confidence and trust that the gaming industry is
14 free from criminal or corruptive elements.

15 And the potential of threat to
16 interests of the Commonwealth and the gaming
17 establishment.

18 No person shall be placed on the list
19 of excluded persons due to the race, color,
20 religion, national origin, ancestry, sexual
21 orientation, disability or sex.

22 There was some public comment on this.
23 In particular, Sterling Suffolk listing that we
24 should include known cheaters and swindlers and

1 members of organized crime cartels. Nevada's
2 statute and regulations and Mississippi regulations
3 provide good examples of regulatory language.

4 Nevada includes persons convicted of
5 felonies, crimes -- I think our law was taking crimes
6 involving moral turpitude, violation of the gaming
7 law in other states. It also includes those who
8 violate Nevada gaming laws related to disclosing an
9 interest in all gaming establishments that would
10 require a license or willful evasion of fees and
11 taxes. The law takes that verbiage almost exactly
12 from Nevada it appears.

13 Mississippi has a very similar list of
14 its gaming regulations to which it adds persons who
15 are on a valid exclusion list from any other United
16 States jurisdiction. Let's see, they also note
17 that a gaming establishment like any other business
18 owner will have the right under Massachusetts common
19 law to exclude from its property any patron it does
20 not want on the premises. If the person does not
21 comply, the establishment can enforce the ban
22 through a Massachusetts trespass statute.

23 And then Mr. Cataldo says that people
24 should be excluded only if they have committed a

1 crime and the police have called to arrest them.
2 Otherwise why exclude them?

3 So, it seems like the Legislature
4 pretty much verbatim went to Nevada's law. And the
5 language is almost exact. And that in discussing
6 that those are all important factors.

7 The one thing that the law does not say,
8 which is also a recommendation here is that we
9 consider those individuals that are on the excluded
10 persons list in other states. But in an earlier
11 question, they tell us to do that. They tell us to
12 enter into a compact so that we have that
13 information.

14 So, Suffolk basically tells us that
15 they like what Nevada has. Obviously, our
16 Legislature liked what Nevada had as language. And
17 I think that is all language that we could include.

18 CHAIRMAN CROSBY: Mississippi
19 apparently does, but Nevada apparently does not
20 exclude people who are on a valid list in any other
21 jurisdiction. Do you have an opinion on that?

22 COMMISSIONER CAMERON: I think it's in
23 an earlier question.

24 CHAIRMAN CROSBY: Whether we consider

1 it, yes, not whether we should do it or not.

2 COMMISSIONER CAMERON: No, I think
3 that makes sense that we use that information.

4 COMMISSIONER MCHUGH: That's the
5 involuntary list?

6 COMMISSIONER CAMERON: Yes, the
7 involuntary. So, I think because it was answered
8 in another question --

9 COMMISSIONER MCHUGH: It seems to me
10 this is a good approach. My only concern is the
11 suggestion that like any business they have a right
12 to exclude anybody they don't want on their
13 premises.

14 I think that is a little broad. I
15 don't think that is entirely correct. I think there
16 are limitation on exclusion of people from places
17 of public accommodation, for example, and other
18 things. I think we need to research that a little
19 bit before we write that into some regulation.

20 CHAIRMAN CROSBY: What about the issue
21 of precluding somebody because of their reputation,
22 someone of bad reputation?

23 COMMISSIONER MCHUGH: I would like to
24 see what other jurisdictions have done there and how

1 they've defined that. And the fourth one,
2 potential of injurious threat, I mean that's what
3 the statute says. I think we have to define what
4 we mean by injurious threat to the interest of the
5 Commonwealth because otherwise we have --

6 COMMISSIONER CAMERON: It's pretty
7 broad.

8 COMMISSIONER MCHUGH: It's not only
9 broad, but it's very hard to figure out what it
10 means. And I think we need to help people
11 understand what it means. I'm sure there's --

12 MR. INGIS: III there seems to be for
13 whatever reason, they didn't actually expressly
14 state that it should pertain to organized crime
15 associates but that certainly if you were an
16 associate of organized crime, you would fallen under
17 III.

18 The key there is more than the
19 reputation is that it will adversely affect public
20 confidence and trust in the operation of the gaming
21 establishment. That is the key fundamental policy
22 engrained in the statute to force the public
23 confidence and trust. Without that the gaming
24 industry would fall apart.

1 CHAIRMAN CROSBY: I understand that.
2 But it's the discretion, what about Manti Te'o?
3 He's got an unsavory reputation at this point.

4 COMMISSIONER MCHUGH: I disassociate
5 myself from that comment.

6 MR. INGIS: I know. That wouldn't
7 have the second clause, I don't know about his
8 defense attorney, but that does not affect public
9 confidence and trust in gaming.

10 CHAIRMAN CROSBY: It's just a matter
11 of what the law would permit. I only raise it
12 because it seemed to have it be merely based on
13 somebody's notorious or unsavory reputation which
14 we judge would affect. I don't know what the law
15 would permit there. How discretionary can we be on
16 that? I don't what the answer to that is.

17 MR. INGIS: You have very broad
18 discretion, very broad discretion. The courts have
19 uniformly supported regulatory agencies in the
20 placement of someone on the involuntary exclusion
21 list. You have a broad latitude.

22 There will be due process procedures in
23 place for someone who wants to contest being placed
24 on the involuntary exclusion list. It's not an

1 automatic process.

2 COMMISSIONER MCHUGH: Are there
3 regulations elsewhere that define concepts similar
4 to three and four in this statute?

5 MR. INGIS: Usually, there's case law.
6 For example, New Jersey uses the nebulous term
7 inimical. If someone has conducted activity that
8 is inimical to the interest of the state that it be
9 placed on the exclusion list. And there's case laws
10 as to what that means.

11 It's essentially the same concept here
12 whether public confidence and trust in the operation
13 of the gaming establishment has been negatively
14 impact by someone's presence in the facility.
15 Again, what does that mean?

16 Five individuals and you might have
17 five different interpretations of a particular
18 person. Is that person's reputation undermine
19 public confidence and trust? You may feel it does
20 and you may feel it doesn't. And that's why there's
21 five of you.

22 COMMISSIONER MCHUGH: Five talks
23 about the potential of injurious threat to the
24 interests of the Commonwealth. I suppose literally

1 that just a threat to the interest of the
2 Commonwealth wouldn't justify an exclusion. I'm
3 not sure how you slice that one up.

4 MR. INGIS: That's a very vague term
5 and I'm not familiar with that in other
6 jurisdictions. But we'll do research obviously.
7 That is intentionally vague.

8 COMMISSIONER ZUNIGA: Injury doesn't
9 have to be physical.

10 COMMISSIONER MCHUGH: Right.

11 MR. INGIS: The point that you were
12 making before, Commissioner McHugh about whether an
13 establishment can exclude someone. Unless it's for
14 discriminatory reasons, they are at liberty to
15 exclude persons from their casinos. And they will
16 generally have a list of people that they don't want
17 in their casino.

18 And it could be because they win too
19 much, unfortunately. And there is a notorious case
20 of that where someone was very successful with
21 beating the casinos. And they put them on their
22 exclusion list because they didn't want them there
23 more.

24 COMMISSIONER MCHUGH: And I can

1 understand that. But all I'm saying is if you apply
2 to casino or gaming establishment as defined in the
3 statute that includes the hotels, the restaurants
4 and all this other stuff. And there maybe place of
5 public accommodation regulations that kick in at
6 that point.

7 All I'm saying is we've got to be
8 careful when we --

9 MR. INGIS: And the other thing to
10 remember as we go forward enforcement of this self
11 exclusion list and the involuntary exclusion list
12 is a very difficult proposition for the casinos,
13 particularly the self exclusion list.

14 The involuntary exclusion is there
15 will be pictures of the people that will be
16 circulated to the casinos. And the surveillance
17 and security departments are trained to be on the
18 lookout for these individuals.

19 Self exclusion list is far more
20 difficult. And generally what the regulatory
21 agencies are looking for is to ensure that people
22 on the self exclusion list are not extended credits,
23 complimentaries and marketing materials to induce
24 them to come to the casinos. Unfortunately,

1 sometimes that does happen.

2 But it's very difficult if I am on the
3 self exclusion list, I show up at a casino. I walk
4 in and I walk over to a slot machine, the casino
5 operator is not going to know that I'm on the self
6 exclusion list. That's not going to be easily
7 determined. It's a double-edged sword.

8 MR. CARROLL: I was just going to
9 address, actually, Steve just made the last two
10 points I was going to make. The one thing that we
11 haven't discussed at all about exclusion is the
12 burden that's on the operator to do the exclusion.
13 That is something that is real and there is
14 regulatory penalties that can be significant on a
15 violation in that regard.

16 And just another thing on the exclusion
17 list, self exclusion list in Massachusetts, the
18 statute does provide for, obviously, the
19 confidentiality, does allow disclosure to
20 affiliated properties, but not to other properties
21 right now.

22 So, for example by excluding myself in
23 Boston, and a casino is here and there's another
24 casino out West, that self exclusion would not apply

1 there at least adhering to that list unless I exclude
2 myself there.

3 So, getting back to your point,
4 Commissioner McHugh, about we can research whether
5 a voluntary expanded self exclusion could be
6 included. But then you have to evaluate what is the
7 burden on the individual operators.

8 If I do that in one casino and extend
9 my self exclusion and maybe a broadly based waiver
10 of my confidentiality rights to the other casinos,
11 there has to be a provision for a notice to the others
12 and so forth so that they can enforce that and be
13 held to that standard.

14 COMMISSIONER MCHUGH: Right.

15 MR. CARROLL: And then secondly with
16 regard to what Steve said, I just wanted to add we
17 have a long experience with what we euphemistically
18 call the 86 list, which is the casinos own self
19 exclusion. And that's often confused by the
20 public.

21 The casino routinely on any given night
22 will be excluding drunks, people that act up, a
23 variety of different reasons, that never reach the
24 exclusion list. People hear exclusion, I was

1 excluded from the casino, they think your name is
2 published and you're on the nefarious list for the
3 rest of your life.

4 Self exclusions are completely
5 separate. But 86 list or the type of daily
6 exclusions that casinos are involved in are very
7 routine. Generally, they're for 24 hours, 48
8 hours, sometimes a week or two.

9 CHAIRMAN CROSBY: It could be called
10 the deep-six list.

11 MR. CARROLL: The deep-six list,
12 right. And even more progressive casinos will
13 their own list of those persons separate and apart
14 from the formal exclusion list. Where that list --
15 where you don't get back in, for example, until you
16 come back in front of an 86 committee or a deep-six
17 committee that could be composed of security and
18 maybe a casino manager and some other people who look
19 at it and say this person has been drunk three times
20 in row. We've had to put security measures on him.
21 We had to arrange for transportation home. We're
22 going to bar for six months until he's straightened
23 his act up.

24 So, there is that other level of

1 operator generated exclusion that will protect to
2 a certain degree the public against themselves and
3 the property against itself too.

4 COMMISSIONER STEBBINS: I want to
5 pick up on that point, because III is really broad.
6 As Steve suggested, we do have a broad authority
7 allowed to us under this section of the statute.

8 But I have a question about putting a
9 burden on an operator to essentially be mindful of
10 anybody convicted of criminal offenses being
11 punishable by more than six months in a state prison.
12 That would have -- I would have to harbor a guess,
13 that's a pretty sizable list in the Commonwealth.

14 MR. CARROLL: They have to be on the
15 list.

16 MR. INGIS: What happens is is that the
17 agency that is entrusted with the responsibility for
18 requesting placement on the list, let's say it's
19 IEB. I'm not sure who is going to actually be doing
20 this. But the IEB presents a case to the Commission
21 to place someone on the involuntary exclusion list,
22 they have discretion. They will not be bringing
23 everyone who has been punishable by more than six
24 months. That's impractical.

1 They have as the criteria, all they
2 need to establish is that person has been convicted
3 of a crime that's punishable by more than six months
4 in prison, but they will not be bring every single
5 person who has been convicted in the Commonwealth
6 for more than six months.

7 COMMISSIONER STEBBINS: Okay. All
8 right.

9 MR. INGIS: One other area that I
10 wanted to mention and we'll examine is that
11 sometimes there will be a court order, for example,
12 a condition of probation is that an individual has
13 to be put on the exclusion list. That's something
14 to examine.

15 It's not in the statute here in
16 Massachusetts but it's something to explore in terms
17 of whether you wanted that in a regulation. That
18 is a frequent condition of probation.

19 COMMISSIONER MCHUGH: A little bit off
20 subject but related. To what extent in your
21 experience, in both of your experiences, is face
22 recognition software used to enforce the
23 prohibitions of these lists?

24 MR. CARROLL: One of the other casinos

1 we advise on regulatory matters has received some
2 demonstrations of it. And they're using it in
3 Vegas. And I know they were trying to use it in
4 Connecticut. I am told it works. And it's pretty
5 effective.

6 Is it enough now -- The casinos for the
7 most part have not gotten away from the traditional
8 hard pictures and so forth, and obviously now it's
9 on screens and databases and so forth. So, it
10 makes it a little easier. But it appears to be a
11 technology that will work.

12 It's not a replacement for vigilant
13 surveillance monitors. Again, there's more than
14 one way. You'll see things between the pit bosses
15 and the dealer, they'll make certain recognitions.
16 And there are certain responsibilities in their
17 training. Obviously, no one can remember a whole
18 book of faces but it is certainly an aide. And I
19 think it does have a real future.

20 Now to what degree, certainly, a match
21 that can be conveyed to the floor and then further
22 verification for identification is not an
23 unreasonable step. You probably captured more than
24 waiting for the person be seen. So, I think there's

1 a promise for that technology. I really do.

2 Would we try to require it by
3 regulation, that might be difficult but it would be
4 certainly worth exploring in terms of your
5 evaluation of the surveillance department and the
6 commitment of the applicant to maximize their
7 policing of the exclusion list.

8 MR. INGIS: I've heard anecdotal
9 stories that go both ways. Some that it had
10 positive identifications and it turned out to be the
11 person. But there have also been instances that
12 I've heard that there were misidentifications.

13 So, that's an area that needs to be
14 examined. But the face recognition is an area that
15 is becoming through increased technology is
16 becoming better and better as the years go on. It's
17 certainly something to examine.

18 The industry, again, the focus that I
19 have experienced is that they are predominantly
20 interested in preventing the people on the
21 involuntary exclusion list from entering because
22 they know that the fines that they are likely to
23 receive are quite high, as opposed to if someone is
24 on the self exclusion list.

1 The self exclusion list, I think their
2 focus right or wrong is to make sure that they don't
3 market promotional activity to the individuals,
4 that they're not on the mailing list any longer.
5 And that they don't issue complimentaries and credit
6 to these individuals.

7 But not so much as preventing them from
8 entering the establishment in the first place.
9 Although they are obligated to do that, I think that
10 that takes a second seat to what they did their other
11 responsibilities.

12 MR. CARROLL: Just one last point I
13 wanted to make on item number three because there
14 was discussion about the notorious or unsavory
15 reputation. This Commission will develop its own
16 body of jurisprudence for its own interpretive
17 decisions as this goes on.

18 You do have a body of existing gaming
19 law that have relevant terms in there that can be
20 useful informing it. Your future in crafting
21 opinions in cases when they're raised when someone
22 challenges the Commission's placement on this list,
23 for example, item number three, those initial
24 decisions are critically important going forward,

1 because they are the foundation for building on your
2 jurisprudence in the future.

3 There's decisions, not to give my
4 partner more kudos than he's entitled to, there's
5 been some in the past that he has been involved in
6 and his authorship and so forth that have been found
7 effective, Steve too, for that matter. But those
8 decisions are important and we certainly have every
9 confidence that you will be rendering those kinds
10 of opinions that will be a strong foundation for
11 future jurisprudence in this area on those
12 interpretive ideas.

13 MR. INGIS: Another item while we're
14 on the subject of exclusion to recognize is that a
15 person who is placed on the exclusion list is not
16 permitted to keep winnings if their identity is
17 disclosed or recover losses.

18 So, if you're on the exclusion list and
19 you lose money and then you say I should not have
20 been allowed in the casino so I want my money back,
21 they've already acknowledged that they cannot do
22 that. And that's been supported and approved by the
23 courts that have considered the issue.

24 So, it's a roundabout way of saying in

1 terms of the responsibility of the casino, they
2 might want to bring someone in knowing that if
3 they're to be found out they're not going to be able
4 to recover their losses. So, it's like a free
5 gambling activity. You would hope that the casinos
6 are more responsible than that. I'm sure they will
7 be here.

8 COMMISSIONER MCHUGH: Okay. Thank
9 you.

10 COMMISSIONER CAMERON: Thank you.

11 CHAIRMAN CROSBY: Great. Do you want
12 to take a quick break, five-minute break? We'll
13 adjourn for five minutes.

14
15 (A recess was taken)

16
17 CHAIRMAN CROSBY: I think we are ready
18 to reconvene the 48th meeting of the Gaming
19 Commission.

20 And we will go to key policy question
21 number 50, which I believe is Commissioner McHugh;
22 is that right?

23 COMMISSIONER MCHUGH: No.

24 COMMISSIONER STEBBINS: That's me.

1 CHAIRMAN CROSBY: Which I believe is
2 Commissioner Stebbins.

3 COMMISSIONER STEBBINS: This, Mr.
4 Chair I think was a question that came in from the
5 request of the public if they had additional
6 questions to ask.

7 The question is: How should the role
8 of the Commission be defined in the licensing
9 process? What other departments, if any, have a
10 role in the licensing of certain occupations?
11 Would the Commission be licensing on the basis of
12 suitability only or skills and education as well?
13 Will licensing be limited to occupations closely
14 associated with the gaming area?

15 I have listed the relevant sections as
16 I saw it. Under the statute sections 2 were the
17 definitions for the following employees, section 5,
18 section 16 and 30. Section 30 is one that we haven't
19 really talked about. That establishes no person
20 shall be employed by gaming licensee unless such
21 person has been licensed by or registered with the
22 Commission.

23 The section outlines the suitability
24 measurements of a license required candidate must

1 have prior to employment. Per this question, there
2 doesn't seem to be any ambiguity as suggested by this
3 question about what the licensing role is of the
4 Gaming Commission.

5 Obviously, IEB, other investigative
6 agencies are critical to background checks,
7 employee license approval process. And a further
8 caution we're going to address in deciding whether
9 to license training schools, we would be
10 establishing minimum training requirements through
11 the MOU between us and the Casino Career Institute
12 whose goal is to identify a base level of skills for
13 potential employees.

14 Again, because I think this was a
15 question generated by the public, we didn't receive
16 any written submissions on this question.

17 And my recommendation is certainly
18 review section 30 with respect to information
19 required for employees who need to be registered.
20 And additionally we can create minimum training
21 requirements if we decide to license training
22 schools.

23 But in answering the question, I don't
24 think there is any ambiguity in terms of what our

1 role is and what we are required to do by the statute
2 in terms of licensing.

3 COMMISSIONER MCHUGH: I had a couple
4 of questions about this one, which it feeds back into
5 the discussions that we had earlier when we were
6 talking about the MOU with the training schools.
7 And I'm not sure we ever really fully resolved there.

8 The first one is are we awarding
9 licenses on the basis of background or are we
10 awarding licenses on the basis of background and
11 skills? And if the latter, what are we going to do
12 about verifying skills?

13 The statutory criteria seem to focus
14 primarily on background. The jobs are available
15 only to people who meet the establishment's
16 satisfaction in terms of their training level. So,
17 that was the first of the questions that I had. As
18 a matter of policy, are we going to do there and what
19 are we going to take on?

20 Second, are we going to issue licenses
21 with only the people who already have a job? Or are
22 we going to issue licenses to people who then can
23 be turned loose to look for a job? There's a very
24 different load placed on the IEB depending on which

1 of those choices you take. And think about that
2 little memo I sent from the trip to Mississippi where
3 the license is actually issued to or given,
4 delivered to the gaming establishment after its
5 offered a person a job. That's not the only way to
6 do it. In fact, they do it down there. They issue
7 a license before the person goes to a training
8 school.

9 COMMISSIONER ZUNIGA: A student
10 license.

11 COMMISSIONER MCHUGH: A student
12 license, yes. So, that was a second question.
13 Then a third was we've got also licenses we have to
14 think about with respect to gaming venues. And I
15 think you must have excluded those from this and
16 maybe that's a separate set of considerations,
17 Commissioner. But the same dichotomy is there as
18 well.

19 Do we issue gaming vendor licenses on
20 the basis of background or background and
21 competencies? And if the latter, we're really
22 into a broad array of areas that I think we have no
23 competence at all in.

24 Then insofar as training schools are

1 concerned, there's a question in my mind about
2 licensing training schools, a function that is now
3 in the DPL. And we've talked to them about how to
4 collaboratively work with them. Or whether they do
5 the licensing but we do the certification.

6 In other words, anybody can open a
7 training school if they satisfy the DPL's
8 regulations, but only training schools that comply
9 with as they determine with our criteria can get a
10 Gaming Commission stamp of approval on them. And
11 if the latter, which administratively is certainly
12 easier, what does that certification get people in
13 terms of assistance in getting a job, when in the
14 end it's going to be the gaming establishment that
15 going to determine who to hire.

16 So, those were some questions that it
17 seemed to me that as a policy matter before we get
18 to writing regulations, we need to think through.
19 We touched on all of those.

20 Those are all implicit in what you
21 suggested here. They are all bound up in the
22 statute and the regulations and in our prior
23 discussions. Whether we need to resolve them now
24 or not, I don't know. But they seem to me to be

1 things that we need to think about before we start
2 to take pen to paper and start to draft regulations.

3 COMMISSIONER STEBBINS: I did look at
4 this question probably more narrowly focused on
5 occupations related to the licensee, the gaming
6 license.

7 COMMISSIONER MCHUGH: The gaming
8 license, yes.

9 COMMISSIONER STEBBINS: They
10 mentioned the role in licensing of certain
11 occupations. I guess I assume that because it said
12 occupations as opposed to vendors and suppliers, I
13 kind of left that part out of the question. So, I
14 kind of kept it limited.

15 We do have another question coming up
16 about should we be regulating private training
17 schools or even public training schools or
18 establishing the bare minimum of training
19 experience. My thought was and we've talked about
20 this, we don't want to necessarily lead people into
21 thinking casinos are coming into Massachusetts.
22 I'm going to go for a job in a casino not
23 understanding the criteria which is laid out which
24 may make them ineligible to pursue a casino career.

1 As opposed to going through background
2 check licensing for everybody who wants to follow
3 that route but by being more proactive and say we're
4 sorry, but essentially everything that's listed in
5 the statute probably would make you ineligible and
6 that is something for you to consider.

7 But moving towards doing an
8 investigation or a background for a person who has
9 been trained and is interested in pursuing a career
10 opportunity eventually with one of our licensees,
11 I think that begins to focus our IEB resources more
12 on someone who -- We don't even know why somebody
13 might go through a training school. It might be I
14 want to learn how to deal blackjack, but I never
15 become a casino person.

16 So, I think using our investigation and
17 licensing resources for that person who is going to
18 be offered employment or is taking the next step or
19 is at least a step closer towards gainful employment
20 by a casino operator I think is where we want to
21 direct some of our licensing and investigative
22 resources.

23 COMMISSIONER CAMERON: Why wouldn't
24 we wait until that person has a conditional job offer

1 pending a license?

2 COMMISSIONER STEBBINS: Why wouldn't
3 we wait to --

4 COMMISSIONER CAMERON: In other
5 words, why would we license someone who doesn't have
6 a job offer? And the reason I mention that is
7 because we conduct a background investigation and
8 six months later they don't have a job offer.
9 That's an incomplete background investigation.

10 COMMISSIONER STEBBINS: Right. I am
11 suggesting licensing and doing a background check
12 on somebody who is --

13 COMMISSIONER CAMERON: -- has a
14 conditional job offer.

15 COMMISSIONER STEBBINS: --
16 conditional job offer and is ready to be soon taking
17 a job.

18 COMMISSIONER CAMERON: I'm sorry, I
19 misunderstood you to mean --

20 COMMISSIONER STEBBINS: That's all
21 right. I frequently confuse myself.

22 COMMISSIONER MCHUGH: As do we all.

23 COMMISSIONER STEBBINS: I think to
24 Commissioner McHugh's original question of where do

1 we begin to stake out that licensing investigation?
2 I would do it again when that person is ready to be
3 employed.

4 I think if we do it at the front end,
5 we'll be using up a lot of invaluable resources where
6 I think publishing information about what the base
7 suitability requirements are going to be, hopefully
8 somebody out there can assess for themselves whether
9 they are going to be -- have an opportunity of
10 getting a job within a casino.

11 MR. INGIS: The point on that that I'd
12 like to make is in New Jersey there was no
13 requirement that a person actually have a job. And
14 people frequently use New Jersey as the training
15 jurisdiction, so to speak. Because if they can get
16 licensed in New Jersey, they would then be able to
17 market themselves in other jurisdictions. And
18 there was considerable expense, as you can tell, for
19 having this person go through the licensing process
20 where the person had no intention at all of actually
21 working in Atlantic City.

22 So, the Commission has the prerogative
23 of requiring that although the statute does not
24 mandate that. Some statutes do. Yours does not.

1 Temporary licensing section of the
2 statute does. It speaks to the fact that a casino
3 needs to establish that it is urgent that that person
4 receive a temporary license. And that urgency
5 necessitates that the person have an offer of
6 employment. Otherwise, it wouldn't be urgent.
7 However, the statutory sections that deal with key
8 licensing and gaming employee licenses do not
9 mandate that a person have a job offer. So, that
10 is a policy issue for the Commission to examine.

11 MR. MICHAEL: And the countervailing
12 argument in terms of not requiring a job would be
13 that it creates a labor pool for available
14 employment. Because of the high turnover should
15 there be turnover in a casino, the casino doesn't
16 have to wait any period of time before they can find
17 someone to replace those who have left. There are
18 available licensed people out there who can just
19 step in.

20 I'm not saying that countervails all of
21 the expense and time and trouble of licensing people
22 who aren't going to be using the license, but that
23 is the other side of the policy argument.

24 CHAIRMAN CROSBY: I was just thinking

1 particularly at the outset. The process if two or
2 three facilities are opening around the same time,
3 we're going to have thousands of background checks
4 to be done.

5 MR. MICHAEL: That's correct.

6 MR. INGIS: That's why Ohio, which was
7 a recent jurisdiction to implement gaming required
8 a job offer for that reason to reduce the number of
9 the background suitability investigations that
10 would have to be undertaken. They had a finite
11 number of casinos opening and they did not want to
12 have to go through a lot of background
13 investigations for people who are not going to be
14 employed.

15 MR. MICHAEL: And we could both tell
16 you about the nightmare of the beginning of New
17 Jersey when they were flooded with thousands and
18 thousands of applications.

19 It was commonplace at the Casino
20 Control Commission meetings there for people to line
21 up down the hallway and down the stairs and out into
22 the parking lot to find out what the status of their
23 license applications were because they had left
24 their homes in some other state and moved to New

1 Jersey on the expectation that they were going to
2 get a job right away. Their licenses were being
3 held up because they just couldn't be processed fast
4 enough. And it was a very difficult time.

5 CHAIRMAN CROSBY: That was the angle
6 that I was thinking that maybe particularly at the
7 outset you might want to license people starting as
8 early as you could to create a pool because if you
9 had to do it all at the same time, you just -

10 COMMISSIONER CAMERON: Companies know
11 when about, and they'll be planning ahead of time
12 too, they'll be starting their hiring process well
13 in advance of the opening.

14 CHAIRMAN CROSBY: That's probably
15 something we can coordinate with them on that score.

16 COMMISSIONER CAMERON: Correct.

17 CHAIRMAN CROSBY: Yes, right.

18 MR. INGIS: Again, I think Fred had
19 mentioned that yesterday in yesterday's session
20 that you'll hear at regular public meetings, the
21 applicants and actually they'll be the gaming
22 licensees at that point, will be coming forward
23 during the construction phase and updating you on
24 their hiring practices, how many people that have

1 applied and how many people have been actually
2 interviewed and screened. So, you'll be getting
3 periodic updates.

4 CHAIRMAN CROSBY: Right.

5 COMMISSIONER MCHUGH: If the licenses
6 are issued in advance of a job offer, is the license
7 issuance based on competency plus background or just
8 background?

9 MR. MICHAEL: Competency as well, yes.

10 COMMISSIONER MCHUGH: How is
11 competency tested?

12 MR. INGIS: That's because of the
13 statute competency.

14 MR. MICHAEL: They'd be tested on the
15 basis of either a graduate of a gaming school or
16 prior experience. Many people came from other
17 jurisdictions where they had worked in casinos in
18 the past.

19 COMMISSIONER MCHUGH: So, the
20 licensing board doesn't set up a test?

21 MR. MICHAEL: No, no. It's a
22 subjective evaluation either the fact that -- It's
23 not subjective if they've been certified by a gaming
24 school or if they had worked in the past in a similar

1 position.

2 MR. INGIS: That's why the job offer
3 may play into that because people who are coming the
4 proverbial off the street with no experience at all
5 would not be able to be licensed under that stringent
6 criteria. Whereas the gaming operators will filter
7 through applications and determine which people
8 they feel have the necessary experience for the
9 position.

10 MR. MICHAEL: One of the other things
11 is that once you'll get gaming schools open, will
12 try to get the largest possible class they can and
13 spit out a large number of graduates so that there
14 will be a lot of trained people on that basis on early
15 as possible.

16 MR. INGIS: One other point and this is
17 an unusual way the statute is written. It's
18 because of the broad definition of a gaming
19 establishment, but it speaks in terms of being
20 qualified for positions within the gaming
21 establishment. Taken to its illogical extreme that
22 would include housekeeping people.

23 I don't think the Commission has any
24 intention of requiring prequalification for people

1 who actually work in the hotel. The focus is going
2 to be on the gaming area. But the statute does speak
3 in terms of positions within the gaming
4 establishment.

5 CHAIRMAN CROSBY: But it breaks out
6 gaming service employee here as not meaning -- needs
7 to be registered with us but not licensed.

8 MR. INGIS: You have to be registered,
9 I know, but it also speaks in terms of regulations.
10 Section 5(12) speaks in terms of regulations that
11 you are properly -- require that all gaming
12 establishment employees be properly trained in
13 their respective professions. I don't recommend an
14 interpretation that would extend that to the hotel
15 but read literally that does pertain to the hotel.

16 CHAIRMAN CROSBY: But I think that's
17 may. This isn't must. This says we have the
18 authority to do that if we choose to but it doesn't
19 say we have to.

20 MR. INGIS: Yes.

21 CHAIRMAN CROSBY: What are the
22 requirements under section 30 that define our
23 licensing? It says we should review section 30
24 closely. Does somebody have section 30 closely?

1 Information required of employees need
2 to be registered? What does it require? I'm
3 speaking to now -- I'm interested in the issue of
4 suitability versus skill.

5 COMMISSIONER ZUNIGA: Subsection b
6 starts to differentiate the key gaming employee to
7 have an application with the Bureau which would
8 include a lot of language here relative to
9 background check including financial records.

10 COMMISSIONER CAMERON: It just speaks
11 to the suitability.

12 COMMISSIONER ZUNIGA: Suitability,
13 right, not to the skills.

14 MR. MICHAEL: I'm not sure we're not
15 making a false distinction. A person's business
16 ability or skill can be considered part of their
17 suitability. You may not want to license a CFO who
18 has never taken an accounting course.

19 CHAIRMAN CROSBY: Why would they hire
20 anybody who doesn't have an accounting course?

21 MR. MICHAEL: You are correct. It
22 seems like it shouldn't be.

23 CHAIRMAN CROSBY: Our job goes to
24 suitability. I'm looking for words that make a

1 distinction between your integrity, your character,
2 your criminal background those kinds of things from
3 your ability -- skills to do the job. And offhand,
4 I don't see why we ought to get involved in whether
5 or not you have the skills to do the job.

6 We do have an interest in preparing the
7 workforce because that serves the interest of the
8 Commonwealth. I don't see why we need to be
9 double-checking anything whether you can make a bed
10 or whether you have an accountant's degree. That
11 seems to me outside what we need to be looking into.

12 MR. INGIS: Along those lines, most
13 jurisdictions are getting away from looking at
14 business ability. Business ability was a condition
15 imposed in the early days of legalized gaming. But
16 there is as you say other regulators have taken that
17 approach that that is an operator's prerogative to
18 determine who they should hire to be their CFO. And
19 that should not be something that the regulators
20 impose. However, you do have to measure that with
21 the statutory requirements.

22 CHAIRMAN CROSBY: Right.

23 MR. INGIS: I think what the
24 Legislature is looking for is they want to make sure

1 that a dealer is properly trained to be a dealer.
2 The casino itself has -- It's in their self-interest
3 to make sure the dealer is properly trained.

4 MR. MICHAEL: I don't see the
5 distinction. If you don't care if a CFO has an
6 accounting degree, why would you care that a deal
7 hasn't been trained? But the statute does require
8 you to care about the dealer's training.

9 CHAIRMAN CROSBY: Where is that?
10 That's what I was looking for.

11 MR. MICHAEL: Section 5.

12 CHAIRMAN CROSBY: That gives the
13 authority.

14 MR. INGIS: You don't have to.

15 CHAIRMAN CROSBY: And may establish.

16 MR. INGIS: Right. You don't have to
17 but it's kind of signaling. That is that it's
18 signaling to the Commission that to some degree,
19 whatever degree that is that's in your discretion
20 you should be examining that. That there may be
21 certain positions that you look upon perhaps, for
22 example, a dealer.

23 You already indicated you wouldn't
24 worry about a hotel. And everyone would

1 wholeheartedly agree with that. But there may be
2 certain positions, a slot mechanic, a dealer, the
3 people who are close to the money are properly
4 trained. Again, it's in the self-interest of the
5 casino establishment itself to make sure that their
6 employees are trained.

7 COMMISSIONER STEBBINS: Could we for
8 all intents and purposes make this somewhat simpler
9 and say okay, training school you are required if
10 you choose to offer training courses in the
11 Commonwealth of Massachusetts, here are the basic
12 requirements of the courses you're going to offer,
13 18 hours of training in blackjack, etc., etc.

14 Then this Commission simply adopts
15 those and says it's not only your suitability but
16 making sure we're establishing a requirement
17 whatever we are requiring the schools to teach.
18 That would seem to be simple way to get at it.

19 I do understand requiring gaming
20 establishment employees to be properly trained. I
21 think by doing that we are hopefully securing some
22 integrity to the process. That I go into gamble
23 there is some relative expectation the guy who's
24 dealing the cards has been trained, knows what he's

1 doing. So, you're building the credibility and
2 integrity of the operator.

3 But again, we're going to talk about
4 training schools in another question, but it may be
5 simple as that. Whatever training requirements we
6 establish for a private or a public training school
7 to offer be the base requirements to add to the
8 suitability for a gaming employee or key gaming
9 employee just do it simply that way.

10 CHAIRMAN CROSBY: It is a neat way of
11 doing it. I agree. I'm just not sure. I'm
12 wrestling with whether we have an appropriate role
13 at all in that. As you're talking, I'm thinking we
14 don't test nurses, but we do test contractors.

15 What's analogous? Where is the public
16 interest here? Is the public interest served by us
17 making some kind of substantive judgment about the
18 professional skills, whatever level of profession
19 it is, about the individual?

20 COMMISSIONER MCHUGH: Here's a place
21 where our interests and the gaming operators'
22 interests are directly aligned, right? We want
23 people to be able to go into a place where there are
24 competent people at the tables and competent people

1 taking care of the machines, so does the gaming
2 operator.

3 Is there any jurisdiction that
4 requires the operator as part of its application or
5 otherwise to state the criteria and qualifications
6 that it will demand of its employees and then have
7 the Commission either approve or disapprove those.
8 And leave both the enforcement to spot checking
9 whether or not the workforce in fact complies with
10 those requirements. That's one that would put the
11 expertise where the expertise logically resides.
12 And at the same time, ensure that the public was
13 protected by a menu of skills that each person at
14 each position would have.

15 MR. MICHAEL: I'm not aware of any
16 requirement that that's specific. But there are
17 requirements that casino's personnel handbook,
18 personnel policies and training manuals be approved
19 by the agency, which would be a similar kind -- It's
20 not specified but that as a condition of licensure
21 and as one of the internal controls, you would
22 require that those kinds of training manuals and so
23 on be approved.

24 And I would think that that's probably

1 what the statute is talking about. I'm not sure
2 it's permissive. It might be mandatory in section
3 5(11), it says establish licensure, shall establish
4 licensure and work permits for employees working at
5 the gaming establishment and minimum training
6 requirements.

7 CHAIRMAN CROSBY: That's a shall?

8 MR. MICHAEL: That's a shall.

9 CHAIRMAN CROSBY: 5(11) is a -- because
10 in the summary here it's not.

11 COMMISSIONER ZUNIGA: All of five is a
12 shall.

13 MR. MICHAEL: All of five is a shall.

14 COMMISSIONER ZUNIGA: (11) and (12)
15 taken together --

16 MR. MICHAEL: The permissive is later
17 on where it says provided however that the
18 Commission may establish verification procedures
19 for any training schools and the minimum
20 requirements for reciprocal licensing. But it's a
21 shall establish minimum training requirements.

22 MR. INGIS: Section 12 is also
23 mandatory. Section five sets forth regulations
24 that are mandatory for the Commission to promulgate

1 and (11) and (12) speak to the subject and they would
2 be mandatory requirements. Then the discretion is
3 how far do you go.

4 MR. MICHAEL: How specific do you want
5 to make those. And approving a training manual
6 would seem to comply.

7 CHAIRMAN CROSBY: Or as Commissioner
8 said, agreeing that they have to have met the same
9 standards as we've given the training schools, some
10 other kind of broad-brush.

11 MR. MICHAEL: Absolutely.

12 MR. INGIS: To speak before the
13 question, Ohio had adopted something in akin to what
14 Commissioner McHugh had suggested with respect to
15 their training programs.

16 Again, they would do this at regular
17 Ohio Casino Control Commission meetings. The
18 licensee would come forward and -- Actually, they
19 were applicants at the time. The applicant would
20 come forward and say that we have opened up our
21 training school or our training program. And 200
22 people have gone through it or 500 people have gone
23 through it. And they are now qualified to be
24 employed by our establishment. It was not a

1 requirement, but it was something that the
2 commission looked upon with favor.

3 COMMISSIONER ZUNIGA: I see this as
4 maybe a two by three matrix where there's a three
5 distinction of levels of employees, key gaming
6 employees, service employees, etc. And there's a
7 sliding scale if you will on the training and the
8 skill, the licensing and the certification.

9 CHAIRMAN CROSBY: So, you're saying if
10 you're a CFO you would play more of a role in
11 overseeing that you're a good accountant.

12 COMMISSIONER ZUNIGA: Yes.

13 CHAIRMAN CROSBY: That seems wrong to
14 me.

15 COMMISSIONER ZUNIGA: No, I'm sorry.
16 I'm saying directly to the definitions of key gaming
17 employees and service employees, for example, an
18 accountant or anybody close to money would have more
19 scrutiny necessary than housekeeping.

20 CHAIRMAN CROSBY: But more training
21 scrutiny not suitability scrutiny is what you're
22 saying?

23 COMMISSIONER ZUNIGA: Both depending
24 on how we define skill, which could be as Guy was

1 suggesting.

2 CHAIRMAN CROSBY: Suitability is to
3 character, criminal, etc.

4 COMMISSIONER ZUNIGA: Right.

5 CHAIRMAN CROSBY: Training is your
6 ability to do the job.

7 COMMISSIONER ZUNIGA: Yes.

8 CHAIRMAN CROSBY: And to my way of
9 thinking, we have a legislative mandate, which I
10 didn't understand. So, we have to comply with that.

11 But my thing is this is a place where
12 we don't need to regulate these folks on how well
13 their people are trained. There is no need for
14 government to get involved in that. We have plenty
15 of things we should be doing, but that isn't one of
16 them it seems to me, other than complying
17 appropriately with the mandate.

18 I think, Commissioner McHugh, where
19 our interests diverge from the casinos, where the
20 public interests diverge from casinos that's where
21 we got to really pay attention. Whether the
22 blackjack dealer is subject to corruption that might
23 be in the interest of the casino but clearly not in
24 the public. But that he or she be a good blackjack

1 dealer, I think our interests are essentially
2 completely in line with the casinos.

3 So, why do we want to put a burden on
4 them or us to do something they're already going to
5 do in their own self-interest which is make sure that
6 people know how to do their jobs.

7 COMMISSIONER ZUNIGA: Maybe the
8 answer really relies on just how we do that, whether
9 by those manuals or regulation or elimination.

10 CHAIRMAN CROSBY: That's a different
11 story. We've had two suggestions about relatively
12 sort of simple blanket ways that we could meet that
13 minimum requirement.

14 One is to approve a handbook. Another
15 is to make sure that they've at least gone through
16 what we've set out as a minimum requirements in our
17 training licensing programs. There are other ways
18 to do that.

19 COMMISSIONER MCHUGH: They could be
20 compound.

21 CHAIRMAN CROSBY: Yes.

22 COMMISSIONER MCHUGH: Get a
23 certification or an out-of-state license plus
24 approval of an employee handbook to make sure that

1 that skill continues.

2 COMMISSIONER STEBBINS: Again, we'll
3 get down to another question on this, but as I've
4 looked at other jurisdictions that do certify
5 training schools, bare minimum requirements or
6 required training pretty much are mirrored across
7 all of the jurisdictions. There's not much of a
8 huge discrepancy in terms of the number of hours you
9 got to learn or be trained doing blackjack and
10 everything else. It's a relatively, I think, a
11 simple -- not simple approach, but --

12 CHAIRMAN CROSBY: It's interesting,
13 when we were in Las Vegas, we didn't connect the
14 training program -- Well, I guess those were service
15 employees. No, there were other people. There
16 were bartenders, dealers.

17 COMMISSIONER CAMERON: Yes.

18 CHAIRMAN CROSBY: We didn't track the
19 relationship between the unions' training programs
20 and the regulatory role. I don't think we looked
21 into where does the Las Vegas regulatory agency get
22 involved when Unite Here is producing people.

23 MR. INGIS: I wanted to throw another
24 area out for discussion and it's very problematic.

1 In that the Massachusetts statute like most statutes
2 you speak in terms on a license. If someone
3 receives a gaming employee license, the licensee is
4 able to put them in the area of the casino where they
5 need them.

6 For example, they may be in the slot
7 area, but on a particular night they have to
8 substitute to be a dealer and they may not have the
9 requisite business ability to be a dealer. But it's
10 in the self-interest of the casino to put them there
11 because they don't want to have an empty table.
12 That is something to consider.

13 And the jurisdictions that have
14 required business ability have done so for that
15 reason to ensure that the casinos do not have
16 unbridled discretion to put employees wherever they
17 want to. They have to put them in locations where
18 they actually have the skill level to do the job.
19 Just something to think about. It's not an easy
20 answer, but it's a question that needs to be wrestled
21 with --

22 COMMISSIONER STEBBINS: Another
23 reason why we posted for a Workforce Development
24 person.

1 MR. INGIS: -- because of the mandates
2 in the legislation -- And we've seen that. It's not
3 just a hypothetical. We've seen that in New Jersey.

4 MR. CARROLL: If I may, I just wanted
5 to point out one other thing and this is more
6 practical than theoretical. The training of
7 employees and so forth, apart from the suitability
8 and from say an assessment of competency, there's
9 also from an HR point of view under section 18 in
10 the statute, there's a requirement that the
11 applicant affirmatively demonstrate their human
12 resource hiring and training practices that
13 requires the development of a skilled and diverse
14 workforce. There's a particular affirmative
15 responsibility they have.

16 But there's other areas also that have
17 to be addressed as this goes on. For example, your
18 cocktail waitresses and so forth to go through what,
19 again, euphemistically called a TIPS program where
20 you can recognize persons that have over consumed.
21 You have to have a requirement -- even with problem
22 gaming, there's mandatory requirements for every
23 employee that's involved in gaming to recognize
24 people that are going over their heads quickly.

1 Safety, OSHA, the basic stuff, usually
2 found in an employee handbook, but the training
3 that goes with the handbook, generally there's an
4 employer HR department sponsored detailed training
5 orientation program, which includes all of these
6 major components that are required as well as
7 generally a regulatory orientation to explain the
8 role of the Massachusetts Gaming Commission. And
9 that's part of the training regiment that they get.

10 So, they understand what the
11 Commission does, what their roles are, what
12 penalties they have for violations and things of
13 that sort. Then there's subparts to that. There's
14 State Police, what do they do here. Security, what
15 is its role and a variety of these things. The point
16 being that you have a training competency
17 requirement, whether it's mandated by regulation or
18 left up to the operator.

19 There's also a post-selection, say
20 post-qualification, post-employment commencement,
21 a whole regiment of training that goes with the
22 casino employee casino role. And there's a fair
23 number of washouts even at that. A person can be
24 licensed. A person can be initially trained and get

1 into some of these initial things and just not like,
2 not like the shift work, not like a 12-hour shift
3 or whatever else. Not unusual.

4 The point I want to make is an expansive
5 landscape of training that starts with I want become
6 involved in a casino. And if a school starts it and
7 you get certified and you move through the process,
8 by the time you get ejected at the end, you have a
9 pretty good amount of training that you can take to
10 other jurisdictions.

11 But from your point of view and from
12 what you should require, obviously the suitability
13 is critical. The competency is a sliding scale,
14 because you know they're going to have a lot of
15 training coming down the road. And whether you
16 mandate it or you make it optional for the operator,
17 it will be done. They will receive this training.
18 They almost have to.

19 CHAIRMAN CROSBY: Yes. That's a good
20 distinction.

21 COMMISSIONER ZUNIGA: It's also
22 implicit along those lines and in the statute that
23 those receiving licenses will be for a period of
24 time. After some time, they will have to reapply

1 for a license.

2 MR. CARROLL: Correct.

3 COMMISSIONER ZUNIGA: There's maybe
4 refresher training at that point. There's maybe
5 new methods that have been developed or new
6 regulations that have been issued.

7 MR. CARROLL: Right. And a
8 disciplinary record may trigger additional remedial
9 actions. For example, very common is cage
10 regulating. People that mishandle cash, mishandle
11 fills, don't fill out the signature lines, don't
12 follow the internal controls, very common.

13 A person may get one, two or three
14 violations of that and they're just not equipped to
15 handle cash well. So, they'll go through a remedial
16 course. They'll be put back in, they get the fourth
17 violation, maybe they move to another location where
18 they don't handle cash.

19 The operator does coalesce. The
20 interest of gaming with integrity, trained
21 employees and the interest of doing it right under
22 the internal controls does come together at some
23 point.

24 CHAIRMAN CROSBY: That's a good

1 addition to this thought process. Thank you.

2 I have to go see Emily Rooney.

3 Commissioner McHugh, would you mind picking up
4 chairing the meeting for the rest?

5 COMMISSIONER MCHUGH: Sure.

6 MR. CARROLL: Thank you.

7

8 (Chairman Crosby exits meeting room
9 at 3:23 p.m.)

10

11 COMMISSIONER MCHUGH: The next issue
12 and there are three more 51, 52 and 53 according to
13 my tabulation here although 33 is in here someplace,
14 right?

15 COMMISSIONER STEBBINS: The next one
16 is 52.

17 COMMISSIONER MCHUGH: Yes, 51 I
18 distributed this morning. Did everybody get 51?

19 COMMISSIONER CAMERON: Yes.

20 COMMISSIONER MCHUGH: I distributed
21 it last night.

22 COMMISSIONER CAMERON: Hole punched.

23 COMMISSIONER MCHUGH: Yes.

24 Fifty-two deals with -- Well, it says this: To

1 address concerns regarding inappropriate pressure
2 on casino companies, should the Commission require
3 applicants and licensees to report to the Commission
4 all resumes, recommendations, referrals, requests
5 for donations, etc. they receive from any public
6 official with failure to do so resulting in a
7 penalty?

8 In answering that, I think it's
9 worthwhile to divide recommendations, resumes and
10 referrals from requests for donations and other
11 kinds of things because two slightly different sets
12 of considerations come to bear.

13 The resume recommendation from public
14 officials issue is one that has received a lot of
15 attention recently in a lot of different contexts.
16 And recently, in response to that attention, the
17 State Ethics Commission issued an extensive
18 advisory dealing with when it was proper for state
19 and municipal and other public officials to make
20 recommendations and whether they could make them on
21 their official letterhead or could not.

22 And basically, it boils down to three
23 intertwined factors. One it's permissible for a
24 State employee to make a recommendation if the

1 recommendation is based on personal knowledge.
2 Elected public officials are in a slightly different
3 category. But for most public officials, they're
4 permitted to make a recommendation if the
5 recommendation is based on personal knowledge.

6 They're permitted to use their
7 official letterhead if that letterhead is relevant
8 to the recommendation, i.e., if they're making a
9 recommendation for somebody that worked for them in
10 a particular capacity in the office that they are
11 now occupying.

12 And three, if the recommendation
13 contains with it no express or implied pressure on
14 the person to whom the recommendation letter is
15 addressed to accept the person for employment or for
16 any other position.

17 In addition to that, State law now
18 requires for all State employees that the
19 recommendation be considered only after the
20 candidate for employment has been found qualified
21 for the position. And that the recommendation
22 become a public record if and when the person is
23 hired. So that the public has an opportunity to
24 know who recommended that person. So, that's part

1 of the background for the recommendation and
2 referral piece of this.

3 Insofar as other solicitations are
4 concerned, there are a whole variety of public
5 statutes -- of statutes I should say that deal with
6 it. Some simply prohibit certain kinds of gifts and
7 solicitations for gifts, including statutes dealing
8 with bribery.

9 Campaign contributions are heavily
10 regulated as we all know and they're regulated by
11 our statute as well as are in-kind donations to
12 municipalities and municipal officials.

13 Solicitations in general of
14 non-political contributions are permitted under the
15 ethics laws only if specifically authorized by law.
16 And as I set out in this memorandum, the Ethics
17 Commission has issued an opinion that deals with
18 when those solicitations are permitted. Those
19 would include solicitations for funds, for example,
20 that the municipality is building a new skating rink
21 or some other kind of municipal -- worthy municipal
22 activity.

23 Again, the Ethics Commission is pretty
24 clear in its opinion that the solicitation has to

1 be made under circumstances where the person
2 solicited, particularly those who are regulated by
3 the municipality in some way, are not under express
4 or implied pressure to contribute.

5 To help ameliorate that pressure, the
6 Ethics Commission in its most recent treatment of
7 this issue said that a list of the solicitations
8 should be published and maintained by the
9 municipalities so that people could see who was
10 solicited and what the response was.

11 It seems to me that the extensive
12 treatments given by statutes and regulations to the
13 subject of recommendations and references and to the
14 subject of solicitations warrants us in treating
15 this in a way that enhances public confidence
16 through disclosure instead of prohibitions and the
17 like.

18 So, I would recommend with one caveat
19 that I will explain in a second that references or
20 letters of recommendation for employment be
21 disclosed on some periodic basis by the gaming
22 establishments. That all requests for
23 solicitations they receive from any public official
24 for monetary or nonmonetary contributions and all

1 monetary or nonmonetary contributions they make to
2 an elected public official or municipality be
3 disclosed again on a periodic basis.

4 We've already said that in the
5 application we decided as a policy matter earlier
6 on in our discussions that all contributions in-kind
7 to a municipality that are made by a gaming
8 establishment from the time the statute was passed
9 until the application is filed will be something
10 we'll ask them to disclose in the application. So,
11 this builds on that on a continuing basis in a number
12 of ways.

13 The one caveat, and it didn't occur to
14 me until I thought about this more on the way over
15 here is that requirement for a contemporaneous
16 disclosure of references or referrals and a public
17 disclosure of that may have the effect of disclosing
18 references for jobs that the person referred to
19 never gets and that the person would want to have
20 confidential unless he or she got the job.

21 So, that requirement might be better if
22 it tracked the State requirement that if the person
23 -- if the gaming establishment receives a reference
24 or referral from a public official and the person

1 is given a job that that recommendation or referral
2 be reported on a periodic basis.

3 I'm split there on either side because
4 that doesn't prevent the pressure. But if the
5 pressure is a pressure to which someone succumbs
6 that is, I suppose, more noteworthy than pressure
7 that someone does not succumb to. So, maybe the
8 latter would be sufficient.

9 So, those are some thoughts that I had.
10 I'd welcome hearing from our consultants as to any
11 thoughts they might have on that as well.

12 MR. INGIS: Picking up on what you just
13 indicated, Commissioner McHugh, the notion that
14 someone might want to maintain the confidentiality
15 of a request or reference for employment, I believe
16 that some people were discouraged from applying for
17 a position with the Commission in the Executive
18 Director capacity because it was going to be made
19 public. And they did not want to do that while they
20 were employed elsewhere. I know of instances in
21 non-gaming area where that's also a concern.

22 Someone has a position of employment they don't want
23 their boss to know that they're looking elsewhere.

24 COMMISSIONER MCHUGH: These would be

1 third-party references rather than applications.
2 So, it would not necessarily mean that the person
3 was looking. It would mean that somebody had
4 suggested to the casino or the gaming establishment
5 that they look at this person for the position. But
6 I think the effect might well be the same.

7 MR. INGIS: I think it is. I think
8 that effect is far-reaching and potentially
9 embarrassing to the individual.

10 The other point I wanted to make is I
11 see your recommendation pertains to gaming
12 licensees. Is that the intention that if a 100
13 percent publicly traded company that owns the
14 applicant, the gaming licensee, does the
15 prohibition go to them as well, the reporting
16 requirement?

17 For example, if someone were to solicit
18 money from Wynn Resorts, LLC, which is the 100
19 percent owner of the prospective gaming license in
20 Massachusetts, would this prohibition extend to
21 them?

22 Or would it be limited to the gaming
23 licensee, which is the way that Massachusetts has
24 been set up is all of the potential applicants are

1 creating an entity to hold the gaming license. But
2 the money, so to speak, comes from high up the
3 organizational chain. So, I would suggest that the
4 definition might have to be potentially expanded if
5 that was your intent.

6 COMMISSIONER MCHUGH: Forty-six and
7 47, I think it deals only with the applicant and the
8 prohibitions on the applicant making contributions.
9 And our prior discussions focused only on the
10 applicant, but I think you raised a point that
11 certainly is worth considering. And I focused on
12 the applicant and therefore the licensee. But it
13 seems to me that's a point worth considering.

14 MR. INGIS: Right. And it is easy to
15 circumvent this very well defined reporting
16 requirement by having the parent companies be
17 involved in this activity. And they don't have a
18 reporting requirement. So, it would defeat the
19 inherent purpose of the reporting.

20 COMMISSIONER MCHUGH: Contributions
21 by or suggestions of employment made to anybody who
22 was an investor defined in some way in the applicant.

23 COMMISSIONER ZUNIGA: Qualifying
24 entity.

1 MR. INGIS: The qualifying entity.

2 COMMISSIONER MCHUGH: Right, the
3 qualifier.

4 MR. INGIS: There'd be a way of doing
5 it. For example, when we've been going through
6 scope of licensing and it, in effect, would be any
7 entity who was involved in that scope of licensing
8 determination.

9 COMMISSIONER MCHUGH: Right, right.
10 That's a good thought. Thank you, Steve.

11 Discussion, thoughts?

12 COMMISSIONER ZUNIGA: I would be very
13 much in agreement with the analysis and the thought
14 out process. I believe that that's the way to
15 insure public confidence is very effective through
16 disclosure. And the anticipation of that
17 disclosure, it can effectively elicit the behavior
18 that we're trying to preserve. So, I firmly support
19 your recommendation.

20 COMMISSIONER CAMERON: I do as well.
21 But I would be interested to know if you're aware
22 of any other jurisdictions who have similar
23 disclosure requirements?

24 MR. POLLOCK: Short answer, no. We

1 are aware, obviously, of some areas where there's
2 clear prohibitions but the answer is no, not of
3 reporting requirements as envisioned here.

4 COMMISSIONER CAMERON: Do you see it
5 being helpful to our goals, which are to certainly
6 makes you aware of this behavior? Not necessarily
7 that we're not making judgment that it's improper,
8 but just that we're aware and would possibly -- the
9 transparency may discourage behavior which could be
10 considered a problem.

11 MR. POLLOCK: I would out characterize
12 it as certainly intriguing. I would suggest that
13 the law of unintended consequences would certainly
14 come into play. We can't envision everything that
15 is likely to happen as a result.

16 But I would point out that in certain
17 areas of experience, we've seen for example in New
18 Jersey, an unintended consequence. Some of the
19 prohibitions, some of the very restrictive
20 prohibitions against contributions or giving things
21 of value to elected officials, it was not originally
22 anticipated that it would be embraced by casino
23 licensees, but it certainly has become embraced by
24 casino licensees. Because they do use it as a

1 shield, sorry, I can't help you. I would
2 characterize it as intriguing the way it's
3 positioned here.

4 COMMISSIONER MCHUGH: That's an
5 unintended consequence that has pluses and minuses,
6 right?

7 MR. POLLOCK: I'm not sure what the
8 minuses would be other than to limit their --
9 arguably potentially to limit their involvement.

10 COMMISSIONER MCHUGH: If they were
11 deterred say from contributing to the fund to create
12 the new town playground, that would be a negative
13 consequence.

14 MR. POLLOCK: But as anticipated here,
15 if I'm understanding the proposal correctly, they
16 could certainly affirmatively participate. And
17 they could certainly still be solicited.

18 COMMISSIONER MCHUGH: Right, it would
19 have to be disclosed.

20 MR. POLLOCK: It would be disclosed
21 and they would know about it.

22 COMMISSIONER MCHUGH: All I'm saying
23 is that to the extent they were deterred from making
24 that contribution by the disclosure requirement,

1 that would be a negative consequence of this. On
2 the other hand, contributing to that kind of an
3 activity might well be a positive.

4 MR. POLLOCK: Only if it's perceived
5 as a shakedown of sorts.

6 COMMISSIONER MCHUGH: Yes, yes.

7 MR. POLLOCK: On a practical level,
8 and I think this does anticipate how things operate
9 in the real world, there's a strong likelihood that
10 there will be a lot of requests whether appropriate
11 or not. And I think this does correctly anticipate
12 that.

13 COMMISSIONER MCHUGH: Right. Thank
14 you. That's very helpful. The other piece of this
15 is that in the current context and environment, this
16 is simply -- I shouldn't say simply. This is in many
17 ways synchronous with what's being done on the State
18 level for other things as a result of recent issues
19 that have arisen here. And sort of puts the
20 regulation of this on a par with in many places the
21 way other aspects of the recommendation and request
22 policy are being handled.

23 It keeps us in step with current
24 thinking at the State level. I asked you, Guy,

1 yesterday to think about it as well. And I welcome
2 any thoughts you have in addition to those helpful
3 thoughts from Michael and Steve.

4 MR. MICHAEL: I apologize. I had to
5 take a call outside, so I didn't hear the helpful
6 thoughts from Michael and Steve. But I'm sure they
7 were brilliant as always.

8 COMMISSIONER MCHUGH: Helpful and
9 brilliant.

10 MR. MICHAEL: And If I repeat anything
11 there, I apologize. But it would seem that there
12 is kind of a mixed bag here. On the one hand it is
13 a very valid concern. And an attempt to try to
14 address that concern is well worth thinking about
15 to try to avoid the potential for, as we've said many
16 times today, the failure of trust and confidence in
17 the public in terms of casino operations, so that
18 to enhance that trust of confidence in any way
19 possible.

20 On the other hand, the downside of
21 doing it would seem would be that as I heard Mike
22 point out, there will be a large number of these
23 kinds of public official referrals. And you will
24 be receiving a lot of information that may or may

1 not be worth looking into.

2 And if at some future point something
3 that either you were able to look into but not to
4 the depth that you might otherwise because you will
5 be doing so many things at once in these initial
6 stages, or you just weren't able to get to it, you
7 will have in your files information that may later
8 turn out to be something that could be embarrassing,
9 not to the Commission but to other people. And then
10 you'll be asked why didn't you look into this? You
11 had this information all along. That's one
12 potential downside.

13 Obviously you don't want to ignore
14 information that is potentially dangerous or
15 damaging. So, I think when we talked about it
16 yesterday, a thought and other suggestion was that
17 there'd be a provision in the employee license
18 applications, maybe just the key employee license
19 applications or the regular casino employee
20 applications that asks whether or not you were
21 recommended for the job by a public official,
22 defining public official as you want.

23 And that way you do get the
24 information. It isn't necessarily -- It will be

1 something that you definitely will be looking at
2 because it will be in an application. It will be
3 referred to an investigator to take a look and
4 examine. And if anything is disclosed as a result
5 of that, you'll be on top of it. And if the public
6 knows that you are aiding that as part of your
7 investigatory protocol that may serve the public
8 interest of them understanding that you're on top
9 of this issue.

10 COMMISSIONER MCHUGH: If we simply
11 committed ourselves to publication of the referral
12 by a public official of those people who were
13 successful job applicants, it's just out there.
14 There it is. And you all can take a look at it. And
15 you the voters if you think there's stuff going on,
16 you've got a chance every two years to deal with
17 that.

18 If you the media want to look into it
19 further, there it is. If we want in those rare cases
20 hopefully that we want to look into it, we've got
21 the information. But it's the same information
22 that's out there, so it's not buried in some file
23 that later embarrasses us because we didn't get a
24 chance to look at it or we overlooked it. Would that

1 serve, would just the sort of sunlight shed on this
2 process serve itself a useful process without
3 enormous damage to an important interest, even if
4 we didn't do anything further or except in rare cases
5 intend to do anything further?

6 MR. MICHAEL: I'm sure there would be
7 a value in the publication of that information.
8 What I can't estimate is whether that value would
9 be outweighed by the countervailing public
10 impression that there's hundreds of people here who
11 are getting jobs because politicians are
12 recommending them. I didn't get a job because I
13 didn't know a politician.

14 COMMISSIONER MCHUGH: Right, right.

15 MR. MICHAEL: So, I don't know which
16 would balance in which side's favor.

17 I don't want to -- Since we're arguing
18 both sides, yesterday we were kind of arguing the
19 issue about public officials not being able to
20 gamble. And we said we should -- there was a
21 discussion of whether we should presume public
22 officials to be honest or dishonest. In this case,
23 we seem to be presuming them to be different from
24 the way we presumed them on the gambling or not

1 gambling.

2 COMMISSIONER MCHUGH: I am not sure
3 that I would have been opposed yesterday, if we had
4 gotten to that to some kind of a requirement that
5 public officials disclose if they gambled, how much
6 they won or how much they lost. And that that be
7 posted someplace so that people could see that. But
8 let them go ahead and do that, but we never got that
9 far. But I hear you and that's helpful.

10 COMMISSIONER CAMERON: Your
11 recommendation or at least put it out there for us
12 to consider this information on an application
13 though doesn't address through the donations piece.

14 MR. MICHAEL: I think we already have
15 -- we don't have it on the individual application
16 because we haven't done the individual application
17 yet. But on the BED application, on the corporate
18 application we do have a question about political
19 contributions.

20 MR. INGIS: And I think that they will
21 in all likelihood be put on the individual employee
22 applications as well. I think the statutory intent
23 indicates that.

24 COMMISSIONER MCHUGH: There's no

1 question about that. In fact, applicants are
2 prohibited until the license process is over from
3 making certain -- From the time they become an
4 applicant until the time from making certain kinds
5 of contributions. And then thereafter they have to
6 report political contributions.

7 This would be broader than that and
8 deal with on an ongoing basis the kinds of
9 contributions in-kind, political contributions and
10 other things they would have to make. So, it would
11 be broader than that but complement what's there.

12 COMMISSIONER ZUNIGA: Can I just
13 respond to your point, Guy, underscoring an initial
14 point of Commissioner McHugh, which is in this case
15 as opposed to the question about public officials
16 gambling yesterday, in this case a prohibition in
17 many ways or the laws, if you will, already exist
18 or the restrictions exist, not by this Commission
19 but by other ethics and other statutes. Disclosure
20 would support the interest, if you will, of those
21 restrictions.

22 In the case of yesterday, we were
23 operating with no restriction. And that's perhaps
24 a difference.

1 MR. MICHAEL: I see that. You're
2 right. I see that difference.

3 COMMISSIONER MCHUGH: Okay. Thank
4 you very much. Any further thoughts on this one?

5 Well, I would propose then that we take
6 the framework of this recommendation with the
7 thoughts that we have just been given, the helpful
8 thoughts we've just been given and try to draft a
9 regulation that captures the disclosure of these
10 items and at the same time considers the drawbacks
11 and the potential pitfalls that we just heard. And
12 then revisit this issue again when we put something
13 to paper that tries to capture these three points
14 along with the pitfalls.

15 MR. CARROLL: Commissioner, I just
16 want to add one thing on that. Already in place in
17 section 108 on the, you know, prohibited political
18 contributions section, it already is embodied in
19 terms of the definitions of prohibited person in
20 some of those other areas that would be relevant to
21 this in terms of identifying the source of the
22 solicitation and recommendations and stuff.

23 Thought could be given to revise that
24 to expand it beyond from entitled point of view to

1 include these types of things. And it would be from
2 a sequential point of view, not a separate section
3 just on disclosure. But it would be an additional
4 duty that the applicant or person that would be
5 prohibited in this case would have both a disclose
6 responsibility like they have already on political,
7 but a little bit of an expansion in terms of the
8 resumes and things like that. I just point it out
9 as a suggestion.

10 COMMISSIONER MCHUGH: That's a good
11 suggestion to build on what we've already begun and
12 that dialogue that we've had before that led to that.
13 So, let's consider that as a place.

14 Todd, perhaps we could make a note of
15 that and consider that as a place to put whatever
16 else we do in this area so that it all is integrated.

17 Okay, the next one is number 52. Who
18 has that one?

19 COMMISSIONER STEBBINS: I do.

20 COMMISSIONER MCHUGH: Commissioner
21 Stebbins.

22 COMMISSIONER STEBBINS: Question 52,
23 which was again another public submission was:
24 What regulations, criteria and other requirements

1 should the Commission consider to ensure that a
2 preventative approach is taken to work-related
3 injuries and that the casino workplace safety is
4 maximized?

5 I pulled out section 18. Under
6 section 18, the Gaming Commission must evaluate and
7 issue findings as to the following objectives
8 including implementing a workforce development
9 plan. Under that subsection 17, implementing a
10 workforce development plan, IV identifies -- asks
11 the applicant to identify workforce training
12 programs offered by the gaming establishment.

13 As you know, obviously, gaming
14 licensees are automatically required to comply with
15 all existing OSHA as well as any specific state
16 regulation when it comes to workplace safety.

17 Our consultants also suggested that we
18 may not have had adequate staffing resources to
19 assess and evaluate workplace safety plans beyond
20 those already required by law.

21 We all heard testimony from leadership
22 of the UAW and a former casino employee that
23 highlighted the potential workplace injuries that
24 can result from conducting recurring tasks. We

1 should be mindful -- I think this was also
2 recommended or suggested by our consultants that
3 related breaks, other workplace safety measures can
4 sometimes be subject to collective-bargaining
5 agreements.

6 I think another outcome of that
7 testimony is that research is ongoing. The study
8 of recurring workplace injuries in the gaming
9 workplace is still being studied to a large extent.

10 I'll jump down. We received one
11 submission on this question from the UAW.
12 Workplace safety can be grouped with several of the
13 questions in the Commission's preliminary draft
14 including questions four, five, 22 and 25.

15 The workforce development plan or the
16 workforce training programs offered by the gaming
17 establishment is such a broad term that we might
18 recommend that such workforce development plans,
19 which not only includes strategies for attracting
20 and retaining employees allowing them to pursue
21 career pathways within the casino but to offer
22 strategies and training programs that would provide
23 for a safe and injury-free workplace.

24 As you know, in the job description

1 we've used for posting for the Director of Workforce
2 Supplier Development and Diversity Initiatives, we
3 did include a requirement that this position also
4 focus on policy matters related to workplace safety.
5 The Commission through this position should remain
6 aware of new workplace safety practices, either
7 required by other jurisdictions or agreed upon
8 between other casino operators and their employees.
9 So, kind of following what we usually turn to with
10 respect to keeping an eye on best practices.

11 My recommendation at the end was the
12 Commission should consider requiring an applicant
13 to discuss their workplace safety strategies as part
14 of any requested workforce development plans
15 required in the license application.

16 Again, I think this is an area that
17 again we had testimony from an individual who
18 discussed how her recurring motions and tasks
19 contributed to a workplace injury. We don't want
20 to see that for anybody. We know that this is still
21 an area of study and research that producing results
22 that to an extent -- Barry is probably still here
23 and he can correct me if I'm wrong.

24 It may not have produced unequivocal or

1 unquestionable results, but I think it is something
2 we ought to be mindful of and certainly we could
3 request -- Again, we know that an applicant will be
4 held to OSHA and State safety regulations, but we
5 might suggest that in asking an applicant to submit
6 their workforce development plans that we ask them
7 to be mindful of what training programs may be
8 related to just maintaining an employee's safety and
9 well-being.

10 COMMISSIONER ZUNIGA: I agree with the
11 recommendation. I would append to it perhaps a
12 little bit just to make sure that it's not
13 necessarily just at the outset or at the application
14 or at the time of the application, but perhaps
15 similarly to another couple of questions that we
16 discussed yesterday, to require or request from the
17 applicant to submit periodic reports as to
18 additional procedures that they may implement
19 towards safety and towards enhancing and minimizing
20 injuries.

21 I would draw a parallel also to the
22 construction industry to which this question is also
23 relevant. We imply that this is only on the
24 operational side, but indeed most of the risk of

1 workplace injury will come during the construction
2 period.

3 And in large construction projects the
4 good companies and the good processes really make
5 it a point to continuously report their safety
6 record. Daily, number of days without an injury and
7 again the good practices often make it agenda number
8 one in every meeting that they conduct a discussion
9 about safety, new procedures, etc.

10 Because awareness of these issues at
11 the individual level is often the best preventative
12 measure. And there's any kind of posters in
13 construction places that remind that there's family
14 waiting for you. So, you want to be careful, wear
15 your helmet and harness when you're above six feet
16 etc., etc.

17 So, in that spirit, there are measures
18 that we could incentivize by requesting and
19 publishing any kind of reports that have to do with
20 safety measures.

21 COMMISSIONER MCHUGH: We had a
22 presentation about repetitive motion injury at the
23 gaming tables, which I take it is as it is elsewhere
24 a concern. Are there any other states that have

1 some kind of a reporting program or training
2 requirements or ergonomic survey requirements or
3 other things that we ought to be aware of that you
4 are familiar with?

5 MR. POLLOCK: There may very well be
6 such requirements, none that I'm aware of that are
7 in place, instituted or overseen by a gaming
8 regulatory agency. That are left to the existing
9 state and/or federal agencies that already have the
10 expertise in that area.

11 COMMISSIONER MCHUGH: Right. That's
12 interesting. What about that? We could certainly
13 request hard data of some kind. I'm not sure what
14 we'd do with it, such as how many worker's comp.
15 claims were filed in the last quarter by your
16 employees? For what? We could do information
17 gathering. And we could require in an application
18 specificity of some kind of measures that we're
19 going to be taking. But what expertise would we
20 have that would be better than OSHA or others to
21 police things on an ongoing basis?

22 COMMISSIONER ZUNIGA: I wasn't
23 suggesting that we would have additional or even any
24 expertise that would match that. I was merely

1 suggesting that the reports by themselves would on
2 the one hand incentivize people to continuously
3 think about these issues. And perhaps more
4 importantly report any kind of breakthroughs or new
5 procedures that address things as they appear.

6 I do also share perhaps Guy's point
7 from before. After a while, requesting a lot of
8 information is going to have a cumulative effect.
9 And we will have a management of data concern. But
10 nonetheless, I think the better approach or the
11 better balance would be in trying to request
12 information that's relevant. Therein lies the
13 issue for us to publish and to make available to
14 others.

15 MR. CARROLL: I'm not sure it's
16 directly responsive, Commissioner, but something
17 that might be helpful and perhaps could share with
18 Todd to look at. The National Indian Gaming
19 Commission, which obviously has a general
20 regulatory role over all Indian gaming in the
21 country, essentially requires a periodic facility
22 inspection.

23 They had distributed to us a detailed
24 checklist, which contains a whole variety of things.

1 For example, where do you store your pesticides?
2 Where do you store your paints, everything that
3 would relate to -- Relatively a detailed employee
4 safety related things that go beyond a traditional
5 safety inspection, a state inspector might come in.
6 These are pretty detailed things.

7 We could supply a copy of that. You
8 could take a look at that only from the perspective
9 or for one of the perspectives being that they
10 require it. We do it annually. Some properties,
11 I think you have to do it a minimum of every three
12 years, because now all properties have to be
13 relicensed three years. The NIGC doesn't issue a
14 license, but it requires the tribe to issue a
15 license.

16 So, when you go for your re-licensing
17 you have to submit this checklist, which shows all
18 of these safety aspects and so forth are complied
19 with. And then it's a self-policing thing but it's
20 submitted. And then the NIGC will do a periodic
21 field visit.

22 Either they'll pick portions of it out
23 or whatever else. The net result is as a general
24 statement pretty specific stuff. Even going so

1 far, for example, on food inspections. Apart from
2 your state inspection system and the other laws that
3 might be applicable, the regulatory agency is
4 required to get in the case of Indian casinos, the
5 Indian health services usually contracted with will
6 come in for a few days. And they go through and they
7 measure everything from the temperature of your
8 refrigerators. Are you storing chicken, which has
9 a leakage capacity above beef? All of these things
10 well beyond my skill set in terms of understanding.

11 But the point being that it insures
12 that at least there is periodic inspection. And it
13 is in addition to the typical state health
14 inspections and so forth. But it's a regulator
15 required examination so that the licensing can be
16 affected by it. It's not just something that we'll
17 shut you down for health reasons. Your casino
18 license requires you to maintain these standards.
19 And they identify various criteria. And we can get
20 that for you if it would be helpful.

21 COMMISSIONER MCHUGH: That would be
22 very helpful.

23 COMMISSIONER CAMERON: Yes. That's
24 interesting.

1 COMMISSIONER STEBBINS: This has
2 nothing to with the sovereign status of any
3 gaming --

4 MR. CARROLL: No, no.

5 COMMISSIONER STEBBINS: So, OSHA is
6 already applicable.

7 MR. CARROLL: Applicable under any
8 gaming regulatory act in terms of the general laws
9 that are applicable typically.

10 COMMISSIONER STEBBINS: Obviously, we
11 also get into, and we talked about it before, we have
12 authority with respect to approving the layout of
13 the casino gaming floor. I don't know if that
14 authority would necessarily be boiled down to --

15 Again, the case that was presented
16 before us was the height of a chair. A woman who
17 might have been -- I would have a different
18 requirement than maybe somebody that was a little
19 bit shorter than I was. But is it conceivable to
20 think that our authority and regulation over the
21 layout of the gaming floor would extend to that
22 degree of looking at those kind of safety
23 requirements around the floor?

24 MR. CARROLL: I think the authority is

1 there. The deferring of that to the experts --
2 There's disciplines obviously, health, food and so
3 forth is separate from fire and all those other
4 stuff. All of those disciplines when those experts
5 are brought in, there's no reason why you can't
6 require the applicant obviously to comply with all
7 of the applicable laws.

8 But when an inspection is done like
9 this, the key is not so much that you would have
10 regulations that would reach that level of detail,
11 but that the license could be impacted by the failure
12 to maintain the standards that would be set both by
13 law and then to say through these inspections.

14 If the inspection produces an adverse
15 report, whether it's -- I'm just picking something
16 out of the air. -- maybe your floors are too
17 slippery. You don't have the proper adhesion for
18 traction. There's really technical things. And
19 enough people get hurt and that's documented in the
20 course of the inspection. When the inspector says
21 how many injuries have been sustained in this
22 particular hallway, that's a real detailed thing.
23 But an applicant can be put to the test and can be
24 required so that the health and safety of the patrons

1 and the employees not just employees are met.

2 When we were first presented with this,
3 this only came online although we've had a compact
4 requirement in one state for two decades, the
5 federal inspection has only really taken hold I
6 think about three years ago where they required
7 this. The first time we read it, we said, oh my
8 gosh. This is pretty onerous. But then when we did
9 it, you know what, we found it very practical.

10 And it gave us a good opportunity to go
11 through and look at these things and make sure that
12 they were being met. And holding the managers, the
13 people that are there to the responsibility of
14 enforcing this. And we found it useful. Again,
15 it'd be something we'll submit. You can look at it.

16 It contains essentially references to
17 the disciplines, but doesn't go into each and every
18 detail, but it's a heck of a lot detailed than a check
19 that says fire inspection, food safety. It has
20 enough steps in it.

21 And like I said, it's things that I
22 wouldn't certainly think of. When you do your
23 pesticides, where do your pesticides run off to? Do
24 they run off to hard surfaces or soft surfaces? Are

1 they absorbed? Things that are areas, restroom
2 safety, a lot of different things.

3 The kind of thing that it will give you
4 criteria at least to look at and then you can examine
5 it closer to see if you wanted to put some additional
6 levels of compliance from a regulatory point of
7 view.

8 COMMISSIONER CAMERON: And all tribal
9 casinos are required to comply?

10 MR. CARROLL: Have to abide by that
11 when they do their re-licensing.

12 COMMISSIONER CAMERON: So, it's an
13 accreditation process.

14 MR. CARROLL: Yes, in a way, safety
15 accreditation to speak of, yes.

16 COMMISSIONER MCHUGH: That would be
17 very helpful. Thank you.

18 MR. POLLOCK: One other point is that
19 it's not unusual nor is it necessarily undesirable
20 for an agency that oversee health and safety issues
21 elsewhere to come up with very specific rules and
22 regulations that are focused on the unique
23 characteristics of casinos.

24 The best example is that, and I don't

1 know if it's still in place, but I believe it is,
2 that in some jurisdictions there is a requirement
3 that a casino slot machine not be greater than six
4 feet tall unless it's against the wall. And the
5 reasoning being that it interferes with sight lines
6 for exit and so forth.

7 That's not a gaming regulatory
8 requirement. Indeed, no gaming regulator that I
9 know of has the ability to properly assess that.
10 It's another agency that puts that requirement.
11 They created that specifically for casinos. And
12 the only role that the gaming regulators have is
13 checking off that that casino licensee has complied
14 with those requirements.

15 COMMISSIONER STEBBINS: It may help us
16 to kind of extend this conversation to have
17 conversations with existing federal and state
18 agencies in terms of obviously -- Again, the issue
19 presented before us was with injuries from recurring
20 tasks, recurring motions. Going to those experts,
21 going to the people that are already regulating that
22 probably on the manufacturing floor or wherever just
23 to see how they regulate and administer it and see
24 what guidelines they might have.

1 COMMISSIONER MCHUGH: Thank you. We
2 would welcome seeing the NIGC checklist. Why don't
3 we consider for this one at a minimum requiring an
4 applicant to discuss their workplace safety
5 strategies as part of any requested workforce
6 development plans that we require. And then
7 explore (A) with other agencies federal and state.
8 And after checking the NIGC list, any other
9 requirements we choose to promulgate that deal with
10 the general subject of workplace safety, either
11 directly or by monitoring the activities of other
12 regulatory bodies. Does that make sense?

13 COMMISSIONER ZUNIGA: I agree.

14 COMMISSIONER MCHUGH: Okay. The next
15 one and penultimate one is number 53. Should the
16 Commission consider a rule or policy that prohibits
17 public entities from either becoming applicants or
18 financing applicants?

19 And I take it that this is for a gaming
20 license, right, or for any license?

21 COMMISSIONER STEBBINS: That's the
22 way I read it as for a gaming license.

23 COMMISSIONER MCHUGH: Okay.

24 COMMISSIONER STEBBINS: Again, I

1 looked at relevant sections being the definition of
2 -- I looked at the definition of an institutional
3 investor.

4 The definition obviously of public
5 entity can be defined broadly under section 2.
6 There's a definition of an institutional investor
7 for a gaming license applicant that includes any of
8 the following entities having five percent or
9 greater ownership interest in gaming establishment
10 or gaming licensee, a corporation, bank, insurance
11 company, etc.

12 The language clearly allows a public
13 pension fund the opportunity to be an institutional
14 investor for a gaming license applicant.
15 Obviously, we've moved past the RFA-1 application
16 period which closed on January 15. I don't believe
17 any public entity submitted an application or was
18 potentially or was a qualifier in an application.

19 It would not be, obviously, fair for
20 the -- to allow fair competition for the MGC to
21 consider allowing a public entity again, beyond
22 those public pension fund participate as an
23 applicant in a future license application process.
24 Presumably, the MGC required application fee and

1 investment requirement would most likely also be
2 prohibitive to a public entity seeking to become an
3 applicant.

4 The statute interestingly enough
5 already does prohibit a casino licensee from being
6 an applicant for the state and local tax incentives
7 under the Massachusetts economic development
8 incentive program that's outlined in the statute,
9 which could be viewed as a program that would be
10 financing an applicant.

11 The program at least on the local level
12 allows waiving of local property taxes. Again, I
13 think John Ziemba mentioned in one of his policy
14 questions yesterday tax increment financing as a way
15 to help sustain a development project.

16 There was a second part of this
17 question: Under what conditions if any could a
18 public entity be the beneficiary of gaming revenues
19 or profits?

20 Again, this was kind of an interesting
21 question. I'm not sure I'm defining it correctly,
22 but public entities including host or surrounding
23 communities, public utility entities potentially
24 will in essence be the beneficiary of gaming

1 revenues and profits through any funding provisions
2 of the host/surrounding community agreements and/or
3 utility service agreements.

4 Additionally, gaming revenues profits
5 will also be used by the licensee to pay all required
6 tax or assessment obligations to the host community
7 and the Commonwealth.

8 The statute also clearly defines the
9 funds and allocations of the tax receipts. So, I
10 would think that would answer the question of when
11 a public entity becomes a beneficiary of gaming
12 revenues or profits. We didn't receive any written
13 submissions on this question.

14 My recommendation is we take no action
15 to draft regulations with respect to this question
16 at this time.

17 COMMISSIONER MCHUGH: This is
18 unlikely to arise at this point so far as we can
19 consider the landscape at least for 15 years. And
20 then it'll be somebody else's issue.

21 COMMISSIONER CAMERON: Did we kick the
22 can?

23 COMMISSIONER MCHUGH: But I welcome
24 any other comments.

1 MR. MICHAEL: Just one thing. I think
2 this arose, this question out of -- It's moot now,
3 I would think. -- the concern of fairness in a
4 competitive application process if one of the
5 applicants is the school board and another applicant
6 is just a bunch of private entities, would the
7 Commission be more inclined to give more credit to
8 a public entity that would be receiving the benefits
9 of a casino rather than the private entities.

10 But as the Commissioner said, all of
11 the applications are in and no school boards are
12 included. So, it's moot.

13 COMMISSIONER MCHUGH: Thank you. Now
14 does that conclude -- I have number 34, which we
15 haven't touched on. Was that meant to be 33,
16 Janice?

17 MS. REILLY: Thirty-three and 34.

18 COMMISSIONER MCHUGH: Thirty-three
19 and 34. There it is. Who has that one?

20 COMMISSIONER STEBBINS: Lucky me, I
21 have that one again. Key policy question number 33
22 asks whether the community college process that we
23 are endorsing and supporting be the exclusive
24 mechanism for qualifying applicants for key gaming

1 licenses?

2 I think through a handful of public
3 meetings that we held that we decided that would not
4 be -- that they would not have an exclusive
5 arrangement. And that was not alluded to in the MOU
6 that we signed with the Casino Career Institute/the
7 community colleges.

8 If the answer to question 33 is no,
9 which it is, should the Commission regulate private
10 training schools?

11 Again, I allude to section 5(11) and
12 (12) where we shall establish licensure and work
13 permits for employees as well as minimum training
14 requirements, and may establish certification
15 procedures for any training schools.

16 Again, regulation of private and
17 public casino training schools varies by
18 jurisdiction. Pennsylvanian and Indiana do
19 regulate public and private training schools. And
20 I've provided some background on what Pennsylvania
21 does as well as Indiana.

22 At this time, I would suggest the MGC
23 and we have been and continue to work with the
24 Division of Public Licensure. DPL is authorized to

1 license qualified private occupational schools and
2 sales representatives, lucky enough, adopt rules
3 and regulations governing the licensure and
4 operation of private occupational schools, approve
5 curriculum, instructors and staff.

6 Through our discussions with the
7 Casino Career Institute, we discussed steps that the
8 Commission should consider to help protect
9 residents from training schools that could
10 potentially harm the consumer.

11 In the meantime, MGC and DPL have
12 agreed upon the following language to be included
13 in a DPL licensure approval for any gaming training
14 school applications. That first disclaimer being
15 as follows: The courses offered by this school may
16 not satisfy requirements yet to be established by
17 the MGC for employment in a Massachusetts casino.

18 The second provision being employment
19 in a Massachusetts gaming establishment is not
20 available at this time. It is not known when such
21 jobs will be available. When gaming employment
22 becomes available in Massachusetts, graduates of
23 the school may need to meet additional requirements
24 set forth by the MGC, i.e., you should be at least

1 21 years of age, criminal background check, drug
2 test, etc., etc.

3 We received one written submission on
4 this question from Shefsky & Froelich on behalf of
5 the City of Springfield. Their comment was no. We
6 do not believe that the MGC should regulate such
7 private or other public training schools as we
8 believe the market will determine whether graduates
9 from such schools are appropriately qualified.

10 My recommendation is the MGC should
11 adopt similar training school approval regulations
12 and minimum training requirements as we're allowed
13 by statute in cooperation with DPL. And obviously,
14 any regulations we propose would also be available
15 for public comment.

16 COMMISSIONER MCHUGH: This ties back
17 into the discussion we had a little while ago. The
18 consensus was, if I can accurately summarize it from
19 then, that we should -- This was in connection with
20 the licensing discussion. -- that we should have
21 some mechanism for certifying training schools.

22 That DPL is the licensing authority but
23 the sort of Gaming Commission stamp of approval is
24 something that we can have a role in doing -- that

1 we do. That we can set licensing requirements that
2 capitalize on that certified training. And that we
3 can think about enforcing the competency
4 requirements through alliance with and imposing
5 requirements on the casinos to create a list of
6 qualities that they're looking for. And then
7 enforce that through spot checks and other things.

8 I don't know if I've summarized that
9 correctly, but would that be consistent with your
10 recommendation or would you think that we,
11 Commissioner, ought to have a more active role in
12 the training and the curriculum setting and the
13 curriculum insuring requirements?

14 COMMISSIONER STEBBINS: Again, in
15 looking what our Casino Career Institute has
16 recommended is training, minimum training
17 requirements are adequately or accurately and
18 equally reflected in basic training school
19 requirements in other jurisdictions. So, I think
20 it's fair to say it's simple enough to establish the
21 bare level of training. Obviously, with input and
22 suggestions from our potential applicants who are
23 going to hire these individuals.

24 But no, I think to your point, we're on

1 the same page. I think previously we came up with
2 the language relative to disclaimers for DPL because
3 they were sitting with a pending application from
4 a training school that wanted to open. I think that
5 was just kind of our first effort to try to, again,
6 make sure no harm came to the consumer. But I would
7 like to think we have some additional time to work
8 on this with DPL.

9 Again, allow -- Their footprint of
10 responsibility is not to be stepped up. But again
11 I think this is an opportunity for us to add in,
12 again, some basic minimum training requirements as
13 required to do and have that be reflected in their
14 process.

15 MR. POLLOCK: I can enlighten this a
16 little bit. From 1978 to about 1993 New Jersey had
17 actually a license category for training schools and
18 required dealers and related personnel to have been
19 certified by such an entity.

20 The rationale behind it was that if a
21 jurisdiction does not have adequately trained
22 dealers, it's going to be a magnet for cheats and
23 so forth. And the state government has an interest
24 in -- it's a share of that so therefore has an

1 interest in it. That ended in '93. The license
2 requirement went away. The oversight of the
3 schools went away.

4 The new rationale was that while the
5 state has an interest, the casino has an
6 overwhelming larger interest in making sure that
7 games are run properly. The rationale was that if
8 you want to encourage investment in this industry,
9 let them operate as businesses. That was
10 essentially the rationale.

11 So, you have about 15 years of
12 experience with schools and I guess about 19 years
13 since. And the only visible outcome I could see
14 from that change was that the schools, and maybe it
15 was three of them, went out of business. The
16 casinos themselves took over the business of
17 auditioning and training their own dealers in the
18 various games and were able to do it to better meet
19 the demands in the particular games and so forth.

20 There have been no, to my knowledge,
21 visible issues with respect to increased amounts of
22 cheating. But bear in mind another factor that went
23 into play is that they also reduced some of the
24 oversight requirements in terms of supervision.

1 So, if there is more cheating, we probably wouldn't
2 know about it. But that was the rationale changed
3 completely from '78 to '93.

4 COMMISSIONER CAMERON: What about
5 other jurisdictions other than New Jersey?

6 MR. POLLOCK: I think that's
7 summarized pretty well here. The ones that are
8 cited here like Pennsylvania and --

9 COMMISSIONER CAMERON: They do regulate.

10 MR. POLLOCK: -- I don't know if they
11 license the schools and the requirements. I can
12 certainly get more detail on that if you're
13 interested.

14 COMMISSIONER MCHUGH: The schools
15 have to be licensed under state law here. So, they
16 just can't start a school. They have to be
17 licensed. And there are certain basic licensing
18 requirements applicable to all schools. They have
19 to put the money in a safe place and they have to
20 make sure they're given some training and stuff.

21 But we certainly can as we discussed
22 with the DPL, we can certainly create and then have
23 them enforce the requirements they need to receive
24 an MGC certification as an approved training school.

1 We can do that without taking on a huge
2 administrative burden, I think.

3 Then the question would become how to
4 ensure an ongoing competency both from the time the
5 person graduated from the training school and as he
6 or she proceeded through the ranks. And there we
7 might be able to capitalize as we talked earlier on
8 the employee handbooks and the expertise of the
9 casino.

10 COMMISSIONER STEBBINS: I think there
11 is also a little extra caution here because as you
12 pointed out the schools in New Jersey were kind of
13 through that ramp-up period as you introduced gaming
14 in New Jersey. Where you had potentially a huge
15 rush of people trying to fill these jobs, find a way
16 to get trained.

17 Obviously, at some point, the industry
18 matured and the work -- you find a way to kind of
19 understand you're a person I want to hire and you
20 can go through my specific programs.

21 Again, maybe that's why New Jersey put
22 those precautions in place.

23 MR. POLLOCK: There's clearly going to
24 be a difference here in that it's obviously in a

1 competitive bidding process where training and how
2 they train and how robust their training programs
3 are and how early they start is going to be part of
4 the review process.

5 So, you can certainly anticipate that
6 applicants will be working either with community
7 colleges or developing their own training programs
8 but they are not going to ignore this issue. And
9 I think that was not present in New Jersey at the
10 time.

11 COMMISSIONER STEBBINS: Yes. I would
12 underscore that we go back to the workforce
13 development plan that will be part of that
14 application, and this initial bulk of demand for a
15 number of positions that under a different or
16 separate, if you will, goal of the legislation that
17 jobs go to people who need them here, which is
18 another worthy goal.

19 COMMISSIONER MCHUGH: Thank you very
20 much, Michael. It seems to me we've coalesced
21 around the notion that we should adopt certification
22 requirements for training schools. We should
23 promulgate those.

24 And then beyond that think about the

1 best way to ensure continuing competencies whether
2 we do it by an independent set of regulations or by
3 drafting a set of regulations that piggybacks on
4 gaming establishment's own training requirements
5 and making sure that we approve those requirements
6 and that they follow them. Does that captures the
7 spirit of where we are?

8 COMMISSIONER ZUNIGA: I think it does
9 well.

10 COMMISSIONER CAMERON: Yes.

11 COMMISSIONER MCHUGH: Anything
12 further then? I think that's the last one that we
13 had on the agenda. And the last agenda for this week
14 except for tomorrow.

15 I then would with gratitude to our
16 consultants for their insights and their help and
17 assistance, accept a motion to adjourn.

18 COMMISSIONER CAMERON: So moved.

19 COMMISSIONER MCHUGH: All in favor, aye.

20 COMMISSIONER STEBBINS: Aye.

21 COMMISSIONER ZUNIGA: Aye.

22 COMMISSIONER CAMERON: Aye.

23 COMMISSIONER MCHUGH: It's unanimous.

24 (Hearing concluded at 4:30 p.m.)

1 ATTACHMENTS:

- 2 1. Agenda
3 2. Key Policy Question #27
4 3. Key Policy Question #28
5 4. Key Policy Question #29
6 5. Key Policy Question #30
7 6. Key Policy Question #47
8 7. Key Policy Question #48
9 8. Key Policy Question #50
10 9. Key Policy Question #52
11 10. Key Policy Question #33 and #34
12 11. Key Policy Question #51
13 12. Key Policy Question #52

14
15
16
17
18
19
20
21
22
23
24

SPEAKERS:

Robert Carroll, Michael & Carroll
Guy Michael, Michael & Carroll
Stephen Ingis, Spectrum Gaming Group
Michael Pollock, Spectrum Gaming Group

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

I, Laurie J. Jordan, an Approved Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Laurie J. Jordan, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Laurie J. Jordan, further certify I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken and further that I am not financially nor otherwise interested in the outcome of this action.

Proceedings recorded by Verbatim means, and transcript produced from computer.

WITNESS MY HAND this 28th day of January 2013.



LAURIE J. JORDAN My Commission expires:
Notary Public May 11, 2018