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THE COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION
PUBLIC MEETING #139

CHAIRMAN

Stephen P. Crosby

COMMISSIONERS

Gayle Cameron

James F. McHugh

Enrique Zuniga

November 20, 2014 10:30 a.m. - 3:17 p.m.

BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 102B

Boston, Massachusetts

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

CHAIRMAN CROSBY: We are calling to order the 139th meeting of the Massachusetts Gaming Commission at 10:30 on November 20 at the Convention Center as often is the case. Item number two -- Commissioner Stebbins is on a family vacation. We have approval of the minutes as the next order of business.

COMMISSIONER MCHUGH: Yes. And the minutes are in the book, Mr. Chairman. And so I move their acceptance subject to the customary reservation of the right to change mechanical and typographical errors of which I've found one small one myself but with that reservation of rights I move that they be accepted as printed.

CHAIRMAN CROSBY: Second?

COMMISSIONER ZUNIGA: Second.

CHAIRMAN CROSBY: Any other discussion? All in favor, aye.

COMMISSIONER MCHUGH: Aye.

COMMISSIONER CAMERON: Aye.

COMMISSIONER ZUNIGA: Aye.

1 CHAIRMAN CROSBY: Opposed? The ayes
2 have it unanimously. Item number three,
3 Administration, Executive Director Day.

4 MR. DAY: Chairman Crosby, members
5 of the Commission, good morning. To begin with
6 this morning I just have a short general update
7 on a few items.

8 First of all, we have been
9 continuing to recruit for eight positions. And
10 three of those positions have been filled at
11 this point, accepted and background completed.
12 So, we are making some progress adding the
13 employees we need to the Commission's staff.

14 In addition, the finance staff as I
15 know a lot of people have seen the information
16 in the press, but they've been busy processing
17 behind the scenes the \$195 million received
18 from our licensees in order to correctly
19 distribute the money to the 10 funds identified
20 in the Gaming Act.

21 We are also working with our two
22 firms to organize and begin our monitoring of
23 MGM and Wynn projects. And our Workforce,
24 Supplier and Diversity Development Director is

1 also working with Wynn and MGM to develop and
2 present construction and operating diversity
3 plans to the Commission.

4 The big areas we've been occupied
5 with over the prior few weeks is developing the
6 regulations. And it's been a primary activity
7 as today we are asking the Commission to
8 approve emergency regulations for horse racing
9 and move forward several responsible gaming
10 sections, internal controls, license transfer
11 and reporting requirements to the formal
12 adoption process.

13 In addition, as our lease expires at
14 the end of the year, a team of our staff are
15 busy planning and preparing for our December
16 move to our new office.

17 With those few opening comments, I'd
18 like to switch to item (b), the Horse Racing
19 Development Fund, item 3(b). You have in your
20 packet proposed emergency regulations.

21 The Commission has seen the draft of
22 the proposed regulations. And the regulations
23 actually flow from Horse Racing Committee
24 recommendation to provide direction on how HRD

1 fund will be handled once the licensing fees
2 have been received. The emergency regulations
3 also include regulation to clarify the
4 Commission's procedure and preserve flexibility
5 in considering applications for horse racing
6 licenses. As the funds and applications have
7 been received, we are requesting an emergency
8 adoption of the regulations.

9 We received two comments. And I
10 will defer to Catherine to update the
11 Commission.

12 MS. BLUE: Good morning,
13 Commissioners. You have in front of you --
14 what we now have is two separate regulations,
15 205 CMR 148 which is for the Race Horse
16 Development Fund. And then in addition that
17 we're calling 205 CMR 14 for supplemental
18 licensing procedures.

19 The Race Horse Development Fund
20 regulations are regulations under 23K. The
21 other regulations are under 128A. We thought
22 it made sense to separate them since they had
23 different basis in statute.

24 So, we did get the comments from --

1 We got two sets of comments. We did
2 incorporate the comment regarding life and
3 accident insurance. We thought that made
4 sense. The other comments we considered. We
5 determined not to incorporate them because we
6 didn't want to narrow the flexibility that the
7 Commission has under these regulations to make
8 decisions.

9 So, what we're asking today is if we
10 can pass these by emergency and get them
11 started, and then put them through the formal
12 process.

13 COMMISSIONER ZUNIGA: Which was the
14 comment that we incorporated?

15 MS. BLUE: We incorporated the
16 comment from Plainridge. And it's the very
17 last one that we added life or accident
18 insurance to the section that provides payment
19 to what I call the health and welfare benefits.

20 COMMISSIONER CAMERON: I had a
21 question and I've spoken to you about this, and
22 I know the recommendation will be for the
23 Racing Committee to make recommendations if (A)
24 there is no racing or if we have multiple

1 licenses which we do have pending now. A
2 recommendation about those monies to either go
3 in escrow or how to split the monies.

4 Under number 3(a) of this
5 recommendation and this is the distribution
6 escrow accounts, and I don't have page numbers
7 to give you, after three years any monies
8 remaining in such Race Horse Development Fund
9 escrow accounts shall be transferred and
10 distributed by the Commission in accordance
11 with the recommendations.

12 Are you referring to with that if
13 there were multiple license, the recommendation
14 would be how to split the money? I wasn't sure
15 when I read that.

16 MS. BLUE: Well, it could be if
17 there were multiple licensees. The Horse
18 Racing Committee also has the right to change
19 the split if they wanted to do that. They
20 always have that right. But I think it would
21 depend at that point in time what the
22 environment looked like in racing.

23 So, we would go back to the Horse
24 Racing Committee and ask them to look at it and

1 make recommendations to the Commission.

2 COMMISSIONER CAMERON: Okay. I'll
3 advise members of the committee that this is a
4 new responsibility and one we should be
5 prepared to take on if in fact any of those
6 situations arise.

7 MS. BLUE: Yes.

8 COMMISSIONER CAMERON: Okay. Thank
9 you.

10 CHAIRMAN CROSBY: Other issues? Two
11 of the four points from Plainridge were really
12 just questions where they are asking for
13 clarification. Have we gotten back to them or
14 do we have the answers to those?

15 MS. BLUE: We have not gotten back
16 to them. We have the answers to some of them.
17 We can discuss with them their third question,
18 because current practice now is that by
19 contract they make various uses of purse money
20 funds. So, we can certainly talk to them about
21 that.

22 In terms of a timeframe in which to
23 comply with safety standards, when we do issue
24 new safety standards, we do give people a

1 certain amount of time. So, what we're
2 envisioning under this reg. is that the safety
3 standards that are currently in place would
4 remain in place. If we introduce new ones, we
5 always have some period where they phase-in.
6 So, it's not immediate.

7 CHAIRMAN CROSBY: Okay. I wasn't so
8 much concerned about it from my own standpoint,
9 but whatever the concerns were that they
10 raised, just want to make sure that they get
11 addressed.

12 MS. BLUE: Yes.

13 CHAIRMAN CROSBY: Anything else?
14 Commissioner Cameron?

15 COMMISSIONER CAMERON: I just wanted
16 to make the Commission aware of an email I
17 received yesterday as well as I was cc'd on a
18 letter that went to the Speaker and the
19 Majority Leader. And this is a request being
20 made by -- It's a letter explaining proposed
21 legislative changes proposed by the IBEW local
22 103 and Suffolk Downs that would allow for the
23 continuation of simulcasting at that facility,
24 which is due to as of now because there will be

1 no live racing. That's due to end at the end
2 of this year.

3 So, this is a letter explaining why
4 legislative changes would be needed. And I
5 also received an email asking for our support.
6 And I have mentioned this to our General
7 Counsel that we take a look at this matter and
8 we are aware of it (A). And (B) we take a look
9 and see if we do want to have an opinion about
10 this proposed change.

11 CHAIRMAN CROSBY: It's a proposal to
12 extend simulcasting at Suffolk Downs for two
13 years essentially.

14 COMMISSIONER CAMERON: It is. Is it
15 two years in the legislation? Yes, so, two
16 years is the request. And I was made aware
17 yesterday. So, we are going to move the legal
18 department take a look for us.

19 CHAIRMAN CROSBY: Tell us what you
20 think about it.

21 MS. BLUE: Yes, we will review it.

22 CHAIRMAN CROSBY: Anything else?

23 Are we ready for a motion, Commissioner
24 Cameron?

1 COMMISSIONER CAMERON: I move that
2 we move CMR 205 114.00 -- is that what we're
3 looking at?

4 MS. BLUE: It's 205 148.

5 COMMISSIONER CAMERON: So, it is
6 148.00 the Horse Racing Development Fund we
7 move for emergency regulations.

8 MS. BLUE: That's correct. We also
9 want to move 205 CMR 14, which is licensure
10 regulations as well.

11 COMMISSIONER CAMERON: And the
12 license regulations as well to emergency
13 regulations.

14 COMMISSIONER MCHUGH: I second.

15 CHAIRMAN CROSBY: Further
16 discussion? All in favor, aye.

17 COMMISSIONER MCHUGH: Aye.

18 COMMISSIONER CAMERON: Aye.

19 COMMISSIONER ZUNIGA: Aye.

20 CHAIRMAN CROSBY: Opposed? The ayes
21 have it unanimously. Yes.

22 MR. DAY: Mr. Chairman, we have also
23 been working on the annual report, the 2014
24 annual report. Commissioner Zuniga has been

1 the lead in the getting the information into a
2 form and quality necessary for submittal. So,
3 it'd probably be appropriate for me to defer to
4 him first.

5 COMMISSIONER ZUNIGA: Gladly. And I
6 will actually defer to our collective effort of
7 directors and heads of the departments that are
8 represented in this report. We followed a
9 template from last year. We owe our report to
10 our appointing authorities, the House and the
11 Senate as well that ends fiscal year '15. And
12 it's here for consideration. I can discuss any
13 topics or any details if it pleases my fellow
14 Commissioners.

15 CHAIRMAN CROSBY: I haven't finished
16 reviewing it so I promise to get back to you by
17 Monday.

18 MR. DAY: Mr. Chairman and
19 Commissioner Zuniga, the report is 27 pages.
20 And I thought it might be worthwhile to mention
21 a few accomplishments that are often overlooked
22 as we talk about a number of other larger
23 items, I guess. So, I just plucked a few out
24 of the report. Honest I don't have a list of

1 about 20 long. It's real short.

2 In the suitability process one of
3 the accomplishments, our Investigations and
4 Enforcement Bureau generated 6161 pages of
5 reports in this period.

6 CHAIRMAN CROSBY: 60,000?

7 MR. DAY: 6161 pages of reports. In
8 addition, our Licensing Division has processed
9 155 license applications and 28 registrations.
10 Our Ombudsman's office distributed 36 grants
11 for a total of very close to \$2 million to
12 surrounding communities to offset some costs in
13 the application process.

14 Our Horse Racing Division issued
15 2810 occupational licensees and submitted over
16 3000 blood samples for equine drug testing at
17 the two tracks. Our Finance and Administration
18 Division developed a \$24 million budget but at
19 least from an administrator's point of view
20 more importantly, they also addressed the cost
21 accounting side and developed the structure
22 necessary to assign each division a budget to
23 manage.

24 Our Workforce and Supplier office

1 teamed up with the Massachusetts Clean Energy
2 Center to present a Clean Energy Expo to
3 familiarize gaming facilities with
4 Massachusetts-based clean energy technologies.

5 And the last one I have here is due
6 to the efforts of our Communications Office MGC
7 3217 twitter followers and 431 Facebook fans.
8 Please refer to the report for the rest of the
9 details. Thank you. Commissioner Zuniga thank
10 you.

11 COMMISSIONER ZUNIGA: Thank you.

12 And actually on that note, I served as somewhat
13 of a final editor and always tried to strike a
14 balance between being very detailed but making
15 it concise.

16 Looking back at last year is a great
17 experience to look back and see how much we've
18 accomplished with the very able help of all of
19 our staff. So, this is a testament to all of
20 their efforts as well.

21 MR. DAY: Thank you.

22 COMMISSIONER CAMERON: I just want
23 to echo that. I did have a chance to review
24 it. And the first thought was wow, a lot of

1 good work done in the last year from all of our
2 different divisions. And it's nice to see it
3 here in writing.

4 And I actually think this document
5 would be very hopeful as we think about
6 advising our appointing authorities during
7 their transition. This is really very well
8 done. Thank you, Commissioner and the rest of
9 the team.

10 COMMISSIONER ZUNIGA: It's a group
11 effort.

12 MR. DAY: Thank you. You have
13 assembled a very good group of staff.

14 COMMISSIONER MCHUGH: I echo those
15 sentiments. We spent some time laying the
16 groundwork but this last year was really a year
17 when a great deal of that groundwork began to
18 bear fruit. And it's great to see the listing
19 of things including the Twitter feeds. Puts us
20 in the LeBron James category.

21 CHAIRMAN CROSBY: Maybe in another
22 12,000 years we'll catch up with LeBron James.
23 Great.

24 MR. DAY: I think that Mr. Chairman

1 brings us to item four and our Research and
2 Problem Gambling.

3 CHAIRMAN CROSBY: I guess we'll have
4 to formally -- Do we have to formally adopt the
5 report or can we send it out next week? I
6 guess we don't need a vote or anything to send
7 it out next week.

8 MR. DAY: I don't think so.

9 COMMISSIONER ZUNIGA: I'll take any
10 edits, any last-minute edits if you have one.

11 CHAIRMAN CROSBY: I'm sorry I
12 haven't done it yet but we will get to it.
13 Great. Next up Research and Problem Gambling,
14 Director Vander Linden and his partner Director
15 Keel.

16 MR. VANDER LINDEN: Good morning,
17 Chairman, Commissioners. On September 25, the
18 Commission adopted a Responsible Gaming
19 Framework. Within that framework is a section
20 two which is informed player choice. Under
21 informed player choice is a section that
22 specifically deals with play management systems
23 and pre-commitment.

24 That was the one section of the

1 Responsible Gaming Framework that was left
2 open. And a decision was made that we would
3 explore the feasibility, the effectiveness and
4 the cost of play management systems. This
5 exploration of play management systems has been
6 going on for quite some time. It actually
7 began back last March when the framework was
8 first introduced.

9 It has gone through some iterations
10 since but included several meetings both with
11 stakeholders including our licensees at this
12 point.

13 There was a meeting in July that
14 specifically focused on this and it drew in
15 experts from, research experts as well as our
16 licensees and other stakeholders. It's an
17 issue that is difficult to kind of get our arms
18 around. It's an issue that I feel that is very
19 important. So with that, we continued our
20 exploring what is the possibility of play
21 management systems? How could it fit within
22 the regulatory context of gaming in
23 Massachusetts?

24 In absence of conclusive research on

1 the issue, we have worked with Strategic
2 Science, Judith Glynn. And four weeks ago she
3 presented a report specifically outlining
4 experiences of other jurisdictions
5 internationally regarding the play management
6 systems and pre-commitment.

7 Following that we opened it up for
8 public comment. We received a lot of public
9 comment, which is in your packets today. We
10 also received a request from our licensees to
11 speak to this issue directly. We have decided
12 to allow them to do that today. So, with that
13 I will turn it over to Ombudsman Ziemba to
14 introduce them.

15 MR. ZIEMBA: Commissioners, today we
16 will hear from each of the licensees. I am
17 going ask them all to join us up front. I
18 think we have four speakers. I will vacate my
19 chair. Mr. DeSalvio you will be up first. You
20 can take my chair. I think we have three over
21 there.

22 First, we will hear from the Wynn
23 team. Bob DeSalvio, President of Wynn MA, LLC.
24 Then we'll hear from MGM, Alan Feldman, MGM

1 Executive Vice President of Global Government
2 and Industry Affairs and Kelly Tuckey from MGM,
3 Vice President of Community and Public Affairs
4 for the Eastern region. And then finally,
5 we're going to hear from Penn National, Jay
6 Snowden, Chief Operating Officer for Penn
7 National Gaming. I'm going to vacate my chair.

8 MR. DESALVIO: Good morning,
9 Commissioners. I'm Bob DeSalvio, President of
10 Wynn MA, LLC. And I first of all want to thank
11 you for the opportunity to speak on this very
12 important topic.

13 I think before I go any further, I
14 want to just make sure that we let you know
15 that we are in complete lockstep with the
16 Commission on the very important topic of
17 problem gambling and how we address it, both as
18 an industry and for you as a regulatory body.

19 I think that what we are really here
20 to talk about today is really an implementation
21 point, one point within a very large framework.
22 I commend Mark on his efforts. We spent a lot
23 of time working on the framework. And I think
24 as you know from previous meetings, the entire

1 package actually has been agreed upon by our
2 licensees together myself and the others with
3 this one open item that has been the source of
4 a lot of discussion. So today, I think we're
5 really talking about an implementation point,
6 but a very important one as well.

7 First and foremost, I want to say on
8 behalf of Wynn Resorts that we take this issue
9 of problem dealing very seriously. And it's
10 important to understand that we do not want
11 anyone who has a problem with gambling in any
12 way, shape or form to be on that casino floor.
13 It's important that what we can do best as an
14 operator is to make sure that folks are able to
15 get the help that they might need for any issue
16 related to problem gambling. And it is not in
17 our best interest whatsoever to have them be on
18 that floor playing. And it's important, I
19 think, that we set that as a basic premise for
20 the entire discussion.

21 I think I also want to make sure
22 that I spend a few minutes talking about my
23 particular background because I have had over
24 the years direct contact with some customers

1 that have had issues. I've been in the
2 hospitality industry for 38 years in total.
3 And 31 of those years, in one way or another,
4 I've had direct contact with some guests that
5 might have had an issue.

6 Whether that be from my days in
7 Atlantic City, from almost a 10-year stretch at
8 Foxwoods where I was head of marketing, usually
9 for those folks that are involved in either the
10 casino floor or the marketing aspect of these
11 buildings, we are usually the ones, and it's
12 usually the ones at the highest level of the
13 organization that get called if somebody
14 believes that there may be an issue with the
15 customer. Especially for somebody that may
16 have to have a very delicate conversation with
17 somebody who our staff has identified as
18 somebody who may have an issue.

19 I also want to make sure we are very
20 clear, I am not a mental-health professional.
21 I'm not a social worker. What we do in our
22 industry is try to make sure we can connect
23 somebody who may have an issue with somebody
24 who can be a provider of services that may be

1 able to help them out. And there is a big
2 distinction there because we are not in the
3 treatment business. And we are not
4 professionally trained for that. And what we
5 really are are implementers to try to be able
6 to connect those folks together.

7 The company submitted a letter. I
8 think the letter speaks for itself. And you
9 have that I'm sure in your packet. But the
10 purpose today was to add a little bit more
11 color and talk about some of the things that
12 maybe won't come across as well as you would
13 hope inside of a letter. And that's what I
14 intend to do today.

15 I also recognize that there's two
16 different groups of individuals that you are
17 considering when you talk about this issue of
18 problem gamblers. There are those that have a
19 problem already and are potentially identified
20 as somebody who might have a problem. And also
21 listening to the presentations, and I think
22 I've heard all of them now that Mark has been a
23 part of and that you've listened to, there's
24 been a lot of discussion about those folks who

1 have the potential or propensity to maybe be a
2 problem gambler in the future. I think those
3 in particular are two very different and
4 distinctive groups.

5 On the issue of problem gamblers, my
6 opinion and I think the opinion of many
7 colleagues in the industry is that for those
8 customers that truly have a problem, there is
9 no computer program that you can run that can
10 really help identify human emotions.

11 When you think about all of the
12 folks that we employ that work on those casino
13 floors and the fact that we train them, each
14 one of them each and every year to look for
15 signs where a customer might be in distress, we
16 are talking about human emotions. Whether it's
17 sadness or anger at loss or anything at all
18 that might be bothering them in relationship to
19 their problems.

20 You can't glean that from numbers
21 and computer programs that might identify
22 somebody. The way we do it and the way we've
23 been doing it for many years, and I think our
24 staffs are very good at this, is they can sense

1 when there's a problem. And what their sole
2 mission is to make sure that they get to
3 somebody higher in the organization so that we
4 can' stop, talk to somebody.

5 In the particular jurisdictions that
6 I've work at we've had the luxury of having
7 some on-site compliance staff from the gaming
8 commissions, whether that was in Pennsylvania
9 in my last experience or in the case up at
10 Foxwoods through the tribal authorities. And
11 we're able to connect somebody with a
12 representative right off of the casino floor.
13 And they can help to suggest numbers to call
14 and how to put them in touch with the right
15 people.

16 So, we really act as an intermediary
17 to identify somebody and then make sure that we
18 put them in the hands of those that can help.
19 Some customers may choose to get on a self-
20 exclusion program. Others may choose to in
21 fact call a number.

22 Each one of these states has an
23 individual network that provides assistance to
24 customers and tries to connect them. In some

1 cases, it's through the organization. In some
2 cases it's faith-based in their local
3 community. But there are ways and avenues for
4 people to get help. We feel for those folks,
5 the direct connection is the best way to go as
6 opposed to trying to relegate that to some form
7 of a computer program to identify them.

8 On the issue of those that might
9 have a propensity to become a problem gambler
10 at a future date, I think this gets much more
11 complicated. And by that I mean that you may
12 not see any visible signs while somebody is
13 action on a casino floor.

14 The thing that scares me about the
15 programs that I heard described in the
16 presentation a few weeks ago is that there
17 could be potentially many unintended
18 consequences from what we believe to be good
19 policy for the general public.

20 In particular, I am very worried
21 about people that sign up for these folks that
22 may in fact set limits for themselves that are
23 far above what they really intend to spend just
24 give themselves cushion. I think that that's

1 an issue that you have to be very, very careful
2 of.

3 I also worry that if there was a
4 system that was --

5 CHAIRMAN CROSBY: Excuse me. Could
6 I interrupt and just ask a question on that
7 point? In the voluntary system, somebody is
8 invited to participate but doesn't have to
9 participate. Are you thinking that those
10 people you would voluntary participate and you
11 would set the limit high in order that you
12 didn't have to get there?

13 MR. DESALVIO: Yes, I do worry about
14 that. And the research that I've read about
15 this issue indicates that that could
16 potentially be a problem. The other one that
17 I'm really worried about is I've heard one
18 description of this program where you could set
19 a time limit. That concerns me as well because
20 I do worry that if somebody approaches a time
21 limit, it may in fact affect the way that they
22 play, the speed with which they play which
23 might in fact push them in the wrong direction
24 of moving too fast.

1 So, I think absent of good solid
2 research on this topic, I think we all have to
3 be very careful that in trying to do something
4 that is what we believe to be for the public
5 good that in fact those unintended consequences
6 could put us in a position where we actually
7 make the problem worse.

8 And by the way, with this particular
9 program as an issue, I remember going through
10 this great debate about statements. In
11 Pennsylvania, for example, there was a couple
12 of legislative initiatives to send out
13 statements to customers. And it turned out
14 after a lot of testimony they came to the
15 conclusion that by sending a statement to a
16 customer, it could open up all kinds of avenues
17 where somebody sees that they had a certain
18 amount of losses and that might in fact give
19 them the thought that they want go back and try
20 to get their money back.

21 So, for all the well intention
22 purpose of trying to make sure that we don't
23 have a problem gambler, we in fact give them a
24 tool which might enable them to in fact go back

1 and even play more. So, that's something that
2 I'm concerned about as well.

3 I'm also concerned about this
4 concept of providing incentives for somebody
5 who might participate in a play management or a
6 pre-commitment program. I want to make sure
7 I'm perfectly clear about this. If in fact
8 somebody has a problem, the absolute worst
9 thing we can do as an industry is give them an
10 incentive that may actually incent them to come
11 back for a future visit.

12 When you think about that I mean of
13 all of the things that we could do that would
14 be probably the worst. And quite honestly when
15 people put themselves on self-exclusion lists,
16 the first thing that we do as operators is they
17 come off of all the mail and database lists so
18 that we don't send them a notice about an
19 entertainer or a food and beverage offer or
20 something like that. So, I am concerned about
21 the concept of an incentive to use the program,
22 because if in fact they do have any sort of a
23 problem that might actually incentivize another
24 trip.

1 The other thing I worry about with
2 incentives, and I know one other concept was to
3 use incentive as a sign-up opportunity to get
4 involved with the program. I heard the
5 researcher talk about that a few weeks ago. I
6 am actually troubled by that as well.

7 We've all been involved in sign-up
8 offers. You think about anything in life where
9 you get a free offer to sign up, very commonly
10 those offers are used as an opportunity to grab
11 an incentive, and people really are not
12 intrigued by the program.

13 If we offered something like that
14 and you think of the millions of customers that
15 we will have collectively as an industry, and
16 you might say gee if we offered somebody a
17 small food and beverage offer to sign-up, well
18 multiply that times two, three million
19 customers using an offer like that and we are
20 talking real money.

21 So, incentives I think we have to be
22 very careful that they are used in a way --
23 What we do is we reward customers for their
24 business at the casino. Typically, to use an

1 incentive for a program like this invites a lot
2 of serious issues, most of which I am concerned
3 about is incentivizing somebody to make a
4 future visit who in fact we really don't want
5 to see back in the casino because they may have
6 an issue.

7 I also want to talk a little bit
8 about the customer experience. I know you, the
9 Commission, talked about this at the last
10 meeting. I want to be very careful. All of
11 the research that I've read and I'm sure my
12 colleagues have read indicates that there is
13 anywhere from one to three percent of the
14 population that has an issue with problem
15 gambling.

16 I want to make sure that we don't
17 affect the experience for the vast number of
18 people that visit our establishments that in
19 fact do not have a problem and that budget
20 themselves accordingly and are there for the
21 enjoyment.

22 You know I think back on the
23 research that I did early in my career in
24 Atlantic City about what motivates customers to
pick from one casino to another. And

1 obviously, that kind of research is extremely
2 important where you have multiple casinos right
3 in the same market and they have to make a
4 choice.

5 After doing very extensive research,
6 the research that we used came back and said
7 one thing that customers are coming there for
8 that experience. And our job is to make sure
9 that we create an environment with the absence
10 of hassle because they're coming there for
11 enjoyment. And it's something that we focus on
12 heavily.

13 And the idea that some sort of a
14 play management program or pre-commitment
15 program would be presented to all customers
16 that play slot machines and have them opt out
17 of the program as opposed to voluntarily
18 signing up for it is troubling to me because I
19 do worry that one of the main goals of the
20 enabling legislation was that we were to
21 recapture a lot of funds that were going out of
22 state. If we make the experience difficult,
23 cumbersome, embarrassing for our slot
24 customers, I do worry that they will make

1 another choice and go somewhere else.

2 In fact, we will have done great
3 damage and not in fact met the legislative
4 agenda for what the enabling legislation said.
5 So, I do worry about the customer experience.

6 What I really want to talk about is
7 where I think we can be most effective. That
8 is really in two areas. Number one, staff
9 training. What we do as an industry is we
10 train our team members, each and every one of
11 them that get involved with the casino floor on
12 the issue of problem gambling. And we don't
13 just do it once when they're hired, we go back
14 and do it year after year. That is our best
15 line of defense for making sure that if we see
16 somebody who is in distress that we can try to
17 make sure that we can get them to the help that
18 they need.

19 And the other thing that I think is
20 incredibly valuable is an extensive public
21 awareness campaign. That is part of the
22 framework that you've already approved. I
23 think it is something that we should spend a
24 lot of time thinking about. I think it's been

1 successful in other areas where people may have
2 issues, whether it's related -- whether it's
3 smoking or eating or any other area where some
4 form of a compulsive behavior may not be doing
5 great things to folks, I think public awareness
6 campaigns can be extremely effective.

7 So, for our thought on this, I think
8 we focus heavily on training and we focus
9 heavily on public awareness. And we go
10 cautiously as it relates to these types of
11 computer programs that in fact have very little
12 research basis behind them, and that could in
13 fact cause the unintended consequence of doing
14 the exact opposite thing that we want them to
15 do.

16 So, with that I think I'm going to
17 be turning it over to Alan, I believe. I
18 didn't know whether you wanted to do the
19 questions before or after we present but
20 whatever the Commission would like.

21 COMMISSIONER MCHUGH: I had a couple
22 of questions. The first two points that you
23 made are that people may set limits higher than
24 they really want to spend. And they may speed

1 up their play as the time deadline approaches.
2 Those are hypotheses. There is no data to
3 support that. There is no data to say it isn't
4 going to happen.

5 How do you get data? If both of
6 those proved to be hypotheses that weren't so,
7 that would eliminate two objections to this
8 problem right -- to this protocol? So, how do
9 you do get data that's supportive?

10 MR. DESALVIO: Actually, in the
11 letter that we submitted, we asked for some
12 additional time because we wanted to involve
13 some third parties to take a look at this.
14 This is a complicated subject.

15 We've actually talked to somebody
16 already who's actually looking at this for us.
17 And I'm sure my colleagues will confer on that
18 as well. But I think it's something that may
19 be even possibly we could have somebody speak
20 at an upcoming meeting as well.

21 I want to be careful here. I'm not
22 a researcher. So, I want to be very careful
23 about making sure that we don't cross the line
24 in providing data that is hard to get to. But

1 I have read about it. We've worked with Bo
2 Bernhardt who's done a lot of work at UNLV.
3 He's a very thoughtful and accomplished
4 researcher. That's somebody who we've turned
5 to in the past and are turning to on this topic
6 as well.

7 And it's something that I think
8 collectively we have to look at. My concerns
9 are there, but I think we should let the
10 researchers really address the specifics of it.

11 COMMISSIONER MCHUGH: But insofar as
12 you're concerned, as a practical matter, you've
13 got three years before you really have to be
14 concerned about this, so far as Massachusetts
15 is concerned, right?

16 MR. DESALVIO: But I do think that
17 Penn is going to be opening very quickly.

18 COMMISSIONER MCHUGH: I understand.
19 Penn is here competently represented.

20 MR. DESALVIO: Yes. And I do think
21 though that collectively all of this matters to
22 us. And quite honestly, for us to wait three
23 years to have to think or address it, I'd
24 rather do it up front collectively as an

1 industry.

2 COMMISSIONER MCHUGH: I'm not
3 suggesting you just start thinking about it
4 three years from now, but what I am suggesting
5 is that there's three years insofar as you're
6 concerned to get some data to see whether these
7 hypotheses are true or not true.

8 MR. DESALVIO: Absolutely.

9 COMMISSIONER MCHUGH: You also said
10 at the end that the opt-out piece is
11 particularly troublesome. I take it that an
12 opt-in piece, an opt-in approach would be less
13 troublesome?

14 MR. DESALVIO: Yes, absolutely. And
15 we concluded our letter that we submitted by
16 saying that if in fact a program was approved
17 by the Commission and if it was in fact
18 voluntary and that somebody would sign up
19 either at the responsible gaming information
20 center or in our case at our Red Card location
21 or promotional location, we were okay with that
22 so long as incentives were not in use. We're
23 not in favor of incentives for the reasons that
24 I mentioned earlier. But on a purely voluntary

1 program without incentives, yes, we would be
2 supportive of that.

3 COMMISSIONER MCHUGH: Suppose the
4 sign-up protocol were at the machine? When you
5 stick your card in the first time, your player
6 card this would all be player card driven as I
7 understand it, although we haven't settled on a
8 final approach, you stick your player card in
9 the machine for the first time and it asks you
10 then do you want to participate in this. Your
11 answer is no, on you go.

12 MR. DESALVIO: Our particular case,
13 we're not in favor of that approach. We
14 believe that's not something an average
15 customer who is coming in who plays responsibly
16 and budgets their own financial situation to
17 come and enjoy their entertainment should
18 really be presented with that option.

19 It is not something that we're in
20 favor of. We think that somebody should
21 voluntarily sign up for the program. And they
22 can do so when they sign up for their card as
23 opposed to presenting it to all slot customers
24 on the casino floor.

1 COMMISSIONER MCHUGH: One of the
2 things that Mark talked about at one of our
3 previous meetings and I think you have been a
4 faithful attendee at our meetings was that the
5 marketing of this as a budgeting device not a
6 problem gambling device puts in his view a
7 different slant on the entire thing.

8 This is not under those
9 circumstances and presenting it in that fashion
10 a way of dealing with the problem gambling,
11 although it may have that side effect, but it
12 is a budgeting tool that customers can take
13 advantage of or not as they get into the gaming
14 experience. What is your reaction to that?

15 MR. DESALVIO: I think it is
16 perfectly fine to be used as a budgeting tool
17 so long as it's voluntary. And again, we just
18 don't present it to all customers on the casino
19 floor.

20 And I understand you can look at it
21 both ways. If you are saying that somebody is
22 not a problem gambler but we do know that if
23 the theory is that some people may have the
24 propensity, then for them it is a budgeting

1 tool. We don't have any issue with that
2 whatsoever.

3 We just want the customer to be able
4 to sign up for the program themselves at a
5 location, one of two that we suggested and then
6 go ahead and use that program for the good of
7 their play.

8 COMMISSIONER MCHUGH: So, the bottom
9 line for you, as I understand it, would be to
10 require the capability but to have it voluntary
11 and not presented at the machine, have it
12 presented in some other fashion.

13 MR. DESALVIO: That's correct.

14 COMMISSIONER ZUNIGA: What if those
15 incentives were devised in a way that would
16 enhance the customer experience that you talked
17 about, the hospitality experience? What if an
18 incentive to go to a buffet, let's say, not one
19 to accumulate points that has precisely the
20 point that you were talking about, the self-
21 repeating, the counterpoint. Could there be a
22 way to structure incentives say that bring you
23 to some of the amenities that you also provide?

24 MR. DESALVIO: I am very concerned

1 about incentives because when you think about
2 the topic where we started, which is either
3 somebody who potentially already has a problem
4 gambling issue or somebody who might have the
5 propensity to have one, we still contend that
6 we shouldn't be giving them incentives for
7 anything that we could be doing more harm by
8 providing incentives.

9 I think that the concept for
10 incentives should be limited to those players
11 who engage on the casino floor, and they're
12 rewarded for their business.

13 It should not be blended with a
14 program that is a budgeting tool or a program
15 that might help somebody who potentially has a
16 problem. I think the intersection of those two
17 items is extremely dangerous because the last
18 thing we want to do is incentivize them or give
19 them a reward for playing if they may have a
20 problem.

21 COMMISSIONER MCHUGH: I'm sorry to
22 jump in again. But you are already
23 incentivizing people who may have a problem if
24 you universally give incentives for play.

1 MR. DESALVIO: I understand that but
2 as it was described to give people incentives
3 for using the program -- These are people now
4 who would've signed up for the program, I do
5 think that's an issue. I mean you're rewarding
6 somebody for -- I know that the concept was for
7 stopping their play. I just don't know how you
8 could implement that.

9 But either way somebody who's
10 identified themselves as somebody who is
11 different from everyone else because they
12 identify themselves through a voluntary program
13 that they want to make sure they have a
14 budgeting tool, I just don't know whether I'd
15 want to offer up incentives for a program like
16 that.

17 COMMISSIONER MCHUGH: I understand
18 that point but to say that that is different
19 from the incentives that you already are
20 providing, and it's an industry wide thing that
21 somehow that is going to be an improper
22 approach to problem gambling, dysfunctional
23 approach to problem gambling when you already
24 are incentivizing the kind of behavior that may

1 include the problem strikes me as inaccurate.

2 But I understand your position.

3 COMMISSIONER CAMERON: I had a
4 question about -- It seems to me we are
5 confusing problem gaming with responsible
6 gaming. And everything I've read and even the
7 presentation said this is not a tool for
8 problem gamblers.

9 This is a tool like so many others
10 that are computerized now to help you be
11 responsible. So, I do think we keep going back
12 and forth we talk about we don't want
13 incentivize problem gamblers. And I think that
14 this is not the tool for that individual
15 anyway.

16 MR. DESALVIO: I agree though that
17 we mentioned earlier as a budgeting technique,
18 if it's voluntary, we don't have an issue with
19 that.

20 COMMISSIONER CAMERON: I tell you I
21 just think using the term responsible with
22 anything, responsible drinker as opposed to a
23 problem drinker has such a different
24 connotation. So, I had this conversation with

1 Mark yesterday. The term responsible with
2 regard to this tool or everything else we're
3 trying to do to help people be responsible.

4 That's a big piece of this for me is
5 the fact that this is not a tool for the
6 problem gambler.

7 MR. DESALVIO: It's used as really
8 more of a budgeting tool for somebody at their
9 own choosing on a voluntary basis.

10 COMMISSIONER CAMERON: Right, like
11 so many things we do in life now, there's a
12 program that helps you.

13 MR. DESALVIO: And we are perfectly
14 fine with it on a voluntary basis such as that.

15 COMMISSIONER CAMERON: Thanks.

16 CHAIRMAN CROSBY: I just want to
17 highlight that. I think in the journalism
18 business you did what I would call you buried
19 the lead. Because the bottom line was and in
20 Mr. Wynn's he raised the same concerns you did,
21 he said we would however consider a system that
22 is totally voluntary for slot players who
23 utilize a players club card if such players
24 request to participate in such a program at

1 either the responsible gaming information
2 center or the Wynn Resorts Red Card Center.

3 You have said to us, and I want to
4 express appreciation for that that rather than
5 be a flat out no, we won't even talk about this
6 that you will support under certain
7 circumstances and are prepared to negotiate and
8 talk with us and reason about under what
9 conditions. And I don't want the fact that
10 Wynn has taken that position to go unnoticed.
11 And I appreciate that.

12 MR. DESALVIO: Thank you, Chairman.

13 MR. FELDMAN: Good morning. Alan
14 Feldman here today to represent MGM Resorts.
15 In order that I not bury the lead, let me just
16 say, and I know we'll hear it more formally
17 from our colleagues at Penn, but we are all in
18 agreement that acting responsibly and
19 encouraging our customers to act responsibly is
20 in everyone's best interest.

21 We do have some concerns about the
22 program that has been laid out. And I'd like
23 to discuss those with you. But in deference to
24 the Chairman's notion of burying the lead, I

1 want to at least start with the end. We are in
2 agreement that each of us should as part of our
3 customer relations programs offer the ability
4 for our customers to use this tool or a tool
5 like it to act responsibly.

6 I think that it should be noted that
7 just like the Commission, we have a guiding
8 value of ethical and responsible behavior. And
9 we strive with that to provide a fun, safe and
10 enjoyable environment for our guests. We fully
11 do support, as I've said, our customers making
12 informed choices about their gambling and
13 providing our customers the most proven
14 effective tools to encourage responsible play.

15 But the recommendations that have
16 been made to the Commission by its consultants
17 Strategic Science are very concerning. As they
18 call for the Commission to in effect use
19 Massachusetts as a test lab for theories that
20 have either been proven ineffective in other
21 jurisdictions or never been implemented.

22 Further, the current draft of the
23 framework introduces the concept called the
24 precautionary approach for harm minimization

1 resulting from disorder. I just want to quote
2 the relevant passage: "where evidence is
3 lacking, uncertain or ambiguous and there is
4 reasonable concern that gambling related harm
5 may occur, a precautionary approach has been
6 applied. The precautionary approach rejects
7 the notion that risks are acceptable until harm
8 has been proven or that risks can continue
9 unmitigated until such time as the
10 effectiveness of a harm minimization measure is
11 proven."

12 This should actually be of concern
13 to anyone who believes that problem gambling
14 should be considered as a public health issue,
15 the position long ago taken by all three of us
16 and many others in the gaming industry. In
17 this context, public health policies should not
18 be subjected to guesswork. Even the best
19 intentions can lead to unintended consequences.
20 In the case of mandatory play management
21 programs, this has been observed, it's been
22 researched and it's been documented.

23 And I would add that the leading
24 researcher who did work in this area presented

1 before the Commission. His name is Robert
2 Ladouceur. He's a researcher in Canada. And
3 he presented to the Commission during one of
4 the workshops that was done and explained the
5 very outcomes that Bob had expressed concerns
6 about as having been part of the research that
7 he did.

8 I'd also like to address some
9 concerns --

10 CHAIRMAN CROSBY: Mr. Feldman, you
11 keep bringing up the mandatory system and the
12 mandatory example. And I think we've been
13 clear that that's not on the table. That's not
14 what we're talking about.

15 MR. FELDMAN: But by requiring
16 players to opt out each time they use their
17 player card that in effect is a mandatory
18 system.

19 CHAIRMAN CROSBY: Was that what
20 Ladouceur studied in Canada?

21 MR. FELDMAN: Yes. Thus far, the
22 research that's been done on programs like
23 this, it's been based on people believing that
24 the program was helpful for them and that's

1 certainly understandable.

2 People tend to believe that they're
3 being help by an intervention even if the
4 intervention doesn't do anything. This is
5 called the placebo effect and of course it's
6 very real and it's very strong. For this
7 reason, scientists use double-blind controlled
8 trials to show that their intervention works
9 better than the placebo alone.

10 At this time, I'm not aware of any
11 studies that have demonstrated anything other
12 than the placebo effect as working.

13 The program specifically states it
14 is not intended to help people with a gambling
15 disorder, the very people who are the most
16 seriously affected individuals. The negative
17 impacts or social costs of gambling are known
18 to be clustered within this group of severely
19 disordered individuals. A program that does
20 not help them at all ignores the population
21 with the greatest needs and does nothing to
22 reduce harm to them, their families or
23 communities.

24 There seems to be an underlying

1 assumption that stopping people without
2 gambling problems from spending money gambling
3 is good for them or good for society in
4 general. This assumption is not consistent
5 with either the legislation or the will of the
6 people. As you know just two weeks ago people
7 in the state of Massachusetts overwhelmingly
8 demonstrated their support by voting 60 to 40
9 once again to allow casinos in the state.

10 For the 90 percent of casino patrons
11 who never have and never will experience any
12 problems, gambling is just another
13 entertainment expense like any other. Stopping
14 them from spending money on it has no proven
15 beneficial impact.

16 Further an unfortunate proven
17 failure of such programs has been incredibly
18 low levels of participation when participation
19 is mandated as is the case in these
20 recommendations by forcing players to opt out.
21 Given that stopping people without any problems
22 from spending their money as they wish is not
23 actually a benefit, who is this program going
24 to benefit?

1 So, let's take an example using some
2 rough numbers that skew even higher than the
3 actual rate of disorder in the general
4 population. Let's go ahead and assume that of
5 the people in the casino two to three percent
6 are severely disordered and three to six
7 percent are problem gamblers or potential
8 problem gamblers. And the remaining 90 percent
9 do not have any problems at all.

10 The program must be trying to
11 benefit people with some problems but not a
12 severe disorder because we've taken those out.
13 So, even if we assume that the program is
14 targeting this group of about six percent of
15 people who may have a problem, if the uptake
16 has only been about one percent in the real
17 world scenarios that we've seen, we're talking
18 about helping six percent of one percent of the
19 population or about six people out of every
20 10,000 who enter the casino.

21 This is not a lot of benefit even
22 assuming that the program provides benefit at
23 all, which is yet unproven. The report from
24 Judith Glynn talks only about the cost of the

1 program in terms of dollars from the industry.
2 However, she states repeatedly that the program
3 will have to be fully implemented to work well,
4 proper staffing, advertising, etc.

5 She does not include the cost of
6 this full implementation when she talks about
7 the cost of the program. Nor does she talk at
8 all about the staff time from the Commission,
9 from the industry, the Department of Public
10 Health who will all have to go into
11 implementing the program.

12 In essence, she says that the
13 benefits are worth the costs while vastly
14 understating the costs. Nor does she talk
15 about the political and social capital that go
16 into such a large-scale implementation like
17 this. Now this is important, because I'm
18 confident you will agree political will and
19 social capital are much harder to generate than
20 dollars and much harder to replace if spent
21 unwisely.

22 I think it should also be noted it
23 is unlikely that full implementation would be
24 done -- I'm sorry. It is likely that full

1 implementation would be done by her group and
2 these extra costs would also go to her and her
3 colleagues. This has not been noted by anyone
4 in the discussions as far as I can tell. And
5 by any standard this relationship would
6 undeniably be seen as a conflict of interest.
7 The report points to --

8 COMMISSIONER MCHUGH: I don't follow
9 that point. Could you expand on that? Where's
10 the conflict of interest?

11 MR. FELDMAN: In that they have
12 disclosed that full implementation would
13 involve many other aspects of this, but they
14 haven't disclosed that one of those aspects
15 would include hiring them for full
16 implementation.

17 COMMISSIONER ZUNIGA: That's a
18 speculation, right? It would be a decision of
19 this Commission to hire whomever.

20 MR. FELDMAN: Indeed it would be.

21 COMMISSIONER MCHUGH: And they might
22 not be hired at all. It may go in an entirely
23 different direction. I think that's a stretch
24 and an unfair stretch.

1 MR. FELDMAN: Okay. The report also
2 points to informant interviews as the basis for
3 drawing conclusions yet there is no noted
4 detail on data or methodology describing the
5 methods of gathering information, the total
6 number who participated, how they were selected
7 and the jurisdictions they represented.

8 This represents a completely
9 unscientific means of creating an important
10 public health policy for the Commonwealth.

11 The Commission also has the unique
12 opportunity to involve some of the world's
13 leading experts in gambling research most
14 notably Harvard University's Howard Shaffer and
15 his team at Cambridge Medical Alliance. Their
16 lack of involvement in Commission activities to
17 date is troubling. And all of the consultants
18 who regularly publish nonscientific work is
19 also troubling.

20 CHAIRMAN CROSBY: Excuse me, who are
21 you referring to?

22 MR. FELDMAN: Specifically Judith
23 Glynn, Natasha Schull and others who have they
24 have quoted in addition in their work who are

1 not publishing peer-reviewed scientific work.

2 CHAIRMAN CROSBY: For the record,
3 Judith is not a part of our research team.
4 She's involved in this project. She's not a
5 part of our research team. Natasha Schull is
6 an advisor in year six of this project.

7 Your references to involvement of
8 several anti-gaming advocates and researchers
9 in our research project, which makes the
10 research project sound pretty grim.

11 MR. FELDMAN: Well, I can tell you
12 that the research in order to be seen as
13 credible, obviously the research needs to be as
14 unbiased as possible and not trying to reach
15 any predetermined conclusions.

16 Rachel Volberg is well known in the
17 industry as someone who has taken very negative
18 views of gambling and has created a lot of
19 controversy in her wake in other places in
20 terms of her published views on gambling.

21 COMMISSIONER MCHUGH: Are those
22 views supported by data?

23 MR. FELDMAN: Often they are not.

24 COMMISSIONER MCHUGH: Then they

1 should be ignored. The data we are going to
2 get out of this is all going to be peer-
3 reviewed. And before implemented is going to
4 be subject to a rigorous peer-review process.

5 It strikes me that if we really are
6 interested in getting data, if we are really
7 interested in having a data-driven process, if
8 we are really interested in determining whether
9 harm exists, and if so how the harm can be
10 effectively palliated, then we ought to put to
11 one side the ad hominem approaches to the
12 researchers. And take a look at the data the
13 researchers produce, and take a look at whether
14 the data is scientifically supported and
15 whether it passes a peer-reviewed test, instead
16 of coming in with hypotheses and then slashing
17 away at anything that is contrary to the
18 hypotheses.

19 That's the way to be responsible.
20 And that's the way to responsibly approach this
21 process. And that's the response this
22 Commission is going to take.

23 MR. FELDMAN: If that's the case
24 then Commissioner, I'm not clear as to why we

1 are having a discussion about pre-commitment as
2 a tool because the research has shown it's
3 ineffective.

4 COMMISSIONER MCHUGH: No, it hasn't
5 shown it's ineffective. No research that I'm
6 aware of has shown that the kind of -- First of
7 all, the proposal is entirely plastic here. We
8 haven't settled on what the protocol will be.

9 And we just had a conversation with
10 Mr. DeSalvio in which we talked about a
11 possible outcome here that his organization
12 would support. That's a possible outcome.
13 This is entirely plastic. And we're looking
14 for something that will be effective and
15 helpful and something that we can use in order
16 to gather data in the process.

17 So, we haven't made any commitments.
18 And we are trying to find a protocol that will
19 work and be hopeful.

20 MR. FELDMAN: Commissioner, I again
21 want to state that we support as do the other
22 licensees implementation of a program under
23 certain conditions. We are trying to
24 acknowledge that there has been research on the

1 implementation of these kinds of programs in
2 other places, and it's failed.

3 COMMISSIONER ZUNIGA: When it was
4 not voluntary but compulsory for example.

5 MR. FELDMAN: That's correct which
6 is --

7 COMMISSIONER ZUNIGA: Which as the
8 Chairman said that is not in our thinking
9 currently. But I think we should move on.

10 CHAIRMAN CROSBY: I don't want to go
11 just yet because I think your -- I'm trying to
12 find the right wording. -- ad hominem treatment
13 of the researchers and the research project is
14 even more problematic than Commissioner McHugh
15 said.

16 What you have written here is of
17 concern however is the state study, which goes
18 to our big research study that we all know
19 about, is being led by a frequent speaker
20 against legalized gambling who has not proven
21 impartial and may seek to arrive at a
22 predetermined conclusion.

23 So, you're suggesting that whatever
24 outcome there is to this research project you

1 are saying now you're setting the stage now
2 that that may be -- not be impartial and may be
3 arriving at a predetermined outcome.

4 Rachel Volberg, who is one of the
5 two PIs is not a frequent speaker against
6 legalized gambling, period. That's an absolute
7 fact. Do you disagree with that?

8 MR. FELDMAN: I'm afraid I would
9 have to, yes.

10 CHAIRMAN CROSBY: Your director of
11 research, Christine Riley, serves on the Gaming
12 Research Advisory Group, which oversees the
13 research project. Does she have a problem with
14 the impartiality of the research that's going
15 on?

16 MR. FELDMAN: I would have to let
17 Chris speak for herself. And just for clarity
18 on the record, Christine Riley is the Research
19 Director for the National Center for
20 Responsible Gaming of which I am the chair.

21 CHAIRMAN CROSBY: Right. That's
22 what I was referring to. I take exception to
23 your basically allegations about Rachel
24 Volberg. I think that is inaccurate and

1 unfair.

2 If you have concerns about the
3 methodology or the impartiality of our research
4 project, you're invited to be a part of it.
5 You are welcome to join the Research Advisory
6 group. You are welcome to take a look at any
7 of the research that we've done. You're
8 welcome to speak to us if you think that
9 there's anything in that which is impartial or
10 predetermined.

11 Otherwise, I would ask you to take
12 those comments back that are suggesting that
13 there may be a predetermined not partial
14 outcome.

15 MR. FELDMAN: Fair enough. We'll
16 take you up on that invitation. I appreciate
17 that. Thank you. Let me just finish by saying
18 we have no interest in people getting into
19 trouble of any kind as a result of their
20 gambling at our properties. And we recognize
21 as critical to our mission, just as it is for
22 this Commission, maximizing the ability of the
23 public to make informed choices and to gamble
24 responsibly.

1 Our hope is to increase the number
2 of players signing up to use such tools but to
3 stay focused on scientifically proven efforts
4 to actually reduce harms and find meaningful
5 and effective means of getting help for those
6 people in need without driving people to
7 casinos in neighboring states.

8 We're simply seeking to avoid any of
9 the already experienced unintended consequences
10 of such well-intended efforts elsewhere. With
11 that I'm going to turn it over to my colleagues
12 from Penn who are going to talk about our
13 consensus views on how best to move forward.

14 MR. SNOWDEN: Thank you, Mr.
15 Feldman. Chairman Crosby, members of the
16 Commission, good morning. Thank you again.
17 I'll reiterate Bob's comments at the beginning
18 for the opportunity to speak with you on this
19 issue and quite frankly for maintaining your
20 commitment from the very beginning to engage
21 the industry on key policy issues of which
22 certainly we deem this to be one here today.

23 My name is Jay Snowden, Chief
24 Operating Officer with Penn National Gaming.

1 I'm joined today on the Penn side with Jim
2 Baldacci, our Deputy Chief Compliance Officer
3 from our corporate office as well as Lance
4 George, our Vice President and General Manager
5 at Plainridge Park Casino.

6 We would typically as a normal
7 course of business have our general managers
8 approach and engage the Commission in different
9 jurisdictions on what we deem to be property
10 specific policy issues. And given the
11 sensitivity around this particular issue, I'm
12 here speaking with you because we do believe
13 there could be potential broader reaching
14 implications or ramifications given that we
15 operate in over 15 jurisdictions across the US
16 and in Canada.

17 Let me start by saying that we do
18 appreciate and respect the position that the
19 Gaming Commission, and the Commonwealth quite
20 frankly has taken with regards to effective
21 responsible gaming practices. Massachusetts
22 has already committed to dedicating more
23 dollars toward problem gaming and more
24 resources toward problem gaming than any other

1 jurisdiction in the country. We applaud you
2 for that.

3 We certainly share in the views and
4 the desire to be in the forefront and to be
5 progressive in the areas of responsible gaming.

6 I will attempt to avoid redundancy.
7 You've heard a great deal of the concerns, the
8 industry concerns from both Mr. Feldman as well
9 as Mr. DeSalvio from MGM and Wynn, my industry
10 colleagues. And there are a number of
11 concerns.

12 Certainly, Mr. DeSalvio spoke to
13 over 30 years in the industry and his
14 experiences. And you heard from Mr. Feldman
15 with regards to some research that exists and
16 has been conducted over decades.

17 The bottom line from my perspective
18 is that there really is no one-size-fits-all
19 solution to problem gaming. The reality is
20 that every individual gamer that frequents the
21 casino their situation is unique. It is
22 different from the person sitting next to them.

23 And any play management concept I
24 think requires thoughtful consideration if we

1 want to do three things, which I believe we are
2 aligned in, which is to maximize the value of
3 such a program, avoid unintended consequences
4 of which you've heard about what some of those
5 could potentially be if not structured approach
6 appropriate way. And we also have to keep in
7 mind that we want to remain competitive and
8 that we do have casinos in neighboring states
9 who will be working hard every day to attract
10 Massachusetts residents to their casinos in
11 Rhode Island and Connecticut. And I think
12 that's an important factor for us to keep in
13 mind.

14 With all that said and with all that
15 you've heard from my two industry colleagues
16 here today and in the spirit of full
17 partnership and cooperation, we did put our
18 heads together and come up with what we believe
19 to be an effective six prong framework that we
20 would be comfortable with engaging the
21 Commission and potentially structuring from a
22 play management perspective.

23 We believe it would ultimately be a
24 win-win-win. A win for the targeted gamers who

1 do potentially need some assistance with their
2 gambling behavior. A win for the Commission
3 and the Commonwealth versus the stated goals.
4 And certainly a win for your three licensees to
5 date.

6 First, given the lack, and I know
7 again to avoid redundancy, but the lack of
8 empirical or scientific data that proves or
9 validates the efficacy of any play management
10 program, we do believe it's paramount to view
11 whatever takes place certainly at Plainridge
12 Park given we are the first open to the measure
13 of years, to deem that as a trial or a test
14 period.

15 I'm not here to tell you that
16 whatever we implement will work. I'm not here
17 to tell you that it won't work. We don't know.
18 Quite frankly, there is hypothesis but we're
19 not sure yet. I think it's just we need to be
20 thoughtful around this being a trial. The goal
21 of that trial ultimately is to gather facts and
22 to make sure that whatever information is being
23 analyzed or synthesized is being analyzed and
24 synthesized by experts in the areas of problem

1 gambling research.

2 So, I think it's very that whoever
3 we deem to be those experts be fully vetted and
4 have the reputation in the industry for being
5 impartial and objective.

6 Number two, and I will not beat a
7 dead horse here, I think we are all on the same
8 page that any play management program should be
9 voluntary or opt-in in nature as opposed to
10 mandatory requiring you to opt out. We think
11 that would be over burdensome and not
12 competitive and quite frankly may again have
13 unintended consequences. And certainly not
14 target -- or maybe would be a burden to the 90
15 plus percent of folks who we all agree are
16 coming to the casinos for the form of
17 entertainment.

18 Number three, whatever play
19 management tools are implemented they need to
20 be intuitive and user-friendly and simple to
21 understand. We can't confuse, complicate the
22 experience for our gamers whether it's the 90
23 percent or the 10 percent that we want to help,
24 we have to make sure this is easy to understand

1 and easy to engage.

2 Number four, and a point that Mr.
3 DeSalvio hit I think very clearly is that we
4 all believe that there should be some element
5 of human interaction. We've seen this to be
6 very effective over the years. I don't have as
7 many years in the industry as Mr. DeSalvio, but
8 I do have 16. I have worked in the casinos for
9 the first 13 of those 16 years before I moved
10 to the corporate office. And I have dealt with
11 problem gamblers and those who maybe were
12 showing signs of becoming a problem gambler
13 through many of those years.

14 And you can't underscore enough the
15 importance of looking someone in the eye and
16 having a conversation, listening to them and
17 watching their behaviors and their tone of
18 voice and the sadness, the anger whatever it
19 may be. But to rely 100 percent on a system or
20 a computer software, I just don't think is the
21 right approach. I'm not saying that's what
22 you're implying. I'm just think that there
23 needs to be a significant element of human
24 involvement.

1 To walk you through the thought
2 process of how this may play out, we would
3 envision having information collateral
4 throughout the property certainly at the key
5 touch points of ATMs, player services where you
6 would sign up for a loyalty card, at the
7 entrances, at the exits, the lottery kiosks,
8 our retail stores. Information collateral that
9 would inform as to the services that we
10 provide.

11 We all have agreed to offer
12 responsible gaming centers inside our
13 facilities. Ours at Plainridge Park Casino is
14 going to be right off of the entrance and exit
15 to the parking garage. Ninety plus percent of
16 our customers will utilize that parking garage
17 given that it's a frequency market.

18 So, we're going to have assigned
19 experts in that responsible center and
20 available to have human interaction and
21 conversation with anyone who may be interested
22 in opting into such a program.

23 So, we envision being able to help
24 educate through the scripting of our employees

1 when one is signing up for a player card,
2 providing information, documentation at all of
3 the key touch points that would be highlighting
4 the benefits of such a program. And having the
5 responsible gaming center staffed with experts
6 available to have conversations with anyone who
7 would like to get involved in such a program.
8 That's the way that we envision the program
9 potentially working.

10 We also strongly recommend against
11 incentives. I think that we have hit on that.
12 I think certainly from Penn's perspective,
13 incentives for establishing a limit and coming
14 in below that budget or that limit is
15 dangerous. I think that having a potential
16 incentive for signing up for the program is a
17 topic that is open for debate. There are pros
18 and cons to that. I understand both sides of
19 the argument.

20 But the incentives that I would
21 view, Penn would certainly view as most
22 concerning would be establishing a limit and
23 coming in below that limit. You could just
24 imagine the gaming of the system and

1 potentially unintended consequences of setting
2 up such a system.

3 And then last but not least, and
4 this certainly implies more for Penn than the
5 other licensees is we really can't rush to
6 implementation. We are sitting here today in
7 November. The holidays are coming. We are
8 going to wake up and it's going to be 2015.

9 Our planned opening is June 2015.
10 And the schedule if anything is continuing to
11 move up as opposed to move back. So, it's not
12 too far off in the distant future. And I think
13 rushing to implementation could be a mistake.

14 Certainly, from even a vendor
15 software development perspective, there is
16 nothing available today that is compatible or
17 has been proven with a casino management system
18 that we plan to utilize at Plainridge Park.

19 There is a vendor that we plan to
20 use who has some experience in this area but
21 not on the version of the software that we
22 would be utilizing in our casino management
23 system. So, I want to make sure that we are
24 also thoughtful around the timing of

1 implementation and not setting an arbitrary
2 goal around potentially the opening day of the
3 casino.

4 Certainly, we would have time needed
5 for training requirements for our staff and to
6 ensure we have all of the appropriate
7 information collateral throughout the property
8 as well. But most importantly, I think vendor
9 development is a consideration, certainly, with
10 a concept as novel as the one that we are
11 discussing here today.

12 So, that's the six prongs of the
13 framework.

14 CHAIRMAN CROSBY: Would you repeat
15 the first one?

16 MR. SNOWDEN: Sure. The first one
17 was identifying this -- all agreeing that this
18 is going to be a trial and not something that
19 we are all committing to in perpetuity.

20 I would actually make the argument
21 that we should have enough information before
22 MGM or Wynn would open. They're not opening
23 for years after we open. We should have enough
24 information that has been analyzed,

1 scrutinized, synthesized by experts, by
2 researchers who are objective in the field.
3 And come to some determination as to whether or
4 not this is an effective tool as we move
5 forward before those two properties even open.

6 CHAIRMAN CROSBY: Okay.

7 MR. SNOWDEN: Happy to address any
8 questions from the Commission.

9 CHAIRMAN CROSBY: I want to say the
10 same thing just for the record that I said to
11 the representative from Wynn. It does not go
12 unnoticed. You've made very clear points and
13 you are not inviting anybody to do anything.
14 You're quite clear about that.

15 But you are expressing a willingness
16 to work to try to figure out can there be a
17 responsible -- can there be an effective cost-
18 benefit justifiable play management system.
19 And that is something that we definitely take
20 notice of and appreciate very much.

21 COMMISSIONER MCHUGH: If I could ask
22 about -- and I too think this is a very
23 constructive approach. -- about the fourth, the
24 human interaction piece. I take it that the

1 sign-up for this tool, whether it be a problem
2 gambling or simply a budgeting tool, this tool
3 would occur through the human interaction
4 exclusively. That's the thrust of point number
5 four.

6 MR. SNOWDEN: That's what I am
7 implying here, yes. Certainly, we view even a
8 discussion with regards to budget, whether or
9 not one should establish some playing
10 thresholds to help protect themselves, we
11 believe is going to be most effective in a
12 conversation with experts who understand the
13 human behavior in this case.

14 And there are also -- remember that
15 once someone does voluntarily elect to sign up
16 for such a program, they are going to want to
17 make changes, six months down the road, next
18 week, a year down the road. And again, those
19 conversations whether the intent of those
20 conversations is to raise the budgeting limit,
21 lower the budgeting limit or whatever the
22 concerns may be are best going to take place
23 between two human beings, one of those being an
24 expert and one who is well-informed on the

1 research that exists on the human behavior.

2 COMMISSIONER MCHUGH: I was just
3 going to follow up on that. So, if the
4 Commission were to accept that approach, and
5 again, I'm just asking questions here. I'm not
6 forecasting outcomes, I take it that you would
7 be comfortable with -- Or I should not make
8 that assumption. Would you envision Commission
9 participation in some fashion in vetting,
10 looking at, thinking about the protocol and the
11 content of the materials that were utilized to
12 facilitate these human interactions?

13 MR. SNOWDEN: Of course.

14 CHAIRMAN CROSBY: Could you explain
15 to me, when a customer comes in, a new customer
16 comes in and wants to sign up for a player card
17 what is that process? What takes place?

18 MR. SNOWDEN: So, the customer comes
19 in to sign up for a player card. The first
20 thing they would do is hand the employee their
21 driver's license for input of data to assign
22 them that player card.

23 Throughout the process, there are a
24 number of questions that would go back and

1 forth between the employee and the patron. For
2 example, we ask them for their email address if
3 they would prefer to receive correspondence and
4 offers from us through email digitally as
5 opposed through the snail mail, the mailbox.
6 So, that is something we have been including in
7 that dialogue between the consumer and the
8 employee.

9 There would also be an opportunity
10 at that time to provide information around a
11 program as such as what we described. I don't
12 think it would be productive because we have a
13 large number of employees that rotate in and
14 out, some full-time, some part-time, weekends,
15 on-call workers but you would have dozens
16 employees. I don't think that is the
17 appropriate place for the interaction to
18 determine whether or not somebody should sign
19 up for such a program.

20 So, what I would envision through
21 that interaction is to maybe highlight the
22 features of the program. And if somebody
23 expresses an interest, we would direct them to
24 the responsible gaming center on-site to sit

1 down and have a conversation with an expert.
2 That's the way I would envision the process
3 might happen.

4 CHAIRMAN CROSBY: How long does the
5 sign-up process take typically?

6 MR. SNOWDEN: We have it down to a
7 science, as you can imagine. So, during those
8 opening days, you're signing up 5- to 10,000 a
9 day. So, those interactions are a minute or
10 less in many cases, given the volume of people
11 coming through to sign up for the loyalty card.

12 But as you're going through and
13 inputting data driver's license number,
14 address, etc., name, date of birth, there would
15 be an opportunity to engage that customer about
16 the benefits of this program as well. All I'm
17 implying is that I don't believe that's the
18 appropriate place to pull someone aside and
19 have a more detailed conversation around
20 establishing a budget or really talking
21 extensively about the details of such a
22 program.

23 COMMISSIONER ZUNIGA: I guess you
24 implied it at the end. But what about when you

1 do interact with and spot somebody in distress
2 or anger that could be another opportunity
3 clearly to direct them to this program, right?

4 MR. SNOWDEN: That is essentially
5 the way it is handled today, Commissioner
6 Zuniga. So, all of our employees, 100 percent
7 of them as part of their new-hire orientation,
8 and again I don't want to be redundant, but
9 they all receive mandatory training of the
10 signs to look for and questions to ask and
11 indication that somebody may have a problem.
12 If they look angry, somebody punches a slot
13 machine for example that would be an
14 intervention opportunity. So, that does exist
15 and will exist whether or not we pursued any of
16 these play management tools or not.

17 COMMISSIONER MCHUGH: The second
18 piece of the sign-up, the direction to a
19 problem gaming specialist assumes that this is
20 marketed as a problem gaming and not a
21 budgeting tool, right?

22 MR. SNOWDEN: I would tell you maybe
23 that was the words I used. I would be open as
24 to how we describe this program as a budgeting

1 and/or responsible gaming program.

2 COMMISSIONER MCHUGH: If it were
3 simply a budgeting program then what would be
4 the need for the second person?

5 Hypothetically, you sign up. What do you want,
6 you want an email address. You want to get our
7 offers. We have a budgeting program. Would
8 you like to take advantage of the budgeting
9 program?

10 MR. SNOWDEN: Again, I think for the
11 probably less than 10 percent who would be
12 interested, just going off of what we've seen
13 in Canada and elsewhere that it would likely
14 be, a hypotheses, it would likely be somebody
15 who maybe does have a concern about their
16 ability to cut themselves off at a particular
17 budget.

18 I think the 90 plus percent who come
19 to the casinos are coming with a budget. They
20 are very comfortable that they extract
21 entertainment value from their time at the
22 casino. And they leave when they've gone
23 through that budget.

24 Versus somebody has concerns about

1 their ability to stay below a budget, I think
2 would require from my perspective a
3 conversation with a specialist or an expert to
4 maybe dig a little bit deeper. As opposed to
5 relying on a line level employee who is also
6 trying to get through another thousand people
7 behind this individual to sign them up for a
8 player card.

9 COMMISSIONER MCHUGH: Got it.

10 CHAIRMAN CROSBY: I was just going
11 to say at the initial sign-up period that's got
12 to be an incredible challenge for you all to
13 try to process people as quickly when you're
14 first opening up for however many months it
15 takes before you get your principal clientele,
16 or weeks whatever it is. But after that point,
17 how many people just off the top your head, in
18 year two how many people will be signing up for
19 a player card program every day?

20 MR. SNOWDEN: You would be in the
21 low hundreds, certainly not the thousands per
22 day.

23 CHAIRMAN CROSBY: Even the hundreds
24 in years two and downstream?

1 MR. SNOWDEN: That is correct. We
2 still, for example, we opened our Columbus
3 facility two years ago. And we are still
4 signing up over 5000 a month. So, quick math
5 would tell you that's hundreds, low hundreds a
6 day.

7 COMMISSIONER MCHUGH: The final
8 piece was no rush to implementation. And you
9 are going to be the first. What would you look
10 at as the criteria by which to determine that
11 this was ready for unveiling?

12 MR. SNOWDEN: From my perspective,
13 it wouldn't be on any of the things that we
14 necessarily have control over training, working
15 with the Commission and staff on collateral
16 information, where the information is posted.
17 Those are not my concerns.

18 It's really more on the vendor
19 development side. What we're describing today
20 doesn't exist anywhere in the world to my
21 knowledge. There are variations, but on the
22 CMS, the casino management system that we are
23 considering implementing at Plainridge Park on
24 the version we're on, it does not exist. The

1 vendor would sit here today and tell you it
2 doesn't exist.

3 So, we are going to have to start,
4 pull from maybe experiences elsewhere,
5 Australia and the like, but we are starting
6 here at square one to develop this program. So
7 to me, it would have to be around the efficacy
8 of that program and ultimately it being
9 seamless.

10 And as I mentioned earlier, it has
11 to be user-friendly and simple to understand.
12 So, it's really more around the vendor
13 development side that I can't speak to whether
14 or not it can be done in five months or six
15 months, which is the timeline we're looking at
16 after we get past the holidays here.

17 COMMISSIONER MCHUGH: No, I
18 understand that. So, let's assume that the
19 Commission agreed that at the time of opening,
20 this was not necessary to have in place. From
21 Penn's standpoint, would the time when you'd be
22 ready for it be solely dependent on the vendor
23 or would it have something to do with whether
24 you had established an expectancy as to your

1 yield to test against the effects of
2 implementation?

3 MR. SNOWDEN: Solely reliant on the
4 vendor's ability to execute. This has nothing
5 to do with business volumes and where we are
6 month two, month three.

7 I can't think of any business issue
8 that would be as determination as to whether or
9 not you roll out at month one or month two.
10 It's when the software is available. And quite
11 frankly, even for the thousands that you've
12 missed an opportunity at player sign up, you
13 can still communicate with those guests.
14 There's a reason we collect addresses and email
15 addresses. So, we can still communicate any
16 new budget software program that's rolling out
17 subsequent to the opening day.

18 COMMISSIONER ZUNIGA: So, you are
19 talking software costs, software development
20 costs, implementation, interfacing with your
21 system and all of that. That's what you mean
22 by vendor development, correct?

23 MR. SNOWDEN: I do, yes. And I
24 wouldn't be the one to tell you what that price

1 tag is. I've seen what was presented to the
2 Commission previously. In our conversations
3 with those two vendors who we've worked with in
4 the past, Bally and Aristocrat, implied that it
5 could cost more than what was on that piece of
6 paper.

7 CHAIRMAN CROSBY: I got a courteous
8 call from Mr. Wilmot about this, as you know.
9 And he went through much of the same issues but
10 also led with the lead, which is we will
11 entertain such an idea of some kind of a play
12 management system.

13 But he was emphatic about we really
14 do not want to be in a testbed for a
15 technology. We want to be a testbed for a
16 social strategy but we don't want to be a
17 testbed for a technology. He was clear about
18 that. And I think we would fully understand
19 that.

20 COMMISSIONER ZUNIGA: Thank you.

21 CHAIRMAN CROSBY: Others?

22 COMMISSIONER CAMERON: I just wanted
23 to get back to the point about two-step
24 process. One you're meeting with one person

1 for player management. Then you need to go
2 elsewhere to involve this budgeting tool.

3 I worry about the perception that
4 someone is assuming you have an issue or the
5 ability to present this as a budgeting tool as
6 opposed to someone thinking you have a problem.
7 That was my only thought when you gave all of
8 your points, which were really thoughtful, by
9 the way. That was my only thought was how do
10 we do that without that stigma or that's the
11 office over there where people go when they
12 have -- You know.

13 MR. DESALVIO: Can I offer one
14 comment on that from the operational
15 perspective? If somebody did show up at one of
16 our centers and they already knew about the
17 program, let's say they had stopped by or they
18 heard about it or they went to the center or
19 they read something about it, and they thought
20 it was for them. I think if they came over to
21 one of our sign-up centers and simply said I
22 heard about the program. I'd like to sign up.
23 And my limit is X.

24 In other words, they were definitive

1 about it, if in fact -- And again this is a
2 software question as well, because it would be
3 something that would have had to be added to
4 the sign-up screen as part of the enrollment
5 process, if in fact there was a check off and
6 enter a dollar amount and simply that you might
7 be able to execute that at a promotion, in our
8 case the Red Club or Red Card desk. That's for
9 those that already knew about the product.

10 I do agree you don't want to have
11 any of these kinds of discussions that might
12 embarrass a customer in any way, shape or form
13 in front of a large crowd of people at a sign-
14 up desk. That is really not appropriate.

15 And for those folks that really
16 aren't sure or want to talk about it further, I
17 would support going over to that center. I
18 think that's the appropriate thing to do. If
19 somebody knew that's what they wanted to do,
20 and if we had the ability to execute it by
21 simply a control file, and you turn that
22 control file on and pop in a dollar amount you
23 might be to accomplish what you're talking
24 about, Commissioner.

1 MR. FELDMAN: And if I could just
2 add, we are looking at software along those
3 lines. So, similar to the notion of this two-
4 step process, if it's possible to do it as part
5 of the sign-up, great. If they have further
6 questions about it or want to know how it
7 relates to them, that's where we may seek to
8 have them go talk to someone who has greater
9 knowledge of it.

10 I also think and I think we've heard
11 it, I just want to make clearer that on the
12 incentive notion, the notion of an incentive at
13 sign-up is absolutely worth some further
14 discussion. Our concern I think related more
15 to the notion of an incentive in the midst of
16 play and whether or not that would have some
17 kind of an unintended consequence once someone
18 was already playing as opposed to doing
19 something that might incent them to sign up.

20 CHAIRMAN CROSBY: I just want to add
21 one thing that this issue about are people
22 going to feel stigmatized to go to the problem
23 gaming center, this is central to Mark's
24 thinking about this whole program.

1 We don't want this to be about
2 problem gaming. Not just the play management
3 system, the whole thing we don't want this to
4 be about problem gaming. If you have a kiosk
5 over there, which is the problem gambling
6 center, it will be empty.

7 COMMISSIONER ZUNIGA: On that not,
8 it's the responsible gaming center.

9 CHAIRMAN CROSBY: Maybe it's even
10 more benign than that. Maybe it's come and
11 have fun.

12 COMMISSIONER MCHUGH: The fun
13 enhancement center.

14 MR. FELDMAN: We actually talked
15 about just calling it the launch.

16 CHAIRMAN CROSBY: Right, exactly.
17 So, this issue that you are trying to address,
18 Commissioner, we are trying to address
19 holistically. And if we could do that if we
20 could get above that whole umbrella of problem
21 gambling maybe even responsible gaming to
22 something that was really value free or
23 positive, then we've addressed that concern as
24 well. And it would be a critical piece of that

1 to not be a disincentive to take that second
2 step if we decided to do that.

3 MR. SNOWDEN: I think we are all in
4 alignment on this issue. And I think it comes
5 down to this is novel. So, I don't have the
6 answer to your question, Commissioner Cameron.
7 I have some of the same concerns.

8 But I do think we have got a lot of
9 smart people on both sides of the table here
10 and staff. And we can come up with some
11 branding solutions to make sure that this is
12 not considered a place you go if you've got
13 problems. But I do think problem gambling
14 center is not probably the best title for this
15 part of the casino, which is what is deemed
16 today.

17 So, I think we have some work to do
18 collectively between the industry and the
19 Commission on how best to brand this, and quite
20 to where it's inviting. And it can be used as
21 a budget tool. And there could be an incentive
22 for signing up. And I think that would be
23 maybe would help to push for success maybe a
24 little stronger than the way these programs

1 have been rolled out in other jurisdictions
2 across the world.

3 COMMISSIONER MCHUGH: On that note,
4 can I come back? I thought I understood it but
5 as I go through my notes I'm not sure I did
6 fully understand it, to the third point again,
7 the fourth point the human interaction piece,
8 there are some programs that we saw at G2E
9 where you stick in the card for the first time
10 and you get an array of questions. Your
11 objection to that is based on what?

12 MR. SNOWDEN: My objection to that
13 process is that I think it would be more
14 effective having a conversation with an
15 individual, a specialist who is trained, maybe
16 an expert in the field, to determine whether or
17 not establishing a budget at a particular
18 threshold may make sense.

19 Or may over the course of that
20 conversation may be able to even determine that
21 this person has an issue beyond establishing a
22 budget. They may be a problem gambler, and to
23 be able to get them in touch with the
24 appropriate people to get the help.

1 So, I think just relying on sitting
2 down at a slot machine and somehow the software
3 determining that you set it too high or too low
4 and this could be an alert that potentially
5 somebody has a problem is risky, is dangerous.

6 I would prefer to rely on people who
7 are specialists and who are trained to identify
8 not just what someone is telling you but what
9 they are saying over the course of that
10 conversation.

11 So, it's not to say that all who
12 sign up for a budget limit are going to be
13 showing signs of problem gambling. But my
14 experiences would say that those who have
15 concerns about establishing a budget when they
16 go game is usually one of the first signs you
17 see of somebody who has the propensity to
18 become a problem gambler.

19 COMMISSIONER MCHUGH: Okay. Thanks.

20 CHAIRMAN CROSBY: Anything else?

21 Next up? We've got MGM, right? No, I'm sorry.

22 COMMISSIONER CAMERON: We just heard
23 from all three.

24 COMMISSIONER MCHUGH: And we heard

1 from Wynn.

2 CHAIRMAN CROSBY: Sorry, can we
3 start that all over again? Thank you all very
4 much, the three of you being here for your
5 presentations.

6 MR. DESALVIO: Thank you,
7 Commissioners.

8 CHAIRMAN CROSBY: Very interesting.
9 Thank you. We will have a quick five-minute
10 break and then finish up before lunch.

11

12 (A recess was taken)

13

14 CHAIRMAN CROSBY: We are reconvened
15 and we are still on some topic or other. Yes,
16 we are still on number four, Research and
17 Lounge Gambling, Director Vander Linden.

18 MR. VANDER LINDEN: I don't know how
19 to respond to that.

20 What we have before you is 205 CMR
21 138.40 through 138.47. It's basically the
22 credit regs. dealing with ATMs, check-cashing,
23 credit extension. It's part of the internal
24 controls, but for the purposes of this we

1 pulled it out to take a very specific look on
2 it.

3 We've placed it under kind of
4 responsible gaming heading because many pieces
5 captured within this fall within the
6 Responsible Gaming Framework, which would be in
7 section five of the Responsible Gaming
8 Framework managing high-risk financial
9 transactions.

10 I want to say just in advance there
11 have been a lot of changes that we've made to
12 the. It is a fluid document. We continue to
13 get feedback. And in fact, a few days ago
14 received some fantastic comments from the
15 Attorney General's office. And we haven't been
16 able to fully integrate those but --

17 CHAIRMAN CROSBY: Have not?

18 MR. VANDER LINDEN: Not within the
19 version that you have, no, but want to continue
20 to work with them to make sure that we work
21 collaboratively with the Attorney General's
22 office on this.

23 Counsel Grossman, I believe is going
24 to lead this part of the conversation along

1 with Mr. Band and myself.

2 MR. GROSSMAN: Good morning,
3 Commissioners.

4 MR. BAND: Good afternoon, actually.

5 MR. GROSSMAN: Oh, it is afternoon.
6 Good afternoon. As Mark pointed out, you have
7 before you an amended version of the draft so-
8 called credit regs. In red, you'll see the
9 changes that have been proposed since the last
10 time this document was before you.

11 They are based on comments that were
12 received by not just the office of the Attorney
13 General, but also MGM and Penn National
14 provided some very full and comprehensive
15 comments and Wynn as well.

16 I would say that we have
17 incorporated or will be recommending
18 incorporation of the vast majority of the
19 comments in some way, shape or form.
20 Certainly, there were some we did not. There
21 are a few additional comments that over the
22 past few days since this document was
23 circulated, we have suggested be made. So, as
24 we go through it, we'll point out some other

1 areas that we'd like to ask you to consider
2 adjusting.

3 And at the conclusion of this
4 discussion, we'll ask you to approve the
5 document so that we can start moving it through
6 the formal promulgation process. Of course,
7 during that process, people will have another
8 shot commenting. The Commissioners of course
9 can take a deeper dive at some of these
10 provisions.

11 And we'll have a public hearing
12 after which the we'll have a final set the
13 regs. So, at this point we are just looking to
14 get a version of this document moving through
15 the process.

16 With that we are happy to just go
17 about this in any way that would be helpful.
18 We can just go through some of what we believe
19 the highlights to be and welcome any comments
20 along the way.

21 CHAIRMAN CROSBY: Does anybody have
22 generic comments to start?

23 COMMISSIONER MCHUGH: I have two
24 comments. They're not generic. They're

1 focused on specific issues.

2 CHAIRMAN CROSBY: Let me raise a
3 generic. The Michael and Carroll letter talks
4 about that they recommended to us, and I
5 remember this way back when we were getting
6 started, recommended taking a fairly hands-off
7 approach where possible rather than getting in
8 detailed specifications. And their comments on
9 this section have that same -- made that same
10 major point that they would have recommended --
11 Sorry?

12 COMMISSIONER ZUNIGA: The next
13 section, they commented on the next section.

14 CHAIRMAN CROSBY: Yes, you are
15 right.

16 COMMISSIONER ZUNIGA: Michael and
17 Carroll commented on internal controls not
18 this.

19 CHAIRMAN CROSBY: Yes. I take it
20 back.

21 MR. GROSSMAN: It's the same
22 principle.

23 COMMISSIONER MCHUGH: It doesn't
24 really have that much bite.

1 CHAIRMAN CROSBY: In their letter,
2 I'm sorry, you're right thank you. I'm having
3 multiple senior moments today. The second half
4 of their letter talks about this section and it
5 doesn't really raise that same generic problem
6 of is this way too specific.

7 So, let's go ahead. I'm sorry.
8 We'll come back to that when we get to the
9 other regs. in the afternoon.

10 MR. GROSSMAN: Okay. I think that
11 we can start perhaps on page two where we
12 wanted to in paragraph 10, you'll see at the
13 top of the page, we wanted to expand that at
14 the recommendation that one I think came from
15 the AG's office to just clarify that the credit
16 card or debit card transactions have to be
17 commenced 15 feet outside the gaming area.

18 There's a piece of language that's
19 not in there that we wanted to clarify as well.
20 Before the within 15 feet, we would recommend
21 including the word to be initiated. What that
22 would do would allow a cash advance transaction
23 to be commenced an ATM or a similar type
24 machine 15 feet outside the gaming area. But

1 then the individual could take the document
2 that comes from machine and take it to the cage
3 and finish the transaction, which as I
4 understand it is the common practice for
5 getting a cash advance.

6 So, you couldn't commence the
7 transaction at the cage, but you could complete
8 it there. We just wanted to clarify that point
9 in the regulation.

10 COMMISSIONER MCHUGH: So, with these
11 ATMs you can't get -- you can withdraw your own
12 money but you can't get a cash advance unless
13 you get a ticket and go to the cage?

14 MR. GROSSMAN: That's my
15 understanding.

16 COMMISSIONER MCHUGH: Why is that?

17 MR. BAND: It's really more services
18 that provide that kind of process off the
19 floor. And you would go up to their counter,
20 get your credit and then they would make sure
21 the money got to the cashier's cage. You would
22 go with your receipt and cash it in that way.

23 COMMISSIONER MCHUGH: Why a two-step
24 process? Most ATMs just give it to you right

1 on the spot.

2 MR. BAND: I think because of the
3 number -- the amount of cash that it involves.
4 It's not always an ATM. Sometimes it's a
5 counter company like Comcheck or something that
6 does transactions for the casino.

7 COMMISSIONER MCHUGH: Okay. I got
8 it. What about where are we on the no ATMs in
9 a gambling place?

10 CHAIRMAN CROSBY: The Division of
11 Banks conversation.

12 COMMISSIONER MCHUGH: The Division
13 of Banks conversation. We got a comment this
14 morning or recently raising that issue again
15 and saying there's no way we can have ATMs
16 within the premises of the gaming
17 establishment, which struck me as something we
18 hadn't really thought about before because the
19 gaming establishment is -- We'll deal with that
20 later this afternoon, but it's big. Where are
21 we?

22 MR. GROSSMAN: I didn't see the
23 comment. Hopefully, it didn't come from the
24 Division of Banks.

1 COMMISSIONER MCHUGH: No, it came
2 from a commentator.

3 MR. GROSSMAN: The issue is really
4 before the Division of Banks. We've had
5 communication with them. We have presented our
6 interpretation of the law. It comes down to an
7 interpretation of a provision of I think it's
8 Chapter 167B we cited at the end which is under
9 their auspices. And it basically says that you
10 can't have an ATM anywhere where legalized
11 gambling occurs.

12 So, the question would be how we
13 define where the legalized gambling is
14 occurring, whether it is occurring in the
15 gaming area or in the gaming establishment as a
16 whole.

17 Obviously, if they were to come out
18 with an interpretation of the statute
19 suggesting that legalized gambling is taking
20 place in the whole gaming establishment, that
21 would render this provision moot and we would
22 have to change it, because you wouldn't be
23 allowed to use ATMs anywhere in the gaming
24 establishment.

1 If they were to adopt a slightly
2 narrower approach, it would allow ATMs in the
3 gaming establishment but not in the gaming
4 area, which would then make this provision
5 that's in these regulations even stricter
6 because we are saying not only can you not have
7 an ATM in the area, it has to be at least 15
8 feet away from the gaming area.

9 So, this provision in here is
10 pending resolution of that interagency issue.

11 CHAIRMAN CROSBY: And there's some
12 reason to think they understand and appreciate
13 our perspective on this.

14 MR. GROSSMAN: They fully understand
15 and appreciate our position. They haven't
16 taken any position and that's where we are. I
17 can't really project when the issue will be
18 fully resolved. But they are aware that this
19 provision is in these regulations. And that
20 you are also aware of their authority in this
21 regard.

22 COMMISSIONER MCHUGH: Just if I
23 could follow up with that. The email we got
24 this morning, the email that I'm referring to

1 was sent to us by a man named Paul Stein and
2 includes a letter of September 29, 2014 from
3 the Deputy Commissioner of Banks to him saying,
4 and I'm quoting now, "The law prohibits an
5 electronic branch from being located upon
6 premises where legalized gambling occurs other
7 than a state lottery. And the provision is in
8 full force and effect."

9 Were we copied on that letter?

10 MR. GROSSMAN: I don't remember
11 seeing a letter from the Deputy Commissioner.
12 I'd have to go back and look at the timing --

13 COMMISSIONER MCHUGH: I can answer.
14 It doesn't show us cc'd on it.

15 MR. GROSSMAN: Chairman Crosby and I
16 actually had a meeting at the Division of
17 Banks. And I'm not sure what the timing of
18 that response relative to our discussion with
19 them and certainly our ongoing discussion with
20 them. We've had more recent communications
21 with their legal staff about this issue.

22 I think it's fair to represent that
23 they haven't come to a conclusion. And perhaps
24 that response was sent out before the issue had

1 been fully vetted, but I think it's still on
2 the table for discussion.

3 COMMISSIONER CAMERON: They use the
4 term premise which gets back to your point
5 about area versus establishment.

6 MR. GROSSMAN: There was a time when
7 we were talking about looking this through the
8 prism of what the premises were. At least we
9 have abandoned that approach. I don't think it
10 jives with the way the law is written. So, I
11 wouldn't rely too heavily at this point on that
12 email response.

13 COMMISSIONER MCHUGH: Okay. Thanks.

14 CHAIRMAN CROSBY: On page two also,
15 I was embarrassed to ask this question. But I
16 asked it of a couple of Commissioners, and they
17 didn't know the answer to it. So, I will ask
18 it in public. What is a counter check and a
19 slot counter check and a patron check?

20 MR. BAND: A patron check would be a
21 check you'd write out of your personal bank
22 account. A counter check is one that you are
23 drawing on your credit account from the casino.
24 So, you establish an account. And you write

1 the check. That's called a counter check, same
2 with the slots.

3 COMMISSIONER MCHUGH: You establish
4 a marker.

5 CHAIRMAN CROSBY: You establish
6 credit and then in order to borrow money from
7 that credit --

8 MR. BAND: You actually request for
9 the counter check for a certain amount. You'd
10 fill that out, sign it. And you'd be given the
11 chips or the voucher or whatever.

12 CHAIRMAN CROSBY: And the slot
13 counter check is the same thing for slots.

14 MR. BAND: Same thing for slots,
15 yes.

16 CHAIRMAN CROSBY: Okay.

17 MR. GROSSMAN: I believe the
18 colloquial term is a marker. An official term
19 is a counter check.

20 COMMISSIONER MCHUGH: It's a draw
21 against your line of credit is the bottom line.

22 MR. BAND: Yes. And counter check
23 was used actually years and years ago because
24 it coincided with the practice at a bank where

1 you'd be able to just get a blank check, put
2 your account on it. And that's essentially
3 what the casino is doing because that can be
4 deposited into your bank account.

5 MR. GROSSMAN: Just to put a finer
6 point on that I don't think it's a draw against
7 your credit. It's a draw against your debit.

8 COMMISSIONER MCHUGH: You have a
9 line of credit. I get it. I understand.

10 CHAIRMAN CROSBY: I don't but we'll
11 go ahead. Okay, next? I don't think you need
12 to go through every one.

13 MR. GROSSMAN: We'll just hit the
14 highlights. On page four, at the top there's
15 paragraph seven -- I hope we still have the
16 same page numbers here. -- we crossed out
17 paragraph seven. This talks about the payment
18 of outstanding counter checks and the like. We
19 initially had a provision in there that would
20 have prohibited payment on behalf of the patron
21 by a junket or junket enterprise or
22 representative.

23 We crossed that out, as you can see,
24 the theory being that in this day and age, we

1 at least in Massachusetts will require full
2 licensure of all junket enterprises and junket
3 employees. So, that we are aware of who they
4 are and what their suitability is. So, that
5 this provision perhaps while once in the
6 history of gaming did serve a vital function
7 perhaps doesn't any longer; is that fair to
8 say?

9 MR. BAND: Yes.

10 MR. GROSSMAN: 138.43, the bottom of
11 page four, there are a number of important
12 provisions in here. This is in some respects
13 the backbone of this whole set of regulations.
14 There are a couple of issues that that I think
15 you should just be aware of based on some of
16 the comments. And Mark, perhaps you'd like to
17 take it from here and just quickly address the
18 \$10,000 threshold.

19 MR. VANDER LINDEN: Sure. We
20 actually received varying feedback about the
21 \$10,000 threshold. In the end, we recommend
22 continuing or keeping that \$10,000 threshold.

23 This is -- I think that this is an
24 important issue to advance that an individual

1 that would access credit would qualify for a
2 minimum threshold of \$10,000. The purpose of
3 that is to eliminate individuals who may wish
4 to access credit but don't necessarily have the
5 resources available. And when they don't have
6 the resources available, it places them at a
7 much greater risk for a number of other
8 consequences. So, therefore we want to keep
9 that.

10 COMMISSIONER MCHUGH: I saw some
11 support from the industry, which was
12 gratifying. But I also saw a suggestion that
13 to ask people who qualify for that level of
14 credit whether they had a problem with gambling
15 would be not nice, I guess.

16 MR. VANDER LINDEN: Yes. There was
17 feedback that basically recommended that we do
18 not keep the problem gambling screen included
19 in the application process.

20 CHAIRMAN CROSBY: Right.

21 MR. VANDER LINDEN: I think that
22 perhaps there's some confusion about how that
23 would be presented to the patron when they
24 access credit.

1 My recommendation would be that it
2 would be a very brief screen. There are a
3 number of very brief screens out there. The
4 one that pops to the top of my mind would be
5 the brief bio-social gambling screen. It's a
6 three-question screen. That it wouldn't be
7 something that would be directly administered
8 by the credit agent, but it would be something
9 that the individual applying for credit would
10 read and verify that they reviewed the question
11 and that indeed they wish to continue the
12 credit application process.

13 COMMISSIONER MCHUGH: Okay.

14 CHAIRMAN CROSBY: How do you explain
15 this as not being prejudicial to low to
16 moderate income people who don't have very much
17 capacity for formal credit but might not want
18 to walk in with \$200, \$300, \$400 or \$500 in
19 cash? There are people who live very frugally
20 or close to line who can also be responsible
21 who may not be able to get a \$10,000 loan but
22 could get a \$500 loan and certainly are capable
23 of gambling \$500 or \$250 or \$150 or whatever
24 number you want to pick. Isn't it kind of

1 arbitrary?

2 It's clearly arbitrary, but are we
3 making a point we really want to be making?
4 Are we penalizing people who don't have very
5 much money by presuming that they will be less
6 able to be responsible?

7 It's a little bit implicit in the
8 Attorney General's letter. She says by setting
9 a high-minimum limit, the regulations protect
10 consumers with lower incomes from the risks
11 inherent in gaming credit. First of all, it
12 says gaming credit. I don't know that it's any
13 more risky than a credit card, but there's just
14 a flavor of paternalism here that makes me
15 little uncomfortable.

16 MR. VANDER LINDEN: I don't believe
17 the intent is to imply that individuals that
18 wouldn't qualify for that level of credit would
19 be any less responsible in their credit or
20 budgeting decisions. But the intent is that
21 individuals who are living closer to that edge
22 between what their income is, what they have in
23 savings and what expenses are would not have
24 access to credit. And if they were to lose

1 that which there is a very good chance that
2 they would that it would place them at great
3 risk.

4 COMMISSIONER MCHUGH: I thought
5 there was a somewhat different rationale for
6 this limit. And that was that the basic or the
7 default is that credit for gambling is not a
8 good idea socially. It's not good to have a
9 system that allows you to borrow money to
10 gamble.

11 But this mechanism of getting house
12 and casino credit is a mechanism for allowing
13 the high rollers to come into a casino without
14 having to carry \$15,000, \$20,000 in their
15 pocket. And instead have it available to them
16 through this mechanism. And so, it's not a
17 discrimination against those who can't -- not
18 so much the discrimination against low-income
19 people as it is a facilitation of high-roller
20 gambling without carrying a lot of cash around.

21 And if one uses that paradigm it
22 seems to me to make a great of sense to be non-
23 stigmatizing.

24 MR. BAND: One thing that kind of

1 needs to be clarified here, it's not saying
2 that people at a lower income can't draw cash.
3 They could come in with a personal check and do
4 a cash deposit that you can write a counter
5 check on and say that's what I want.

6 You're not getting credit from the
7 casino. It's you bringing your own money in
8 and depositing it in the cashier's cage and
9 operating it that way.

10 CHAIRMAN CROSBY: What do other
11 jurisdictions do?

12 MR. BAND: They do that exactly a
13 cash deposit.

14 CHAIRMAN CROSBY: Do they have this
15 threshold?

16 MR. BAND: The 10,000 would be
17 something new in the industry as far as I'm
18 aware of.

19 CHAIRMAN CROSBY: Is there typically
20 any kind of a threshold like that?

21 MR. BAND: No.

22 COMMISSIONER ZUNIGA: It's up to the
23 operator, right -- to determine how much credit
24 they can extend what they qualify to?

1 MR. GROSSMAN: We've done a couple
2 of things that I'm not aware exists elsewhere
3 in this section where we set a standard for
4 requiring -- And it's my assumption that this
5 is the standard that's generally employed, it's
6 just never been written in the form of
7 regulation before where we say that credit
8 shall not be extended to an individual in an
9 amount beyond which the information
10 demonstrates they have a reasonable ability to
11 repay.

12 That sets out a standard. I don't
13 believe that there's anywhere else that says it
14 quite like that. The \$10,000 threshold I think
15 is new as well. And there are a couple of
16 other wrinkles here that may be unique to
17 address this specific issue.

18 COMMISSIONER ZUNIGA: Keep in mind
19 that qualifying for credit and getting that
20 amount of credit is two different things, which
21 is outlined here.

22 So, the desk or the operator will
23 make the analysis that they normally do,
24 sources of income, levels of income, etc. and

1 determine that they may qualify for whatever.
2 The point here is that it at least has to be
3 more than 10,000 in order to extend any amount
4 of credit, right?

5 MR. GROSSMAN: Right.

6 MR. VANDER LINDEN: Yes.

7 CHAIRMAN CROSBY: So, Wynn's letter
8 says they support the 10,000 limit. Did we get
9 pushback from anybody else?

10 MR. BAND: I think Penn was the only
11 one that objected to that dollar amount.

12 CHAIRMAN CROSBY: Was it to any
13 dollar amount or was it to that dollar amount?

14 MR. VANDER LINDEN: I believe they
15 wanted that provision struck from the reg.

16 CHAIRMAN CROSBY: MGM didn't raise a
17 distinction. At least it's not something that
18 makes people's hair stand on end. It's not
19 extremely different judging by that reaction.

20 COMMISSIONER ZUNIGA: My personal
21 view is that there a lot of people that qualify
22 for credit card at that level more. It's
23 really students for example that have a hard
24 time qualifying for a credit card at those

1 levels, which are perhaps some of the
2 population that we want to disincentivize from
3 obtaining casino credit.

4 CHAIRMAN CROSBY: Others? I've got
5 some other ones on this. How do we establish
6 here what is indeed a reasonable
7 creditworthiness? We've got all of these
8 things they have to do, but ultimately somebody
9 just has to make a judgment. Okay that guy's
10 worth it that guy isn't worth it. What
11 standards are they supposed to be using are we
12 asking people to use?

13 MR. GROSSMAN: That is the standard
14 is the reasonable ability to repay. I don't
15 know what other standard you could really come
16 up with.

17 MR. BAND: And their ability to that
18 is really left to the casino's policy as to
19 what they feel has to be qualified to reach
20 that level.

21 MR. GROSSMAN: It's discretionary.

22 COMMISSIONER MCHUGH: I suppose we
23 could monitor it. If they're constantly having
24 to go to court to sue people who aren't paying,

1 we could ask whether their credit policies are
2 tight enough.

3 CHAIRMAN CROSBY: We can do that
4 without the rule too but --

5 COMMISSIONER MCHUGH: But it's
6 against the standard, we now have the standard
7 reasonable ability to repay, and if everybody's
8 defaulting then they probably are not doing it.

9 CHAIRMAN CROSBY: Public assistance
10 is that commonly just means welfare or is that
11 any public assistance?

12 MR. BAND: New Jersey has some
13 statute that public assistance you can't just
14 use that or cash that check.

15 CHAIRMAN CROSBY: I mean what is
16 public assistance? Is that unemployment? Is
17 that public assistance?

18 MR. GROSSMAN: I think it would be.
19 I think this a good place to make this point.
20 There are two places in here one is where you
21 are looking, and there's another place that
22 talks about that same subject matter.

23 The statute requires us to
24 coordinate with DTA and a number of other

1 similar state agencies relative to regulations
2 to ensure that credit and the like is not
3 extended to people on public assistance. We
4 haven't established those contacts yet, but
5 this is certainly a good time to do that. So,
6 there's a couple of places in here that may
7 need some adjustment after we've consulted with
8 the right agencies.

9 CHAIRMAN CROSBY: I agree. But at
10 some point, I think we have to define what's
11 included in public assistance.

12 MR. GROSSMAN: I think we'll have to
13 beef that provision up a bit. On paragraph
14 (f), which you've already talked about, this is
15 the problem gambling self-assessment that Mark
16 was just talking about. We wanted to just
17 propose some language in there to clarify what
18 we are requesting.

19 And that is that it would say credit
20 applications require patrons to acknowledge
21 that they have reviewed a problem gambling
22 self-assessment, indicate a desire to proceed
23 with the process. So, we're not requiring them
24 to go through any kind of self-assessment or

1 what have you but just they see there's a self-
2 assessment with the questions. And even having
3 looked at that they still want to go through
4 with the application. So, there will be a
5 slight modification of that.

6 COMMISSIONER ZUNIGA: Which is what
7 you are describing right, generally, Mark?

8 MR. VANDER LINDEN: Correct, yes.

9 COMMISSIONER CAMERON: Three
10 questions.

11 COMMISSIONER ZUNIGA: Three
12 questions, read them, sign on the dotted line.

13 MR. VANDER LINDEN: It's intended to
14 give people a brief pause to reflect about
15 accessing credit for gambling purposes.

16 MR. GROSSMAN: There were also a
17 number of comments about paragraph (d) which
18 talks about an individual who self identifies
19 as a problem gambler. As you can see, we are
20 recommending just trying to clarify that a bit
21 by highlighting that it's during the
22 application process. Mark, maybe you want to
23 pick up on that.

24 MR. VANDER LINDEN: Actually, our

1 licensees kind of highlighted this a little
2 bit, the value of that human interaction
3 between the patron and what in this case would
4 be the employee extending credit. That if
5 during the course of that somebody would
6 indicate that they have a gambling problem,
7 which in this course is not completely unlikely
8 that the credit application process would stop
9 there. They would not be able to access credit
10 regardless of what their creditworthiness would
11 be.

12 CHAIRMAN CROSBY: Okay.

13 MR. GROSSMAN: There were a number
14 of other modifications we are recommending. I
15 suspect though you don't want to go through
16 each one of them here. So I'll just go to page
17 seven, if we can.

18 COMMISSIONER MCHUGH: Can I stop you
19 page six?

20 MR. GROSSMAN: Yes.

21 COMMISSIONER MCHUGH: One of the
22 comments that the Attorney General made and one
23 that occurs to me is really important is the
24 unavailability of the criminal process to

1 enforce these debts.

2 That's particularly true of a check
3 that's presented or a marker that's presented
4 and then not paid. And somebody goes to --
5 takes a criminal complaint against you for
6 writing a bad check. That ought to be strictly
7 out of bounds.

8 And we refer on page six -- In my
9 view, it ought to be strictly out of bounds. --
10 in 9(a) there' a sentence. The failure to
11 timely repay your debt may result in criminal
12 and/or civil legal consequences.

13 I would not -- And there's one other
14 reference in here someplace to the criminal
15 processes. It seems to me we ought to write
16 that off. It's higher up on the same page.

17 CHAIRMAN CROSBY: There's a form
18 you're supposed to sign, right?

19 MR. GROSSMAN: We did strike that.
20 Maybe I should go through some of the areas.

21 COMMISSIONER MCHUGH: No, that's all
22 right. If it's already done, then it's already
23 done.

24 MR. GROSSMAN: We recognized that

1 and we struck that. We actually incorporated a
2 few of the other comments along the way here.
3 There was some question in this paragraph (a)
4 right in the middle here about what amount that
5 they would go after in the event of a default.
6 So, we added some language here that it's the
7 amount identified on the personal check or
8 marker that they would go after.

9 COMMISSIONER MCHUGH: Okay.

10 CHAIRMAN CROSBY: Why should people
11 not be criminally liable for bouncing a check
12 in a casino as opposed to anyplace else?

13 COMMISSIONER MCHUGH: Because they
14 are bouncing a check -- They're giving a check
15 that may not be cashed for a number of months
16 or a long period of time. They may have had
17 the funds in the bank when they wrote the
18 check, but the funds may been depleted by the
19 time the check is cashed. That's how a number
20 of these people that we've read about, one in
21 particular, got into some serious trouble
22 because of the criminal process.

23 The Attorney General's point with
24 which I agree is that anybody who writes to

1 intentionally -- makes a fraudulent statement
2 or writes an intentionally bad check that's bad
3 at the time it's issued should be criminally
4 responsible. But not if there's a lot of
5 intervening time between the time you wrote the
6 check and the time it's cashed and your
7 circumstances changed.

8 CHAIRMAN CROSBY: Did we do that?
9 Did we make that distinction between a bad
10 check at the outset versus later on?

11 MR. GROSSMAN: We don't make that
12 distinction. We're just taking it out of the
13 disclosure here. This doesn't prevent the
14 casino from still pursuing criminal charge. It
15 just doesn't advise people that they could be
16 criminally --

17 CHAIRMAN CROSBY: But in the
18 statement that was here, it says I may be
19 subject to civil or criminal liability if any
20 material information provided by me is
21 willfully false.

22 COMMISSIONER MCHUGH: Willfully
23 false that's right. And that's writing a bad
24 check that you know is a bad check.

1 CHAIRMAN CROSBY: So, you're not
2 asking that that language come out?

3 COMMISSIONER MCHUGH: No. In (a)
4 it's not limited to -- This last sentence in
5 9(a) says failure to timely repay your debt may
6 result in criminally and/or civil legal
7 consequences. And I think that's way too broad
8 and gives casinos -- casino operators bad
9 ideas.

10 CHAIRMAN CROSBY: If you can make
11 the distinction between the two. The text in
12 the self-disclosure statement is very different
13 from the text he's talking about. So, I think
14 leaving it in in the self-disclosure statement
15 makes sense. You can't give willfully false
16 information. But in the other place I would
17 agree with Commissioner McHugh.

18 COMMISSIONER MCHUGH: I would even
19 be willing to see in there some part of the
20 regulation that says that you can't resort to
21 the criminal processes except for willfully
22 false statements or knowingly false statements
23 or intentional false statements or something.

24 MR. VANDER LINDEN: Under 9(a), I

1 believe the AG's recommendation was to strike
2 criminal and/or civil but leave in legal
3 consequences.

4 MR. GROSSMAN: Right.

5 COMMISSIONER MCHUGH: I don't have
6 any problem with that. I guess my point is
7 that I would like any of our operators who
8 operate under a different regime in other
9 jurisdictions to think that they can start
10 criminal proceedings under the circumstances
11 I've described.

12 You give a check that's got good
13 funds in back of it when you gave it. It's not
14 cashed for 30 days. For one reason or another
15 there aren't funds there to pay it in 30 days.
16 Now they go to court and take out a complaint
17 for larceny. I think that's wrong and they
18 shouldn't do it.

19 If they're worried about that they
20 should cash the check right then and keep the
21 funds there and tell the patron that's what
22 they're going to do.

23 MR. GROSSMAN: We can clarify that
24 point in the process.

1 COMMISSIONER MCHUGH: Okay, if
2 everybody agrees with.

3 CHAIRMAN CROSBY: I agree with that.

4 COMMISSIONER CAMERON: Yes.

5 MR. GROSSMAN: On page seven then,
6 paragraph four we talk about the verification
7 of personal checking accounts.

8 It was brought to our attention, and
9 this is not your draft, so this is just an
10 issue that we would like to put on the table
11 for consideration, that with certain
12 international accounts there are laws in
13 different countries preventing casinos and
14 others from verifying the existence of checking
15 accounts. And that certain banks won't even
16 acknowledge that an individual has an account.
17 In which case the casino, I suppose, could
18 never verify the existence of an account.

19 So, we wanted to suggest the
20 inclusion of certain language recognizing that.
21 And including a parenthetical in four that for
22 all of these areas that have to be verified
23 that provided that if any information is
24 unavailable relative to international accounts,

1 this shall be noted in the credit file. So,
2 that an effort was made. They can't verify it
3 one way or the other and they mark it in the
4 file. And we'll get into the verification a
5 little further down in the regs. But we
6 thought with that comment it was important to
7 recognize that possibility.

8 So, on the next page, page eight we
9 get into the verification procedures. The
10 first one is paragraph two. Again, there are
11 no amendments in your draft. These are
12 discussions we had subsequent to that.

13 Paragraph two talks about the
14 verification of both casino credit limits and
15 outstanding balances and the way you would go
16 about verifying them. We thought it was
17 important to clarify which casinos you would
18 have to contact to make this verification.
19 Certainly, it was not intended to require that
20 a gaming establishment contact every casino in
21 the country to make sure somebody doesn't have
22 an outstanding counter check.

23 So, we're recommending the inclusion
24 of language clarifying that they do have to

1 contact other casinos at which the patron
2 indicated on the application that they had an
3 outstanding counter check at. So, it's limited
4 to those.

5 COMMISSIONER ZUNIGA: Wouldn't the
6 industry do this as a matter of their own
7 research?

8 MR. GROSSMAN: They may. They
9 probably do. Then we say if they do that if
10 they make all of the calls that are necessary
11 and they aren't able to unearth any outstanding
12 credit lines or counter checks then they shall
13 be deemed satisfied the verification
14 requirement.

15 And the reason I think these are
16 important is as we've come to learn there's no
17 obligation that anyone report this information
18 to the casino credit bureau. The Central
19 Credit is one I think is the one most everyone
20 uses, but one of the casino credit bureaus.
21 And there's no obligation to report all of the
22 information there. So it may be that one could
23 run a check through Central Credit and wouldn't
24 come up with any information when in fact the

1 person does have outstanding credit or
2 outstanding debt that appears.

3 So, what we are saying that if you
4 go through the Central Credit check and then
5 check any casinos indicated on the application,
6 it might be deemed satisfied on their
7 verification application.

8 In paragraph four on page nine,
9 we've put in some language that is not in your
10 draft. Again, just beefing up the
11 international account scenario, recognizing
12 that it may be impossible to verify certain
13 banking accounts.

14 We are recommending -- On page 10,
15 there's nothing in there, I think it was MGM
16 that made a recommendation that we essentially
17 come up with a way to recognize some type of
18 reciprocity for individuals who at least
19 recently opened credit accounts elsewhere.

20 So, what we are proposing in
21 recognition of that is that if an individual
22 opened a credit account at an affiliate of one
23 of our licensees within 60 days that the
24 Massachusetts casino may rely on any of the

1 same information that we require without having
2 to go back and reopen the account and recheck
3 everything.

4 So, they wouldn't under that
5 scenario have to go to run another check
6 through Central Credit and verify the checking
7 account.

8 MR. BAND: We did add too that that
9 state that they take that from or country
10 doesn't have all of the requirements that we
11 require we check, they would have to do that
12 additional step to issue credit.

13 MR. GROSSMAN: That's right. So,
14 anything we require that they don't do we would
15 still have to do. But anything that is
16 duplicative they don't have to do again.

17 COMMISSIONER ZUNIGA: Tell me the 60
18 day, if they open or if it's active? If that
19 credit is active? What triggers the 60 days?

20 MR. GROSSMAN: The verification, the
21 information was verified within 60 days.

22 COMMISSIONER ZUNIGA: Generally, how
23 often do casinos verify the credit of somebody
24 who shows up every now and then?

1 MR. BAND: It really is determined
2 by what state they are in. In New Jersey, it's
3 two years that they re-verify. And there are
4 other places that are less. So, it's kind of
5 all over the board.

6 MR. GROSSMAN: Okay. On paragraph
7 (e) we highlighted that piece of information
8 there. I'm still on page 10. There was a
9 comment made and we weren't able to resolve
10 this issue amongst ourselves. So, we just
11 wanted to bring it to your attention at this
12 point where we say essentially the requirement
13 is that if someone has an open account at
14 another casino that the different casino would
15 have to verify certain information.

16 And that this paragraph places an
17 obligation on the other casino to verify when
18 they receive a call from the different casino
19 of the existence of the account. And there was
20 some concern about sharing this information
21 with one another and other casinos for
22 different reasons.

23 So, we haven't really had chance to
24 flush out what information we would require one

1 casino share with another relative to an
2 account. The language is in here. I thought
3 we should at least recognize that we need to do
4 some more work on this provision.

5 COMMISSIONER ZUNIGA: Are we talking
6 about casinos just our three or four licensees?

7 MR. GROSSMAN: Yes. We can't
8 mandate casinos in other states to share
9 anything.

10 MR. BAND: The problem has occurred
11 in the past where let's say he worked at MGM
12 and I worked at Wynn and I picked up the phone
13 and said such and such does he have this
14 credit, is he there? And then the other casino
15 quickly tries to lure that high roller over to
16 their place instead. That's what the other
17 casino wants to avoid.

18 MR. GROSSMAN: On page 11, it's when
19 someone wants to increase their credit limit.
20 This was a comment I think from the Attorney
21 General's office. You see initially we had in
22 there that the casino would have to re-verify
23 certain information if it hadn't been verified
24 within the previous two years.

1 And I'm suggesting that that's too
2 long a period of time. And I don't remember if
3 they recommended or if we settled on a 60-day
4 recommendation instead of two years.

5 COMMISSIONER ZUNIGA: What is that
6 verification, the full verification de novo?

7 MR. GROSSMAN: The outstanding
8 indebtedness, the checking account information.

9 COMMISSIONER ZUNIGA: If available
10 12-month history of the checking account.

11 MR. GROSSMAN: Yes, the whole --

12 COMMISSIONER ZUNIGA: -- kit and
13 caboodle.

14 MR. GROSSMAN: What we are
15 recommending taking out, this is not your
16 drafts, is paragraphs five, six, seven and
17 eight here. This gets into mandating that
18 before increasing that the casino look at the
19 player rating that the person has developed.
20 It may be that casinos routinely do that as a
21 matter of course but we felt as though it
22 wasn't necessary to mandate that they check
23 someone's player rating for our purposes. So,
24 we recommend taking that out.

1 COMMISSIONER ZUNIGA: The 60 days do
2 strike me as a very short period of time. If
3 the average player is the occasional player,
4 two, three, four times a year and they may
5 frequent different establishments that could
6 require verification of almost every person.

7 MR. GROSSMAN: This is just for an
8 increase.

9 COMMISSIONER ZUNIGA: Oh, for an
10 increase. Sorry.

11 MR. GROSSMAN: We will get to that
12 point which is coming up next.

13 COMMISSIONER ZUNIGA: Thank you.

14 MR. GROSSMAN: That is on page 13, I
15 believe, where we get into the gaming
16 licensee's credit department obligations upon
17 opening a credit account. I'm sorry.

18 This goes back into verifying
19 credits, outstanding balances, outstanding
20 indebtedness and the like. We initially, as
21 you can see, had in there 12 months. We
22 switched it to 30 days. This is for I believe
23 an inactive account. Let me just check that.

24 I believe what this paragraph

1 discusses is inactive accounts and when re-
2 verification has to take place. And it was
3 suggested that 12 months is too long. We
4 looked at 30 days which is I think is the
5 recommendation and kind of discovered that that
6 would probably be too short for an inactive
7 account. So, we settled on six months which
8 seemed like more of a fair place to be. There
9 is no magic number. But it seemed like more of
10 a reasonable amount of time.

11 Page 16 this is not in there either
12 but this will come up later. What we would
13 like to do is move a section from the internal
14 controls over here. The one that talks about
15 establishing an identification file and a
16 methodology for ensuring that patrons'
17 identities are verified, this paragraph is
18 presently in the internal controls. We'd
19 recommend moving it over here.

20 On page 16, you'll see the series of
21 provisions dealing with the suspension of
22 credit privileges. And we at your
23 recommendation the last time we had this
24 discussion, we made efforts to try to align

1 this more closely with the voluntary self-
2 exclusion provisions.

3 And there are some which we were
4 able to include here in red. What you don't
5 see are some other adjustments that we'd like
6 to recommend that would establish a designated
7 agent and the like as we've done with voluntary
8 self-exclusion. Make it the exact same process
9 essentially where one could request suspension
10 of their credit through this designated agent
11 at any number of different locations.

12 And it goes through the
13 administrative end of how that application gets
14 processed, how the casinos get notified and how
15 we put it into the database. So, this the
16 draft does not include that, but we would like
17 to recommend that we adopt that language which
18 is essentially the same as language you've
19 already adopted in the other section.

20 COMMISSIONER MCHUGH: It sounds
21 good.

22 COMMISSIONER ZUNIGA: Makes sense.

23 MR. GROSSMAN: I'll try to wrap it
24 up here. There are a number of other places

1 that we are recommending changes. It might not
2 benefit us to go through each of those at the
3 moment.

4 We would at this point though, if
5 there are no further questions, request that we
6 be authorized to commence the promulgation
7 process. If we would be allowed to make
8 whatever certainly editorial or legal citation
9 corrections that need to be made upon further
10 review.

11 And with your approval we would also
12 make some of these additional changes that I
13 referenced as we were going through here just
14 to put it in the draft that's moving through
15 the process. I think that will help all of the
16 groups and individuals who have commented on
17 this understand that we actually agreed with a
18 number of their recommendations and they'd be
19 able to see it reflected in the draft.

20 Give everyone another opportunity to
21 comment on it. And ultimately you'll have the
22 final say after the public hearing which would
23 be in about a month or two months.

24 COMMISSIONER MCHUGH: Sounds good.

1 CHAIRMAN CROSBY: I like that.

2 MR. GROSSMAN: In that case, we'll
3 rest our case with that.

4 CHAIRMAN CROSBY: We need a vote, I
5 guess, right?

6 MR. DAY: Yes.

7 CHAIRMAN CROSBY: Commissioner
8 McHugh.

9 COMMISSIONER MCHUGH: I move that
10 the Commission authorize the promulgation of
11 the regulations we've just discussed those in
12 205 CMR 138.40 through 47 through the formal
13 comment period.

14 CHAIRMAN CROSBY: Second?

15 COMMISSIONER ZUNIGA: Second.

16 CHAIRMAN CROSBY: Discussion? All
17 in favor, aye.

18 COMMISSIONER MCHUGH: Aye.

19 COMMISSIONER CAMERON: Aye.

20 COMMISSIONER ZUNIGA: Aye.

21 CHAIRMAN CROSBY: Opposed? The ayes
22 have it unanimously. Thank you very much.
23 We've only got one more item under your -- Why
24 don't we finish this item and then we'll take

1 our lunch break.

2 MR. VANDER LINDEN: I have invited
3 Steve Keel who is the Director of Problem
4 Gambling Services at the Department of Public
5 Health to join me for this section.

6 CHAIRMAN CROSBY: Director of lounge
7 activities.

8 MR. VANDER LINDEN: This agenda item
9 pertains to the research recommendation in the
10 annual research agenda. Section 71 of 23K of
11 the Massachusetts General Law directs the
12 Commission with the advice of the Gaming Policy
13 Advisory Committee to develop an annual
14 research agenda in order to understand the
15 social and economic effects of expanded gaming
16 in the Commonwealth and obtain scientific
17 information relative to the neuroscience,
18 psychology, sociology, epidemiology and
19 etiology of gambling.

20 Further and since this was
21 developed, a memorandum of understanding
22 between the Massachusetts Gaming Commission and
23 the Executive Office of Health and Human
24 Services was signed and was signed on July 24

1 establishing a Public Health Trust Fund
2 executive committee.

3 It's the Public Health Trust Fund
4 executive committee that is authorized to set
5 an annual budget and protocols for expenditures
6 from the Public Health Trust Fund which
7 includes funding for the annual research
8 agenda.

9 About two years ago, and under the
10 direction of Chairman Crosby, an informal
11 Gaming Research Advisory Committee was
12 convened. It meets quarterly to help the
13 Massachusetts Gaming Commission, the Public
14 Trust Health Fund executive committee and the
15 Gaming Policy Advisory Committee. It advises
16 them on research matters.

17 As you well know, we have two
18 research projects underway at this point
19 SEIGMA, which is the social and economic
20 impacts of gaming in Massachusetts. That's
21 well underway. And what you all just
22 authorized to launch two weeks ago was the
23 Massachusetts Gaming Impact Cohort study. So
24 that is the existing research agenda.

1 So, in terms of making
2 recommendations for the annual research agenda
3 moving forward, on October 6 Director Keel and
4 myself met with the Public Health Trust Fund
5 executive committee and proposed three
6 recommendations to continue and expand the
7 research agenda. I'm sorry -- Those were then
8 taken to the Gaming Research Advisory Committee
9 and slightly revised.

10 And for the record, the Public
11 Health Trust Fund executive committee approved
12 of the three recommendations that were outlined
13 here. I'm sorry, as Steve pointed out the
14 Gaming Research Advisory Committee meeting was
15 actually on October 21 not on October 14.

16 The recommendations are as follows:
17 One, continue the scope of the current research
18 agenda including SEIGMA and MAGIC through the
19 next year. Two, establish evaluation measures
20 and processes, collect and analyze data and
21 report findings to determine the effectiveness
22 of responsible gaming initiatives outlined in
23 the Responsible Gaming Framework adopted by the
24 Commission on September 25, 2014.

1 The initiatives to be evaluated were
2 included, but are not limited to the voluntary
3 self-exclusion program, the responsible gaming
4 information centers located on-site of the
5 gaming establishment, play management features
6 if implemented by the Commission that are on-
7 site of the gaming establishment and further
8 efforts to minimize alcohol abuse that are
9 captured within the framework.

10 The third recommendation is in
11 accordance with Chapter 194 section 97, procure
12 services with an "experienced nonprofit
13 research entity" to collect anonymize, store
14 and disseminate information generated by
15 loyalty programs, player tracking software,
16 player card systems or other information
17 systems.

18 The data will be made available to
19 all five researchers for the purposes of
20 conducting analyses that improve the
21 understanding of how gambling addiction
22 develops and progresses, to developing
23 evidence-based harm minimization strategies and
24 three develop evidence-based systems to monitor

1 and detect and intervene in high-risk gaming.

2 Section 97 should be the next page
3 within your binder, the exact wording of
4 section 97.

5 So, therefore with those three
6 recommendations, we seek further advice from
7 the Commission prior to advancing these
8 recommendations to the Gaming Policy Advisory
9 Committee which is now scheduled for December
10 1.

11 CHAIRMAN CROSBY: Comments?

12 COMMISSIONER ZUNIGA: I benefited
13 quite a bit from attending the last Mass.
14 Partnership on Responsible Gaming meeting.
15 There were a couple of details that speak to a
16 couple of these recommendations that I think
17 are very much worthy of considering.

18 I don't know if we want to get into
19 many of those specifics but I think they are
20 really important for us to consider. I know
21 you are.

22 I think there's alternatives to
23 number three here, the procurement of an
24 experienced research facility. There's

1 different ways in which we could go. The most
2 obvious is just to simply execute an ISA with
3 DPH. That's only one alternative. So, I look
4 forward to getting those alternatives fleshed
5 out a little bit and then coming back with a
6 more detailed recommendation.

7 MR. VANDER LINDEN: I would say that
8 was an interesting meeting. I found it
9 incredibly beneficial to hear from our
10 licensees their questions, their concerns about
11 how we would move forward with implementing
12 that, that requirement under section 97.

13 COMMISSIONER ZUNIGA: Right. I
14 think it also merits -- this section
15 specifically, we would really benefit from
16 issuing regulations relative to essentially
17 interpreting this section. And I have some
18 thoughts. I'm sure others would have other
19 thoughts but I think that's a way to articulate
20 some of those recommendations and concerns that
21 we've heard from others.

22 CHAIRMAN CROSBY: That doesn't in
23 any way alter this, right?

24 COMMISSIONER ZUNIGA: No, no.

1 CHAIRMAN CROSBY: You're supporting
2 this?

3 COMMISSIONER ZUNIGA: Of course.
4 The general recommendation I think is a on
5 point. There's a lot more details. There's
6 alternatives obviously. One is to conduct an
7 RFP. I'm going to argue perhaps that we might
8 not. Another one is to conduct an RFI for this
9 third recommendation by the way, etc., but the
10 thrust of this is on point obviously.

11 MR. VANDER LINDEN: If I can add and
12 jump to recommendation number two in the
13 evaluation piece, if the Commission does decide
14 to move forward with play management systems
15 and follows -- I heard loud and clear from our
16 licensees that evaluation needs to be central
17 to that process. And I completely agree with
18 that. I think that in fact it needs to be if
19 we move forward with that as we move forward
20 with it, we would want to put evaluation side-
21 by-side with how it's structured.

22 COMMISSIONER ZUNIGA: Right. I
23 agree.

24 COMMISSIONER MCHUGH: I agree as

1 well. And I think the identity of the
2 evaluators needs to be something that we give
3 some thought to as well for both scientific and
4 collaborative reasons.

5 But that's similar to your comment
6 with respect to recommendation three with which
7 I agree. The methodology that we use to carry
8 these out is yet is in play but the
9 recommendations seem very solid.

10 CHAIRMAN CROSBY: So, everybody's
11 okay with moving this to the next level?

12 COMMISSIONER CAMERON: Yes.

13 COMMISSIONER ZUNIGA: Yes.

14 CHAIRMAN CROSBY: Okay, great. We
15 have our lunch here. So, can we do it in a
16 half hour? It's 1:15. We'll pick up again a
17 1:45.

18

19 (A recess was taken)

20

21 CHAIRMAN CROSBY: We are reconvened.
22 And we are on item number five, the
23 Investigations and Enforcement Bureau, Director
24 Wells.

1 MS. WELLS: Thank you, good
2 afternoon, Commissioners. On the agenda this
3 afternoon are the results of the suitability
4 investigations for two additional Penn National
5 qualifiers, John Finamore and Carl Sottosanti
6 as well as an additional MGM qualifier
7 Alexander Hunter Clayton.

8 Mr. Clayton was hired in March 2011
9 to be the Executive Vice president of MGM
10 Resorts Development, LLC. He is now deemed to
11 be a qualifier because he will be overseeing
12 the Springfield project in that capacity.

13 Mr. Finamore has been the Senior
14 Vice President of Regional Operations at Penn
15 National Gaming since 2002. In May 2014, he
16 was deemed to be a qualifier for the Penn
17 National license because of his oversight of
18 the Plainville facility in that capacity.

19 Mr. Sottosanti was promoted to the
20 position of Senior Vice President and General
21 Counsel for Penn National Gaming in February
22 2014 and was then determined to be a qualifier
23 for the Massachusetts license based upon his
24 position at that company.

1 All three qualifiers submitted all
2 of the required forms and supplemental document
3 requests to the IEB. And our investigators
4 conducted a rigorous background check. As I've
5 stated on numerous occasions, those areas
6 include employment history, criminal record,
7 education, directorships and shareholder
8 interests, civil litigation, bankruptcies,
9 property ownerships, political contributions,
10 references, media coverage. And investigators
11 also conducted a financial responsibility
12 evaluation with positive results for all three
13 of the qualifiers before you here today.

14 Mr. Clayton attended the University
15 of Houston where he was awarded a bachelor of
16 science degree in architecture in 1992. Before
17 being hired by MGM, Mr. Clayton's career
18 focused on architecture and design. He worked
19 for Bechtel in Abu Dhabi from 1991 until 2000
20 as a project manager. He then went to work for
21 Gensler as a principal in Las Vegas from 2001
22 to 2011. And as I stated previously was hired
23 by MGM Resorts in 2011 as an Executive Vice
24 President.

1 Mr. Clayton has not been licensed in
2 any other jurisdiction but does have a pending
3 application with the Maryland Lottery and
4 Gaming Control Agency. There were no
5 significant investigative issues uncovered
6 related to Mr. Clayton.

7 Mr. Finamore attended Cornell
8 University and received a bachelor of science
9 in hotel administration in 1980. He has a long
10 career in the hotel and casino industry. He
11 worked in several managerial roles in four
12 different hotels from 1984 until 1994. He then
13 worked in casinos in both Nevada and Missouri
14 from 1994 until 2002 before being hired as
15 Senior Vice President of Regional Operations by
16 Penn National.

17 Mr. Finamore disclosed on his form
18 submitted to the IEB that he had been licensed
19 or registered to participate in some form of
20 gaming in multiple jurisdictions. We checked
21 with numerous agencies including Nevada Gaming
22 Control Board, Pennsylvania Horse Racing
23 Commission, Missouri Gaming Commission, Maine
24 Gambling Control Board, New Mexico Gaming

1 Control Board, Maryland Racing Commission,
2 Illinois Gaming Board, Maryland Lottery,
3 Florida Department of Business and Professional
4 Regulation of Pari-Mutuel Wagering, Texas
5 Racing Commission, Ohio Casino Control
6 Commission, Indiana Gaming Commission and I
7 believe I may have said already Pennsylvania
8 Gaming Control Board. All of those licenses at
9 the time they were active were in good standing
10 they've either been withdrawn, current or
11 expired.

12 Those jurisdictions reported no
13 derogatory information related to Mr.
14 Finamore's licensure. Overall, there were no
15 significant investigative issues uncovered
16 related to Mr. Finamore's application for
17 licensure.

18 As to Mr. Sottosanti, he attended
19 Villanova University where he received a BA in
20 English in 1986. There's a slight correction
21 that was listed as 1994 in the report. It's
22 actually 1986 and later attended Villanova
23 University School of Law where he was awarded a
24 juris doctorate in 1989.

1 As I stated previously was promoted
2 in February 2014 to the position of Senior Vice
3 President and General Counsel at Penn National
4 Gaming. On October 1, 2014, the Massachusetts
5 Gaming Commission was notified that Mr.
6 Sottosanti will also assume the role of
7 secretary commencing November 10, 2014 that
8 just past due to the recent retirement of the
9 prior secretary, Robert Ippolito.

10 Mr. Sottosanti worked as an
11 associate at Schnader Harrison from 1989 to
12 1994, as Assistant General Counsel at Salient 3
13 Communication from 1994 to 1998, as General
14 Counsel with Sanchez Computer Associates from
15 1998 to 2003 before starting with Penn National
16 Gaming in 2003 originally as the VP of Legal
17 and the Deputy General Counsel.

18 Mr. Sottosanti's license to practice
19 law was granted in 1989 and is still current
20 and has never been revoked or suspended. He's
21 also been licensed in numerous jurisdictions.
22 I checked with Florida, Kansas, Indiana,
23 Ontario, Ohio and Maine, confirmed his
24 licensure and the status. All of his licenses

1 were in good standing and all jurisdictions
2 contacted reported no derogatory information
3 regarding Mr. Sottosanti's licensure.

4 There were no significant
5 investigative issues uncovered related to Mr.
6 Sottosanti's application for licensure.

7 Overall, all three of the qualifiers
8 on the agenda this afternoon have demonstrated
9 by clear and convincing evidence that they are
10 suitable for licensure in Massachusetts and
11 therefore the IEB is recommending the
12 Commission find them suitable. No conditions
13 are recommended.

14 CHAIRMAN CROSBY: Questions,
15 comments?

16 COMMISSIONER MCHUGH: No, very
17 thorough was usual.

18 COMMISSIONER CAMERON: No. Hard to
19 have questions, very clean reports. This is a
20 new role for our State Police investigators.

21 CHAIRMAN CROSBY: Do you want them
22 in one motion?

23 MS. WELLS: Yes, I think that would
24 work.

1 COMMISSIONER MCHUGH: I move that
2 the Commission find that Alexander Hunter
3 Clayton and John Finamore and Carl Sottosanti
4 are fully qualified in light of the IEB's
5 thorough investigation.

6 COMMISSIONER CAMERON: Second.

7 CHAIRMAN CROSBY: Any further
8 discussion? All in favor, aye.

9 COMMISSIONER MCHUGH: Aye.

10 COMMISSIONER CAMERON: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 CHAIRMAN CROSBY: Opposed? The ayes
13 have it unanimously.

14 MS. WELLS: Thank you. The next
15 item on the agenda is the internal controls.
16 You've been provided with a document. I would
17 just like to compliment the team that has been
18 working very hard on this.

19 The request this afternoon is the
20 document be forwarded out for official public
21 comment. We would receive public comment and
22 then potentially still make changes and work on
23 the document at that time. We did receive a
24 significant amount of input. Based on that

1 input there were a number of changes that were
2 made. You can see that in the redlined version
3 of your document. The parties that were
4 working on it particularly Mr. Grossman, Ms.
5 Loretta Lillios and Mr. Band, they spent hours
6 and hours meticulously going through the
7 internal controls trying to understand why any
8 particular area needed either more prescription
9 or less.

10 Chairman, you had mentioned earlier
11 the question about having a far more flexible
12 system of internal controls versus a very, very
13 detailed system of internal controls. I think
14 what you'll see here based on what the folks
15 that have worked on it have come up with is
16 it's sort of the balance. They tried to take
17 both the best that they could from each of the
18 approaches.

19 So, I'll turn it over to Mr.
20 Grossman and Mr. Band to sort of go through it
21 and answer questions that we may have. I think
22 that we took serious note of the comments made
23 by not only the industry but others including
24 Michael and Carroll. Some of the comments of

1 Michael and Carroll, they had already
2 incorporated in some of the changes.

3 So, I think people are thinking
4 along the same lines, but we are certainly
5 receptive to the comments, and any comments the
6 Commission may have as we move forward in the
7 process.

8 CHAIRMAN CROSBY: Let me ask the
9 macro question that I started to ask in the
10 wrong place. The Michael and Carroll letter
11 raises this issue about are we too
12 prescriptive. And I don't have a clue about
13 this. I have no ability to make a judgment as
14 to what's too prescriptive or not. So, I can't
15 exercise other than occasionally on sort of a
16 commonsense basis.

17 But I have a lot of confidence in
18 these folks. And they look at this, and look
19 at the position that we've taken on these regs.
20 but also an awful lot of other regs., as having
21 chosen to be in their view, I wouldn't say
22 overly prescriptive, but highly prescriptive as
23 opposed to the more flexible model. Why did
24 you come down that way? And how would you

1 respond to them? It's one thing to say the
2 industry say this. It's another thing to have
3 Michael and Carroll say this.

4 MR. GROSSMAN: I'll take a crack at
5 that. The first thing that I think is
6 important to note is as you observe the most
7 recent version, we did go through after
8 receiving MGM's comment initially and Penn
9 National suggesting that we look at the
10 approach and struck out a lot of the
11 prescription in a number of different areas.

12 So, I would be curious by looking at
13 their feeling on the most recent version of the
14 draft. They're looking at the old version,
15 which is the same one that some of the
16 licensees raised some of the concerns with.

17 And I can tell you that we spent a
18 great deal of time going through each section
19 with Bruce trying to understand what each
20 section did, and why it would be important to
21 be prescriptive versus the alternative which
22 you will see we did in a number of cases, which
23 is just to say you have to have a policy on
24 this, tell us what it is.

1 So, those are the two kind of polar
2 ends on this. One end is saying tell us what
3 your policy is. And the other is saying you
4 have to have a policy and it has to include
5 these 50 things in it.

6 So, as you'll see in many cases, we
7 move towards more of a just tell us what your
8 policy is. In a number of cases, which we can
9 go through you'll see though after discussing
10 with Bruce and others, we determined that it
11 would be important to be more prescriptive in
12 certain areas for a number reasons. One of
13 which being to ensure uniformity amongst the
14 properties.

15 So, I think we'd have to go through
16 each of those sections to point out why in
17 certain cases we are recommending that we go
18 with more of a risk-based approach and why in
19 others we are recommending more of a
20 prescriptive approach.

21 But I think that at least I hope
22 that the licensees and Michael and Carroll once
23 they have a chance to look at our most recent
24 proposal will be of the opinion that this is

1 more in line with what they had recommended.

2 CHAIRMAN CROSBY: I'd be interested
3 to have them to have you ask Michael and
4 Carroll that. I didn't realize they were
5 looking at a different version from the one I'm
6 looking at. Just as generalization I'd be
7 interested to see if they came down the same
8 way or not as you're suggesting.

9 COMMISSIONER ZUNIGA: If I may
10 expound on this, but of course there is a big
11 opportunity now that we would be in the formal
12 process for our licensees like MGM to really
13 highlight the one or few sections and make a
14 business case, convince us otherwise or
15 convince you otherwise as to why there may need
16 to be more of a standard space approach rather
17 than a prescriptive approach.

18 COMMISSIONER CAMERON: Although in
19 reading this and I had the chance to sit with
20 the team yesterday and really go through it,
21 there are many things that have been stricken.
22 And we really are allowing more flexibility.

23 But I also was persuaded by the fact
24 that we will have three to four facilities.

1 And in certain cases the uniformity will really
2 help in regulating properly rather than let me
3 read this plan. Or I'm going to go into a
4 different casino, they have a different plan.
5 That was persuasive to me that in certain areas
6 we did need to follow a format and really give
7 specifics as to what is expected.

8 MR. GROSSMAN: A lot of this is a
9 judgment call. It's not an exact science, of
10 course.

11 CHAIRMAN CROSBY: How do you want to
12 handle this? This is a lot of stuff. If
13 you've got things that you think are
14 highlights, do you want to take the questions
15 from the bench?

16 MR. GROSSMAN: Perhaps we just take
17 questions and at the end there are a couple of
18 points if they don't come up in questions you
19 ask that we could circle back to.

20 CHAIRMAN CROSBY: Anybody?

21 COMMISSIONER ZUNIGA: I guess let me
22 ask you if you can think of sections that you
23 particularly feel strongly about the way we've
24 approached or remained in a prescriptive way

1 for example.

2 MR. BAND: One is the count process.
3 And some of the major stings throughout history
4 in gaming have evolved out of the count room
5 itself not having proper procedures for check
6 accounting equipment and how they handle the
7 money.

8 Also, the more prescriptive things
9 makes it easier for surveillance to tell if
10 somebody is doing something that they
11 shouldn't. That's an area that I felt very
12 strongly about. And I think Todd agreed.
13 Access badges too is probably used by us 90
14 percent of the time. And if the badges are
15 different everyplace you go, nobody is ever
16 going to (INAUDIBLE).

17 MR. GROSSMAN: There are a couple of
18 other hot button areas. One of them was the
19 amount of personnel that had to be assigned to
20 different areas in the gaming arena. We made
21 some adjustments to the numbers, but ultimately
22 left in some of the prescriptive requirements
23 as far as how many individuals and which
24 individuals had to monitor certain games within

1 the casino. That was an areas that I think
2 number of licensees commented on. But we left
3 that in, because we thought that was very
4 important.

5 COMMISSIONER ZUNIGA: Right.
6 Because there could be a reverse incentive to
7 try to save money by --

8 MR. BAND: This became a games
9 integrity issue that if you didn't have
10 supervision place for them that it would be a
11 problem. And I think it would come down to a
12 lot of properties as I need to cut costs. It's
13 worth the risk.

14 COMMISSIONER ZUNIGA: But the way
15 it's structured here, it's scalable to the
16 activity, right? If it's in the middle of the
17 night or a very slow time, they can have the
18 operational flexibility.

19 MR. BAND: Right.

20 MR. GROSSMAN: The converse of that
21 is for areas that we did cut back. For
22 example, on page 51 it talks about the
23 accounting controls for the cashier's cage, the
24 coin banks, etc., etc. And we went from a very

1 prescriptive set of regulations down to one
2 that just says that they have to submit their
3 detailed protocols and procedures for how
4 they're going to account for the operations of
5 the cage essentially.

6 And there are a number of places
7 where we did things like that where in our
8 judgment that would be acceptable. So, we did
9 take those comments to heart and went through
10 it section by section and made a value judgment
11 as to whether to keep language or to exclude
12 it.

13 CHAIRMAN CROSBY: Did you change the
14 document retention period?

15 MR. GROSSMAN: We did. That's
16 another area.

17 CHAIRMAN CROSBY: I know you cut a
18 lot of stuff out. I didn't notice you actually
19 changed the period of time.

20 MR. GROSSMAN: What we did was we
21 consulted with Derek Lennon on this one who has
22 had an opportunity to work with the
23 Commonwealth's retention policy. In the arena
24 of accounting records and personnel records

1 primarily and some tax records, we say that the
2 casinos will have to follow the state's
3 retention policy.

4 And in a number of other areas you
5 may have observed, we just say you have to keep
6 these records but you tell us what your
7 retention policy is. So, we relaxed it and
8 clarified it all in one fell swoop instead of
9 listing out every document and providing a
10 retention period for it.

11 One of the other things I would just
12 note is we removed all of the language relative
13 to simulcasting and pari-mutuel activity. It
14 may be slightly premature to include it at this
15 point in that we haven't had a chance to
16 reconcile it with the Racing Division protocols
17 and regulations.

18 So, I think we'll have to come back
19 to that in the not-too-distant future. But as
20 far as this document was concerned, we are
21 recommending that we remove that for now.

22 COMMISSIONER ZUNIGA: Are there
23 other areas that we'll have to come back
24 relative to floor operations because the

1 Category 1's are not coming on-line for a
2 while?

3 MR. BAND: There's whole sections
4 that deal with actual table games like bringing
5 tips to and from the tables. I think it's
6 maybe 10 regulations, something like that maybe
7 15 that addresses table game operations.

8 COMMISSIONER ZUNIGA: Right.

9 CHAIRMAN CROSBY: What did you do,
10 if anything, about the gaming day question?

11 MR. GROSSMAN: We did not tackle
12 that issue yet. We kind of left it as it was.
13 I think that issue may warrant more of a
14 thoughtful discussion.

15 CHAIRMAN CROSBY: As far as asking
16 you, because we never really discussed it.
17 How does this one minute thing work?

18 MR. GROSSMAN: We'll have to talk
19 about what the law actually says and what it's
20 intended to do and what it means and how you
21 want to implement it, I think. That's probably
22 a longer discussion.

23 MR. BAND: There are problems. Back
24 in the early days we would close at four or six

1 AM. You couldn't get some of the players off
2 the floor because the craps roll hadn't been
3 decided and the game might go an hour into the
4 time. When you only have a minute, I'm not
5 quite sure how we'll handle that.

6 CHAIRMAN CROSBY: Have we do any
7 legislative research not just on the paper
8 record about that section?

9 MR. GROSSMAN: Not that I'm aware
10 of.

11 CHAIRMAN CROSBY: Well, at some
12 point we need to figure that one out. Anything
13 else? Any other highlights you wanted to
14 mention?

15 MR. GROSSMAN: That covers most of
16 it. Like the previous one, although it's to a
17 lesser extent here, we just ask for an
18 opportunity to go through it and go through the
19 citations and correct or make any adjustments
20 necessary, correct any non-substantive
21 grammatical or other errors.

22 There are a few minor tweaks we
23 would also make in some of the definitions and
24 the like. For example, the definition of

1 incompatible functions, we found a better
2 definition that we would replace the existing
3 one with. It doesn't really change anything
4 here.

5 So, changes like that with your
6 consent we would just tweak in the draft that
7 we're moving through the process. But
8 otherwise, request that you allow us to move
9 this.

10 CHAIRMAN CROSBY: Do I have a
11 motion?

12 COMMISSIONER CAMERON: I'll move
13 that we move, we vote in the affirmative to
14 move forward to internal controls, operations,
15 accounting and gaming procedures.

16 CHAIRMAN CROSBY: Second?

17 COMMISSIONER MCHUGH: I'll second
18 it. There will be a period of long discussion.

19 CHAIRMAN CROSBY: Discussion?

20 COMMISSIONER MCHUGH: We already did
21 40 through 47, right? And does this draft
22 parallel 138.40 through 47 that we talked about
23 earlier?

24 MR. GROSSMAN: It does. Those would

1 go right in.

2 COMMISSIONER MCHUGH: As they're in
3 the book now, are they precisely the same?

4 MR. GROSSMAN: The numbering is
5 precisely the same.

6 COMMISSIONER MCHUGH: I know the
7 numbering is precisely the same. Is the text
8 precisely the same?

9 MR. GROSSMAN: I hope I understand
10 the question. But in the document we are
11 looking at now, it just says reserved under the
12 section. So, we would just slip that language
13 in there.

14 COMMISSIONER MCHUGH: That ought to
15 be clear because some of them don't say
16 reserved. In other words, this motion includes
17 138.01 through one 138.39 and 138.48 through
18 138.72. We already having disposed of the
19 others.

20 MR. GROSSMAN: Right.

21 COMMISSIONER MCHUGH: Just so the
22 record is clear and we don't have an ambiguity
23 now as to which version of 40 through 47 we
24 have.

1 MR. GROSSMAN: Right. The one that
2 you approve today will merge with this document
3 essentially. And we'll move it through
4 actually as one document.

5 COMMISSIONER MCHUGH: As one single
6 document, right. Okay.

7 CHAIRMAN CROSBY: Any further
8 discussion? All in favor, aye.

9 COMMISSIONER MCHUGH: Aye.

10 COMMISSIONER CAMERON: Aye.

11 COMMISSIONER ZUNIGA: Aye.

12 CHAIRMAN CROSBY: Opposed? The ayes
13 have it unanimously.

14 MS. WELLS: Thank you.

15 CHAIRMAN CROSBY: Next up is the
16 ombudsman report.

17 MR. ZIEMBA: Mr. Chairman, if it
18 would be okay with you, I'd like to invert the
19 order of my presentation because we have
20 Director Wells if there's any questions
21 regarding Region C, I'd like her to be here to
22 help me answer them.

23 Mr. Chairman, and Commissioners, at
24 the last Commission meeting, the Commission

1 decided to move the application dates for the
2 Region C Category 1 gaming application.

3 The Commission decided to change the
4 deadline for the RFA-1 application date from
5 December 1 to the end of January. The
6 Commission also decided to change the deadline
7 for the RFA-2 application date from March 27,
8 2015 to the end of May. The Commission also
9 asked me to come back at this meeting to
10 finalize the exact dates.

11 In your packet is a draft timeline
12 with the recommended new application dates.
13 Consistent with the discussion at the last
14 meeting, the new recommended RFA-1 application
15 date is January 30, 2015. That's a Friday.
16 And the new recommended RFA-2 application date
17 is May 26, 2015 and that is a Tuesday.

18 Scoping, in regard to scoping
19 consistent with the discussion at the last
20 meeting, we will require that a scoping session
21 shall occur no later than two weeks prior to
22 the RFA-1 deadline. Therefore, the required
23 scoping session should occur no later than
24 January 16, 2015. That's up there on that

1 chart. In order to give the IEB time to review
2 materials in advance of the scoping meeting,
3 the IEB requires applicants to submit a number
4 of materials prior to that scoping session.

5 These are due no later than one week
6 prior to the required scoping session.
7 Therefore, materials would need to be submitted
8 no later than January 9, 2015.

9 In regard to host community
10 agreements and how these new deadlines have an
11 interplay with them, as you know the results of
12 a successful host community referendum must be
13 submitted with all RFA-2 applications.

14 Pursuant to the Gaming Act, host communities
15 may not hold a referendum until after a host
16 community agreement is executed and an
17 applicant makes a request that the community
18 schedule the referendum. Also pursuant to the
19 Gaming Act, the host community shall hold the
20 referendum between 60 and 90 days after such
21 request.

22 In addition to this requirement, in
23 cities the General Laws require a 10-day
24 certification period before a local referendum

1 vote may be certified. Given these
2 requirements, we've estimated the last day a
3 Region C gaming applicant and a host community
4 could execute a host community agreement due to
5 local requirements and notice periods, it's
6 likely that communities would need to execute
7 such agreements well ahead of these last
8 remaining estimated days but for illustration
9 purposes we're including them here.

10 So, with a May 26 application date,
11 the last workday for a referendum with the 10-
12 day certification period would be Friday, May
13 15, 2015. You could also hold a referendum
14 potentially on a Saturday as well. Moving back
15 60 days that would take us to March 17, 2015
16 for the execution of a host community agreement
17 with a 60-day review. That would take us to
18 February 13, 2015 for execution of a host
19 community agreement with a 90-day review.

20 Again, those final dates are
21 probably not realistic given that once
22 something is executed, you have to provide
23 notice to your governing body in order to get
24 them ready to make the requisite scheduling

1 votes. But for illustration purposes, we would
2 put those out there.

3 So, in summary, I think the dates
4 that we are putting forward, the new date of
5 Tuesday, May 26, 2015 of the RFA-2 application
6 date and January 30 for the RFA-1 application
7 date are consistent with the Commission's
8 discussion last week in tandem with the
9 requirement that we provide a scoping, a
10 required scoping session at least two weeks
11 prior to the RFA-1 date.

12 CHAIRMAN CROSBY: Okay, thank you
13 very much. Any questions or comments?

14 MR. ZIEMBA: We'll post those new
15 dates on our website.

16 COMMISSIONER ZUNIGA: And as a
17 refresher of last time we discussed this, they
18 would have to be substantially complete on that
19 January 30 date. But in reality until we can
20 see that -- until you can see that packet, you
21 can make that determination whether it's
22 substantially complete or not, correct?

23 MS. WELLS: Correct.

24 CHAIRMAN CROSBY: So, in the past

1 we've been fuzzy, very fuzzy about what
2 substantially complete is. Do we have a clear
3 standard now?

4 MS. WELLS: Part of it, it's
5 dependent on what the applicant tells the IEB.
6 If the applicant comes into the scoping meeting
7 and says this is my whole package, here it is,
8 then that's their complete package and I'll do
9 an investigation as to their complete package.
10 If they don't have essential components, they
11 may have a finding or a recommendation of
12 unsuitability at the end of the day. But if
13 that's their whole package --

14 What I'm trying to avoid here is a
15 situation where we have an applicant come in
16 and say, well, I've got this piece or this
17 piece, but I'll bring in an operator later.
18 And they're telling me on the front end this is
19 not my whole deal but I'll get it to you, I'll
20 get it to you, I'll get it to you. That's what
21 I'm trying to avoid.

22 So, I'm expecting that applicants
23 when they do these scoping meetings will be
24 truthful with the IEB and tell us really what

1 is the lay of the land here and what are we
2 dealing with. Then I can report back out to
3 the Commission exactly what that is. And the
4 Commission can be the ultimate determination
5 about whether it's really worth it to go
6 forward with that applicant or not.

7 So, a lot of it is dependent on what
8 the applicant communicates to us as to their
9 plan.

10 COMMISSIONER MCHUGH: But I thought
11 we had a discussion last time as to what we
12 were looking for in terms of substantial
13 completeness?

14 MS. WELLS: Yes.

15 COMMISSIONER MCHUGH: And we spent
16 some time trying to define that albeit with
17 some flexibility for you to make the kinds of
18 judgments that you just talked about. But I
19 thought we said the essential ingredients, and
20 I don't have the discussion in front of me now,
21 I thought we gave what the essential
22 ingredients were.

23 MS. WELLS: Yes. And you are
24 correct in that the financing would be in

1 place, the equity ownership -- the financing
2 and the equity portion of the financing. You
3 have the money. You may have to borrow money
4 from a financial institution, but you have
5 enough equity to reasonably be assured that you
6 could borrow the remaining money to complete
7 your project. And also the experience to
8 operate the facility, whether you bring in
9 another operator or you have the experience on
10 your own. And what was the third component?

11 COMMISSIONER ZUNIGA: The
12 development team, the ownership structure.

13 MS. WELLS: Yes, what is the
14 ownership structure, so your full TO. So, you
15 are correct. That's what I'll be looking at
16 when I report back out to the Commission.

17 COMMISSIONER MCHUGH: So, it seems
18 to me that whatever advertising we do on our
19 website as to what we are looking for on that
20 day that discussion ought to be there. So,
21 it's not just come on in and whatever you
22 happen to have in the desk.

23 MS. WELLS: Yes. And when we have
24 been talking to potential applicants or folks

1 that are interested in Region C, what you have
2 highlighted is what we've been communicating to
3 them. You are correct.

4 COMMISSIONER ZUNIGA: And that
5 financing piece is a very important and nuanced
6 piece. It does not mean you have to have your
7 whole financing in place, but the plan makes
8 sense. The equity portion is all there,
9 understanding that you are going to go borrow
10 later on because it's premature to have all
11 that borrowing done.

12 COMMISSIONER CAMERON: Director
13 Wells, I'm looking at the six-week timeframe
14 for investigations. Are you comfortable with
15 that?

16 MS. WELLS: It depends. If we have
17 one applicant that comes in and has already had
18 a suitability investigation and we just need to
19 update it that potentially is doable. If I
20 have a new applicant with an international
21 component that is not doable. So, I'll report
22 back out to you when I receive the application.

23 COMMISSIONER CAMERON: So, that's a
24 placeholder for investigations. That could

1 significantly change this.

2 MS. WELLS: Correct. Absolutely.

3 COMMISSIONER ZUNIGA: As a reminder
4 anybody is welcome to get a scoping meeting as
5 of last week, as of two weeks ago.

6 MS. WELLS: Right now. We are open
7 for business.

8 CHAIRMAN CROSBY: Anything else on
9 Region C? Any other updates Ombudsman.

10 MR. ZIEMBA: So, the next item is we
11 have MGM's FEIR filing. Commissioners,
12 recently MGM submitted its Massachusetts
13 environmental policy act, MEPA final
14 environmental impact report. MGM's development
15 partner, Davenport Companies, Chuck and Jed are
16 here today to give the Commission a brief
17 update regarding the FEIR.

18 We are currently reviewing the
19 submission. Representatives from Pinck met
20 with Davenport earlier this week. Notice of
21 MGM's FEIR filing will appear in the November
22 24 Environmental Monitor. That will begin the
23 30-day comment period with comments due no
24 later than December 24. It's anticipated that

1 any decision on the FEIR filing would be issued
2 by December 31, 2014. I'm going to ask
3 Davenport's president, Chuck Irving, to
4 introduce the rest of his team.

5 MR. IRVING: I'm Chuck Irving. I'm
6 with Davenport Properties. We're MGM's
7 development partner in Springfield. Maureen
8 Cavanaugh is with Epsilon and Associates. I
9 know you know Jackie. Carrie Julien is with
10 Gensler and Associates and they are our lead
11 design firm.

12 And I know you've seen this before,
13 but if you'd indulge me I'd like to just take
14 you through the project. As you know, the FEIR
15 is all about the impacts this project has on
16 the environment. So, I will just go through
17 the areas that we are impacting relative to
18 downtown Springfield. This view is Main
19 Street. This is where MGM is going to be
20 building retail and apartments above facing out
21 towards Main Street.

22 We can go to the next one. Once
23 again this is an overview of Main Street also
24 looking down Howard Street. Howard Street

1 leads into the retail plaza that we all see.
2 And you can look across the apartments over
3 toward our 260-room hotel plus our office
4 tower. The office tower is actually already
5 there. It's the original MassMutual building.

6 CHAIRMAN CROSBY: Can you sync,
7 okay, because I want the audience to be able to
8 see these along with you.

9 MR. IRVING: This is the retail
10 plaza, which if you go down Howard Street you
11 can see. This is the outdoor activity area
12 that's free and open to the public. Within
13 this area, we're going to have the movie
14 theater, luxury bowling, many restaurants and
15 shops. And obviously it's centered around da
16 Vinci Park which is the city park and the
17 historic Armory building which will be
18 preserved and repositioned for a food and
19 beverage venues.

20 COMMISSIONER CAMERON: Can I ask a
21 question, Chuck? What makes bowling luxury?

22 CHAIRMAN CROSBY: I was just going
23 to ask the same thing.

24 MR. IRVING: Oh, my goodness. It's

1 designed so you can have a meal there and you
2 can reserve it. If anybody has been down to
3 Mohegan Sun down there they have an extremely
4 high-end bowling facility versus something
5 which I like to go to Kings which we have in
6 Boston.

7 But a little bit higher end in terms
8 of the seats you sit into, the video screens
9 that are on the walls and the food that is
10 being served. What is going to be interesting
11 about this facility is it will be connected to
12 our movie theater above. And we will have it
13 all working off of one food and beverage
14 kitchen area. So, this'll be one 80,000 foot
15 food and beverage facility that includes the
16 cinema and the bowling.

17 And I think in terms of business
18 what we see a lot are companies renting these
19 spaces the hold events and people using them
20 for family parties and things like that.

21 COMMISSIONER CAMERON: They serve
22 the beer in a glass maybe as well?

23 MR. IRVING: Yes, absolutely.

24 COMMISSIONER MCHUGH: Leather seats.

1 MR. IRVING: Absolutely. It will be
2 a very, very beautiful facility, and I think
3 different than what bowling is in Western
4 Massachusetts right now.

5 The next slide, if we can get to it,
6 is just the overview of the park at nighttime.
7 Once again, this is looking in the other
8 direction. As you can see, the backs right out
9 onto Union Street. And Union Street in our
10 original design we kind of had our back into
11 it. And with a lot of encouragement from the
12 town and the historic commission, we've opened
13 this entire project up to Union Street. Union
14 Street is one of the busiest streets in the
15 city. So, clearly we're going to have an
16 impact there.

17 This is our hotel tower, which
18 fronts on State Street. And we're looking at
19 the view from East Columbus Avenue. Bliss
20 Street is the street that you are looking at
21 that curves around here. And Bliss Street is
22 one of the streets that will be partially
23 abandoned in the process to build this
24 facility. Bliss Street is well known from Dr.

1 Seuss. So, we intend to memorialize Bliss
2 Street and remember it as part of this project.

3 The hotel will open up onto State
4 Street. And we have plans for sidewalks that
5 allow people to walk from the parking garage
6 right there to the hotel and to surrounding
7 businesses.

8 COMMISSIONER MCHUGH: There's a new
9 building there that wasn't on prior drawings.

10 MR. IRVING: Which one are you
11 looking at?

12 COMMISSIONER MCHUGH: The next one
13 down, right there the one in back of the red
14 brick.

15 MR. IRVING: The low one, that is
16 101 State Street which is the original
17 MassMutual building. That's always been on our
18 list. I think we're just kind of showing a
19 view of it that you haven't seen before.

20 That's we're planning on putting
21 MGM's corporate offices. The building was
22 MassMutual's original headquarters. The
23 ceiling heights in those buildings and the
24 windows are phenomenal. It's going to be a

1 great facility.

2 COMMISSIONER MCHUGH: Are we talking
3 about the same one?

4 MR. IRVING: Oh, I'm sorry, the
5 little one in the foreground. That's a
6 building that we do not own. That's owned by a
7 local business person. It's about a 30,000
8 foot building. That's fully tenanted right
9 now. That building as well as the brick
10 building which we call the Bacon and Wilson
11 building right in front of the white one are
12 two buildings that will remain and the project
13 kind of wraps around both of them.

14 COMMISSIONER MCHUGH: That building
15 that's not the current -- It's got 55 on it. I
16 guess it's 55 State, right?

17 MR. IRVING: 55, correct.

18 COMMISSIONER MCHUGH: But that's not
19 its present configuration.

20 MR. IRVING: Yes, it is.

21 COMMISSIONER MCHUGH: It is? I've
22 forgotten. I didn't think it was that modern.

23 MR. IRVING: And we're going to work
24 with that landlord or that building owner on

1 some landscaping around here to kind of
2 integrate everything. I think this visual is a
3 little stark in terms of what we intend to do
4 for trees as you enter into the MGM entrance,
5 but it's all going to come together nicely.

6 CHAIRMAN CROSBY: That's the parking
7 garage on the right.

8 MR. IRVING: That's the parking
9 garage on the right, correct. That is the
10 primary entrance to the parking garage as well
11 as an exit. There's one primary entrance to
12 this garage and there are three exit points.

13 CHAIRMAN CROSBY: What's the other
14 side?

15 MR. IRVING: We have an exit onto
16 Union Street. We have an exit onto Howard
17 Street. And we have an exit onto this street.
18 We also have an entrance and exit for buses and
19 trucks off of Union Street that is separate
20 from all three of those.

21 CHAIRMAN CROSBY: Why only one
22 entrance?

23 MR. IRVING: I'm not a parking
24 garage designer, but I think it more

1 efficiently distributed the traffic. It was
2 really looking at how we were impacting the
3 intersections. And with the guidance of TEC,
4 TEC our traffic consultant this led to the
5 least impact in their model.

6 COMMISSIONER ZUNIGA: They can
7 continue to the parking garage or go to the
8 valet in a different turnaround which is right
9 there.

10 MR. IRVING: So, this is a view down
11 State Street. We are looking eastbound from
12 State Street up towards the intersection of
13 Main Street. And you're capturing obviously
14 the hotel and the original MassMutual building
15 at the very end.

16 Once again, we're back to the retail
17 plaza. The Armory is going to be the whole
18 focal point of our historic preservation. This
19 building is almost 20,000 feet in size. Our
20 intent is to literally redo the entire interior
21 and preserve three sides of the exterior. The
22 southern facing side will be redeveloped
23 because we have to tear down that back area.

24 Once again we're at the nighttime

1 position showing da Vinci Park. da Vinci Park
2 is a city-owned property. It will stay city-
3 owned. What you'll see differently in our FEIR
4 submittal is a cul-de-sac that comes down in
5 front of this park to provide legal frontage so
6 it can remain city-owned.

7 CHAIRMAN CROSBY: Who will take care
8 of it?

9 MR. IRVING: We will.

10 CHAIRMAN CROSBY: You'll clean it,
11 plow it?

12 MR. IRVING: Yes. We've been
13 working with Kevin Kennedy and his team. We're
14 going to take out the children's playground
15 facilities and probably relocate those down to
16 the Riverfront Park. And Pat Sullivan will be
17 relocating those not us because that would trip
18 us into a federal permit. Then we were going
19 to do probably a topiary garden design here
20 through Copley, Wolff and Associates.

21 I think you can keep going. I think
22 this pretty much covers it unless you can get
23 me a view of East Columbus Street and the
24 garage. Okay, right there. And we've got

1 better architectural views of this but this
2 elevation obviously does not show the garage
3 treatment that we've agreed to do there.

4 And that was going to be part of
5 your discretion. We'll bring in materials to
6 you to show you what we think should have there
7 and look for your comment on that. The parking
8 garage is nine levels. We've got about 3600
9 cars there.

10 As I mentioned there's four points
11 of exit, two points of entry. One of those
12 points of entry is for cars and one is for
13 trucks and buses. I think that's it.

14 If I can just start by saying we
15 filed our FEIR this month right after the vote.
16 And we are very proud of the submittal. It is
17 a culmination of two and a half years of work.
18 And if you'll allow me, I'd like to mention the
19 Massachusetts firms that put that together.
20 Copley Wolff and Associates led us on our
21 landscape design. Form and Place led the
22 retail design, the park design that everybody
23 seems to love so much. TEC worked with us on
24 the traffic. DOT as well as all of the

1 surrounding communities TEC was involved in.

2 Allen and Major took the lead with
3 infrastructure, specifically with Springfield
4 sewer and water. Vanderweil did the mechanical
5 engineering. Nelson Nygard worked with us on
6 the public transportation piece of this.

7 Epsilon is our go-to environmental
8 consultant on almost everything. And Maureen
9 leads that team. And Gensler and Associates
10 led really the design effort that held this all
11 together. And then finally Joy Martin, who I
12 think you've all met really is the one that
13 herded all the kittens and kept us all together
14 to get this done on time.

15 Probably the best team I've ever
16 worked with in Massachusetts. And really happy
17 to have them on board.

18 CHAIRMAN CROSBY: These were all
19 Massachusetts companies?

20 MR. IRVING: All Massachusetts
21 companies, and these were only the lead
22 companies. We have many more Massachusetts
23 companies. But the ones I just mentioned have
24 been working on this for over two years, and I

1 think their work has been great.

2 As John mentioned, we are looking
3 for this to be published in the Environmental
4 Monitor on the 24th of this month. We go into
5 a 30-day comment period. And during that
6 period I would expect to get comments from the
7 Springfield Historic Commission as well as some
8 abutters to the project.

9 Yesterday we met with the abutters.
10 Clearly, they still have concerns. They made
11 initial comments in our preliminary filing.
12 And if you notice, we took many of their
13 comments into consideration and changed the
14 project in certain areas. They were grateful
15 for that.

16 I think the remaining comments
17 really go toward the height of the parking
18 garage. I think they wish it was a little bit
19 smaller, but that's about all we can do with
20 the parking that we need out there.

21 With regard to the Springfield
22 Historic Commission, I go back, I drive from
23 here to there for a meeting tonight. And as
24 you know they had 12 buildings that were of

1 concern that we are impacting.

2 We've reached resolution on nine of
3 those properties. The three open issues are
4 the Armory, the hotel on Main Street and the
5 old YWCA. We're going to spend some more time
6 with them tonight, listening to their concerns,
7 telling them some of the ideas that we've come
8 up with. I think the reality is their mandate
9 is to protect the history of Springfield. And
10 we have to get this facility built.

11 And we may not end up fully agreeing
12 on these three buildings. So, what we are
13 going to recommend to them tonight is that when
14 we meet with the Mass. Historic Commission that
15 they come with us. So, all sit at the table
16 and we talk it through. We've always had good
17 ideas that come out of those meetings. But
18 they have been such a great group to work with
19 that we want to give them a firm seat at the
20 table.

21 So, we're expecting a decision on
22 the FEIR hopefully by the end of December.
23 That will pretty much close out what we're
24 looking to do with the state.

1 We still have a lot to go locally.
2 And on Monday, Mike Mathis is going to meet
3 with the City Council and get them up to speed
4 on where we are. We have to get our site plan
5 approval done with the city. Through the City
6 Council, we have to get our 121A approved and
7 we have to get our zoning overlay done.

8 All of these things have been in the
9 works for over a year with city staff. So,
10 none of this is going to be new or a surprise.
11 But Mike is going to take the first step on
12 Monday which will then lead toward us going
13 formally to the city in January for approvals
14 on all of those matters.

15 Initially, I know everybody knows
16 we're out there working right now. We are
17 doing is doing test pits and environmental
18 studies that will lead to our demolition
19 permits. Our hope is to get approval on road
20 closures and demo permits in January. And
21 begin the demolition work in earnest in
22 February and March. And that will keep us well
23 on our 30-month schedule which I am happy to
24 report we are on right now and we are meeting.

1 The federal permits, we only have
2 one that we need. It's the water runoff that
3 goes into the Connecticut River. We're
4 anticipating that's going to be a two-month
5 process to get that and probably we'll have
6 that by April 1.

7 Outside of the city we need still
8 the Sewer and Water Commission to give us sign
9 off because that's a separate organization.
10 Sewer and Water Commission gave us a memo in
11 May which we responded to earlier this month.
12 And hope to reconvene with them and tie up the
13 loose ends on that as well.

14 Not a formal approval but a critical
15 line item is the Viaduct. Our project timeline
16 is contingent upon really precise coordination
17 with the Viaduct construction. We cannot
18 determine that until the state hires their
19 general contractor. The bid date for that for
20 the state is February.

21 So, I anticipate in March I'll be
22 coming to you and saying here is what the
23 construction looks like. Here's when we are
24 going to be closing roads. Here is when the

1 state is going to be closing exit ramps. I
2 wish we could be telling you that now, but we
3 really can't do that independently without info
4 from the state. And the state can't do it
5 without their general contractor.

6 CHAIRMAN CROSBY: Does that leave
7 critical path items in flux? Or you can't tell
8 us the date but you know the ranges will be
9 such that it's not going to change your
10 schedule?

11 MR. IRVING: I think as long as they
12 stay on the schedule that Michael O'Dowd the
13 head of the project has put on, we're going to
14 be fine. Michael's got his arms around on the
15 project. What would change our dates would be
16 awarding of the project.

17 Because right now Michael is
18 scheduled to finish his project really the same
19 month we are in September 2017. We're worried
20 that exit ramps may not be opened when we're
21 finished if they're not done on time. And we
22 can't open this giant facility without exit
23 ramps.

24 So, it's a process that Rick and

1 John Ziemba and Pinck and all of us are
2 involved in. I can tell you it's going as good
3 as it can. And we are going to do everything
4 we can to make sure it's properly coordinated.

5 CHAIRMAN CROSBY: Okay. Good luck.

6 MR. IRVING: Thank you.

7 CHAIRMAN CROSBY: Anything else?

8 COMMISSIONER MCHUGH: No. This
9 looks very ambitious as it always has. It's
10 good to hear the progress you're making. It's
11 really a very exciting project.

12 MR. IRVING: Thank you very much.

13 MR. ZIEMBA: That's the end of my
14 report.

15 CHAIRMAN CROSBY: I think it is
16 General Counsel Blue.

17 MS. BLUE: First on our list today
18 are the license, final license decisions for
19 Region A and Region B. I have Mr. Grossman
20 here to talk to you about Region B. And as
21 part of Region B, we also want to discuss the
22 definition of gaming establishment.

23 We had already completed that for
24 Region A. And that was included in the

1 agreement to award a license that was executed
2 by the Commission.

3 These are the drafts. What we would
4 like to do is get your approval of them today.
5 Then we will put them in a final executable
6 form for you to sign. Once they're signed, we
7 will post them on our website so they're
8 available to everyone.

9 CHAIRMAN CROSBY: What sequence do
10 you want to take these in?

11 MS. BLUE: Why don't we do Region A
12 first. It might be a little quicker.

13 CHAIRMAN CROSBY: Just to keep
14 everything consistent, I'm just going to stay
15 out of that conversation. I wasn't a part of
16 the deliberation or a part of the vote. So,
17 I'll let Commissioner McHugh supervise.

18 COMMISSIONER MCHUGH: All right. We
19 have a draft of the Region A findings, the
20 findings under section 18 of Chapter 23K.
21 General Counsel Blue you can invite -- We've
22 all had a chance to review those. Commissioner
23 Stebbins is not present, but we have three
24 Commissioners which amounts to a quorum and we

1 can act.

2 So, General Counsel you may proceed
3 to deal with this in whatever way you choose
4 and then we can ask whatever questions we have
5 and bring it to an appropriate vote.

6 MS. BLUE: So, this decision is
7 written in the same format that we used for the
8 Category 2's. This is a comparative decision,
9 which means we compared the applicants. The
10 findings are based upon the findings that were
11 included in the Commissioners' reports that
12 were made during the deliberation process.

13 We also included some of the things
14 that were unique to Region A. So, there is a
15 section in there about the proposed conditions
16 and then the responses to the conditions. And
17 when this is in an executable form, what will
18 be attached to this along with the agreement
19 that we entered into, we will attach the actual
20 conditions and the responses to the conditions
21 and the portions of the transcripts that relate
22 to those responses to the conditions.

23 So, it is the same comparative type
24 format. We determined which applicant was more

1 successful in each category and we've made
2 those conclusions.

3 COMMISSIONER MCHUGH: In each of the
4 sections, each of the five sections discussed
5 in the report, we have a narrative and then we
6 have the material from the reports that each
7 Commissioner presented during the course of the
8 hearings, which this draft says the Commission
9 generally accepts those. And that I take it
10 means that the essence of those, not
11 necessarily each word, phrase, is something
12 that the Commission as a whole is adopting; is
13 that correct?

14 MS. BLUE: That's correct. That's
15 right.

16 COMMISSIONER MCHUGH: And I take it
17 that those materials in the boxes as they
18 appear throughout the text of the report
19 reflect the changes made as a result of the
20 discussion about alleged material errors; is
21 that correct?

22 MS. BLUE: They do. We will confirm
23 that, but they do.

24 COMMISSIONER ZUNIGA: Can you just

1 talk a little bit more about where in here the
2 discussion or relative to those conditions is
3 reflected? Is it embedded in each of the
4 sections?

5 MS. BLUE: No. The overall
6 discussion is in section 3(b) under findings.
7 We thought that the best representation of the
8 discussion would actually be included in the
9 transcripts of the proceedings themselves and
10 in the actual responses to the conditions that
11 were given to us. So, we will attach those to
12 this decision.

13 COMMISSIONER ZUNIGA: So, they are
14 incorporated by reference.

15 MS. BLUE: They will be, yes.

16 COMMISSIONER ZUNIGA: I was paying
17 particular attention to of course the finance
18 section. And I have very minor a little
19 stylistic, a little typo type of comments, but
20 I'll make those to you at a later time.

21 MS. BLUE: Yes, that will be fine.

22 COMMISSIONER CAMERON: I have one as
23 well with mitigation, but I will do that later
24 as well.

1 MS. BLUE: Okay, perfect.

2 COMMISSIONER MCHUGH: How do we
3 frame it? We want to have the findings that are
4 in front of us approved by a vote --

5 MS. BLUE: Yes.

6 COMMISSIONER MCHUGH: -- subject
7 to --

8 MS. BLUE: -- the general mechanical
9 fixes and typographical errors plus the
10 addition of the exhibits as we've discussed.

11 COMMISSIONER MCHUGH: The exhibits
12 are referenced. We know what the exhibits are.
13 What I want to avoid is any substantive changes
14 than what we've approved here. Do any of the
15 corrections you have in mind, Commissioner
16 Zuniga, are they substantive?

17 COMMISSIONER ZUNIGA: No. Let me
18 perhaps illustrate. By necessity, some of
19 these findings take portions of the larger
20 findings that are included in the reports. And
21 from a stylistic standpoint, those portions
22 could be further explained or etc.

23 So, they're not substantial. I'd be
24 happy to leave as they are because they do come

1 from ultimately the report, which I've looked
2 at many times. That's the gist of what I was
3 thinking.

4 COMMISSIONER MCHUGH: Commissioner
5 Cameron is that the same?

6 COMMISSIONER MCHUGH: Yes, and it
7 was very minor change. I can say what it is.
8 It's just at the time that the report was
9 written, Wynn did not have a lottery agreement.
10 But I verbally explained that it was done by
11 the time we had our deliberations.

12 MS. BLUE: And I think we've
13 included that in there under the discussion not
14 in the box.

15 COMMISSIONER CAMERON: Yes. In the
16 discussion it's correct. In the box it's
17 incorrect. That's my only comment.

18 COMMISSIONER MCHUGH: To harmonize.

19 COMMISSIONER CAMERON: Correct, yes.

20 COMMISSIONER MCHUGH: That kind of
21 change, it seems to me is perfectly legitimate
22 and does fall within the mechanical and
23 typographical.

24 I really would like to turn to

1 square corners here. So, why don't we frame
2 the motion when somebody makes it in terms of a
3 reservation of the right to make typographical
4 and mechanical changes and then let General
5 Counsel Blue be the arbiter of what's a
6 mechanical or typographical change so that we
7 don't change any of the substance that we now
8 as part of the process are bringing. Would
9 that be acceptable?

10 COMMISSIONER ZUNIGA: That's
11 acceptable.

12 COMMISSIONER MCHUGH: Any questions
13 or further questions?

14 COMMISSIONER CAMERON: No.

15 COMMISSIONER MCHUGH: Comments or
16 the like? Then I think we are ready for a
17 motion.

18 COMMISSIONER ZUNIGA: I'd be happy
19 to make a motion that we approve the statement
20 of findings for the Region A determination of
21 license to the applicant Wynn as presented here
22 in the packet subject to the typographical
23 corrections.

24 COMMISSIONER CAMERON: Second.

1 COMMISSIONER MCHUGH: Typographical
2 and mechanical.

3 COMMISSIONER ZUNIGA: And
4 mechanical, I'm sorry, yes.

5 COMMISSIONER MCHUGH: That motion
6 has been seconded. Therefore all in favor --
7 Is there a further discussion I should say?

8 COMMISSIONER ZUNIGA: Just good work
9 everybody.

10 COMMISSIONER CAMERON: Yes, well
11 written.

12 COMMISSIONER MCHUGH: Nicely done.
13 All right. All in favor, aye.

14 COMMISSIONER CAMERON: Aye.

15 COMMISSIONER ZUNIGA: Aye.

16 COMMISSIONER MCHUGH: All opposed?
17 Hearing none, the ayes have it unanimously.

18 CHAIRMAN CROSBY: And Commissioner
19 Crosby abstained.

20 COMMISSIONER MCHUGH: And
21 Commissioner Crosby abstained.

22 MS. BLUE: Thank you. We have now
23 the decision for Region B. It is set up in the
24 same way but as there was only one applicant,

1 it is not comparative. It does conclude the
2 findings that were from the various
3 Commissioners' reports. It will have the
4 appropriate exhibits attached to it.

5 The one issue we would like to talk
6 to you about today is the definition of gaming
7 establishment. We need to make that
8 definition. And we have included in the packet
9 two different exhibits that I will let Mr.
10 Grossman speak to that can be used once we have
11 our conversation about that should be defined.

12 MR. GROSSMAN: First, I should just
13 note to clarify, the definition of the gaming
14 establishment will be incorporated into this
15 award. The Commission has never determined
16 what precisely the gaming establishment will be
17 as it pertains to this particular property.

18 We set out using the same elements
19 and parameters that the Commission used in
20 determining the gaming establishment in the
21 case of Region A, applying those principles to
22 Region B, and came up with the first exhibit
23 you see before you.

24 We drew a black line around what we

1 believed at the time to be the gaming
2 establishment. And I think it's important to
3 keep in mind that there are essentially four
4 main reasons why the Commission would want to
5 consider something or what your interests would
6 be in including the premises as part of the
7 gaming establishment.

8 It would affect the surveillance
9 potentially. It would affect the licensing and
10 registration of employees and vendors. It
11 would potentially affect the policing as far as
12 the jurisdiction is concerned. And it may
13 affect the service of alcoholic beverages in
14 that the service of alcoholic beverages at
15 gaming establishments will fall under one
16 license issued to the casino.

17 So, those are some of the
18 considerations to keep in mind when you
19 determine what the gaming establishment is.
20 There are other principles set out based upon
21 the statute in the Region A decision that we
22 applied here.

23 Subsequent to our review, we
24 received a submission from MGM, which we also

1 put in your packet. What we found is that our
2 view of things and theirs were nearly
3 identical, which is a good thing. There was
4 one difference that we would just bring to your
5 attention and that is the outdoor plaza that
6 you will see on this particular drawing up on
7 the screen here.

8 That the area surrounding the park,
9 it's a little up on the screen, the green area
10 there. We had excluded that area. MGM has
11 requested that the area be included. And their
12 main rationale as we understand it today is
13 that they may be planning on conducting certain
14 events there which may include the service of
15 alcoholic beverages. And for those reasons, it
16 would be helpful to include that in the gaming
17 establishment.

18 We don't have any objection to that.
19 At this point, I think this is all subject to
20 re-review when the project gets finalized. We
21 may have to look at some of the metes and
22 bounds here when we know where all of the
23 buildings finally are and what their uses will
24 be. But certainly for the time being, the

1 proposed boundary submitted by MGM seems
2 reasonable.

3 COMMISSIONER ZUNIGA: That's page
4 four? What they propose is page four?

5 MS. BLUE: You see it right there.

6 MR. GROSSMAN: See the pizza place
7 in pink is not owned by them. So, that had to
8 be excluded as is the parking lot right outside
9 there. And as was just described to you, the
10 park is owned by the city. So, that had to be
11 excluded as well.

12 COMMISSIONER ZUNIGA: Right, but the
13 plaza --

14 MR. GROSSMAN: That street is out.

15 CHAIRMAN CROSBY: How flexible are
16 we? Can we change the definition of the gaming
17 establishment any time if we want to?

18 MR. GROSSMAN: Not the definition
19 per se, but you could change the map, sure.

20 MS. BLUE: Yes. I think you have
21 the ability to go back and amend the
22 definition.

23 CHAIRMAN CROSBY: Without them
24 agreeing with it necessarily?

1 MS. BLUE: We'd obviously take their
2 comments, but I think we could do it. It would
3 depend on how the project finally comes out.
4 And I think we have to have some flexibility
5 because this is what we have on the drawing
6 board now, but it may change a little bit over
7 time. So, I think in consultation with the
8 licensee, we could change it.

9 CHAIRMAN CROSBY: I'm just thinking
10 there maybe things that we can't anticipate.
11 This is one of the things we're they've got --
12 everything's tied together and it might be pull
13 a thread here and all of a sudden there's an
14 effect that you weren't really thinking of.

15 And I'm sure you guys have thought
16 this through but if we are locked into this
17 then I would want to make sure we really,
18 really, really thought through every possible
19 implication. But if we can change it on our
20 own hook unilaterally, then there's no harm.

21 COMMISSIONER CAMERON: Yes. For
22 example, there are buildings that are excluded
23 now because MGM was not able to reach an
24 agreement with the owner of that building. And

1 if that changes at some point and becomes part
2 of the gaming establishment, we need to go in
3 and make that adjustment. So, that's something
4 we couldn't anticipate.

5 MS. BLUE: That's right, expansion,
6 contraction of a project over time, we would
7 need to go in and take a look at the
8 definition.

9 CHAIRMAN CROSBY: So, you're saying
10 we do have the authority to change it
11 unilaterally if we want to.

12 MS. BLUE: We believe that you do,
13 yes.

14 CHAIRMAN CROSBY: Jed, you are
15 looking like you want to say something.

16 MR. NOSAL: Thank you, Chairman.
17 Just quickly we have proposed the plan we've
18 talked to General Counsel Blue and Attorney
19 Grossman on that as well. I think one way to
20 address this issue certainly is our final
21 design under your construction supervision and
22 design regulations will be due to you to be
23 approved at some point.

24 So, one alternative here certainly

1 could be approval of the gaming establishment
2 in connection here subject to any necessary
3 changes for purposes of the final design.
4 Certainly, there should be some flexibility I
5 think to make adjustments certainly as the
6 project gets to that particular point in the
7 process.

8 CHAIRMAN CROSBY: I was thinking of
9 things like ABCC or the Division of Banks or
10 any of the other things that might possibly be
11 related, law-enforcement that we just haven't
12 quite thought through. But as long as it's
13 clear that for whatever reason, reasonably
14 presumably, but reason we can rethink this on
15 our own hook, then I am fine with that. It's
16 probably not going to be a problem.

17 COMMISSIONER MCHUGH: The difference
18 in what reduce to essentials MGM is proposing
19 if what we would have done on our own hook is
20 that MGM includes more. So, in terms of the
21 regulatory reach, it gives us more control over
22 the facility than we might otherwise include if
23 our own definition were used. That's a good
24 place to start even if we're stuck with it.

1 CHAIRMAN CROSBY: I was thinking of
2 it the other way. We went through a
3 conversation with the Division of Banks where
4 we were talking about the definition of
5 premises and the gaming establishment. We
6 realized that if we stuck with that point, we
7 might end up triggering something from the
8 Division of Banks that we didn't want.

9 And in that context keeping the
10 gaming establishment smaller than larger was
11 actually something we were interested in
12 because of where you were going to be able to
13 ATMs for example. So, I'm just thinking about
14 unintended consequences.

15 MR. NOSAL: Chairman, if I could
16 just put a point on what Mr. Grossman said. We
17 had a conversation and he related sort of our
18 sense on that. And I think the two diagrams
19 are fairly close with really that exception of
20 that area of the plaza and then extending down
21 across where the open market/rink would be.

22 So, in addition certainly to issues
23 potentially around licensing of alcoholic
24 beverages, certainly we expect that there will

1 be employees of the gaming establishment in
2 that particular location. And I think our
3 preference is to certainly have a continuity of
4 that space with the gaming establishment.

5 CHAIRMAN CROSBY: But you understand
6 my point that there are certain things like
7 possibly where you can put ATMs is just one
8 example.

9 MR. NOSAL: Sure.

10 CHAIRMAN CROSBY: It's outside our
11 control. If they happen to use the term gaming
12 establishment, all of a sudden maybe this
13 expands or neither one. I wasn't saying MGM
14 versus ours. I was thinking about locking
15 anything in stone where we hadn't really
16 thought through every possible consequence.

17 I think you said if we're able to
18 alter this for whatever reason we come up with
19 then I'm fine with that whatever it is. Okay.
20 So, the proposal, do we need a vote for this or
21 is this included by reference in the vote on D
22 or what?

23 MS. BLUE: When you vote to accept
24 or approve the decision on Region B, if you

1 would include that you are going to include the
2 diagram from MGM as the definition of the
3 gaming establishment, then we'll attach it to
4 the decision.

5 CHAIRMAN CROSBY: Any other
6 discussion? Commissioner McHugh do you want to
7 give it a shot.

8 COMMISSIONER MCHUGH: I move that
9 the Commission accept the findings as they
10 appear in the materials with respect to the
11 award of the license of Region B to Blue Tarp
12 Development, Limited and include in those
13 findings the diagram set out in diagrams
14 4.05.01 that are attached to the packet of
15 materials.

16 CHAIRMAN CROSBY: Did you say the
17 thing about changes?

18 COMMISSIONER MCHUGH: Including the
19 right to make whatever mechanical and
20 typographical corrections are appropriate.

21 CHAIRMAN CROSBY: Second?

22 COMMISSIONER ZUNIGA: Second.

23 CHAIRMAN CROSBY: Further
24 discussion? All in favor, aye.

1 COMMISSIONER MCHUGH: Aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 CHAIRMAN CROSBY: All opposed? The
5 ayes have it unanimously.

6 MS. BLUE: Thank you.

7 CHAIRMAN CROSBY: Madam B?

8 MS. BLUE: Next in your packet we
9 have some more regulations. We'll start with
10 the first one, which is the transfer of
11 interest regulation. You may recall quite a
12 while ago we talked about a transfer
13 regulation. And we were a little bit, I think,
14 too soon in our process to try to draft that.
15 We now having gone through the licensing
16 process have a little better understanding of
17 how that transfer may or may not occur.

18 So, what you have in front of you is
19 a regulation that discusses the transfer, what
20 steps the Commission would take if a licensee
21 wished to transfer their license. And there's
22 examples under what circumstances that might
23 be.

24 Now when we talk about the license,

1 we are talking about a transfer of any direct
2 or indirect interest, not only in the license
3 but the property to which it is attached. We
4 after a lot of review and discussion, what
5 we've come to understand better is that the
6 license and the property are inseparable.

7 So, any kind of a transfer in an
8 interest whether it's a financing interest or
9 an interest in the real estate or an interest
10 in the overall project would and should be
11 reviewed by the Commission at that point.

12 Generally, what this regulation
13 requires is that the Commission has to approve
14 any sort of a transfer. There are a few
15 exemptions that come out of our statute.

16 There is one exemption that is in
17 here that is not particularly in our statute.
18 And that is the Commission has the right to
19 waive approval on a transfer no matter what
20 size it is if it does not result in a change in
21 control. So for example, if we have transfers
22 of interest less than five percent, they are
23 exempt. They don't require approval. But if
24 there was a transfer say between five percent

1 and 51 percent that didn't result in a change
2 of control, the Commission could determine that
3 they didn't need to approve it.

4 COMMISSIONER ZUNIGA: Those would be
5 intercompany transfers, for example?

6 MS. BLUE: Yes. When the Commission
7 does review a transfer, they can determine if
8 they approve the transfer; they can deny the
9 transfer. They can put conditions on the
10 transfer. So, if there are new parties to the
11 license that you want conditions for, you can
12 do that. All parties in a transfer have to be
13 deemed suitable. So, they have to pass IEB
14 review in order to be found suitable for the
15 transfer.

16 Then finally we added just some
17 language that tracks our statute about having
18 multiple ownership interests in more than one
19 licensee.

20 And then finally, the very last
21 provision, and this was suggested by our
22 consultants, where we require our licensees
23 since they all are LLCs to put some language in
24 their organizational documents that puts

1 everyone on notice that the license cannot be
2 transferred without the Commission approval.

3 CHAIRMAN CROSBY: Okay. Comments,
4 questions?

5 MS. BLUE: We also tried to address
6 the part of our statute about the Commission or
7 the Commonwealth receiving a portion of the
8 interest, the increase in the interest of what
9 is called license in the statute. So, when we
10 put this out for comment, I will look forward
11 to receiving comments from our licensees and
12 others about how we address that.

13 CHAIRMAN CROSBY: Where is that
14 section, Catherine?

15 MS. BLUE: That would be on page
16 five and it's section C. It comes out of
17 21(B)(2) of our statute.

18 COMMISSIONER MCHUGH: That is a
19 particularly opaque section of the statute.
20 And this is a good effort to try and make it
21 more concrete and intelligible. So, it will be
22 interesting to see what the comments are.

23 COMMISSIONER ZUNIGA: I thought a
24 lot about this number. In my view, I'm looking

1 forward to comments if we have any. In my view
2 anything different than 50-50 would be
3 arbitrary either way, which is why the 50
4 percent is there.

5 COMMISSIONER MCHUGH: Yes, right.
6 But it's 50 percent of what? What's the
7 baseline for measuring the increase?

8 COMMISSIONER ZUNIGA: Which is what
9 the rest of the section --

10 COMMISSIONER MCHUGH: I know, but
11 the statute doesn't really stay that.

12 MS. BLUE: We've set up an appraisal
13 process but the statute is silent on how that
14 amount is determined.

15 COMMISSIONER ZUNIGA: Because it's
16 very hard to determine it a priority.

17 CHAIRMAN CROSBY: Okay. So, these
18 are in the first round, right? We are not
19 moving these to the formal process? We are?

20 MS. BLUE: I'd like to. This is the
21 second time we've brought them in front of the
22 Commission. I think they're ready to go
23 through the formal process. And we'll benefit
24 from having the comment period and having the

1 hearing on them. So, I would like the
2 Commission to approve to move them through the
3 formal process if you are ready.

4 CHAIRMAN CROSBY: Do I have a
5 motion?

6 COMMISSIONER ZUNIGA: Sure. I would
7 move that we move the regulations presented in
8 the packet 205 CMR 129.01 to 129.03 for the
9 transfer of interests into the formal
10 regulation promulgation process.

11 COMMISSIONER CAMERON: Second.

12 CHAIRMAN CROSBY: Any further
13 discussion? All in favor, aye.

14 COMMISSIONER MCHUGH: Aye.

15 COMMISSIONER CAMERON: Aye.

16 COMMISSIONER ZUNIGA: Aye.

17 CHAIRMAN CROSBY: Opposed? The ayes
18 have it unanimously.

19 MS. BLUE: Thank you. The next
20 regulation we have is on reporting
21 requirements. I'd like to ask Counsel Lillios
22 to join me up here and we can walk through
23 those.

24 MS. LILLIOS: Good afternoon,

1 Commissioners. This item deals with proposed
2 amendments and additions to 205 CMR 134, the
3 licensing of vendors and employees. And you
4 have the excerpted relevant provisions of that
5 regulation in your packet.

6 On page three of that section, you
7 will see the changes to subsection three. And
8 that subsection deals with the process whereby
9 the Division of Licensing makes the
10 determination that a nongaming vendor
11 registrant has met the dollar thresholds or is
12 reasonably likely to meet the dollar thresholds
13 that would convert the vendor from a nongaming
14 vendor registrant to a gaming vendor secondary
15 who then become subject to our more stringent
16 licensing requirements.

17 This section has been redrafted to
18 reflect a more usable process. Some of the
19 provisions now correlate to the internal
20 controls regulation that you saw. And in this
21 process that's in red in your section, the
22 division notifies the vendor of the change in
23 status and directs the vendor what the vendor
24 has to then complete.

1 And the remaining change appears on
2 page seven of that portion of your packet. And
3 that subsection deals with the duties of vendor
4 and employee applicants and licensees. We have
5 added sections three through seven that appear
6 in red there. And they deal mostly with the
7 required notifications that employees and
8 vendors have to make.

9 Subsection three is the notification
10 for employees, four for gaming vendors, five
11 for nongaming vendors. Six has to do with the
12 notification of ownership changes in vendor
13 entities. And seven discusses what IEB then
14 does to evaluate the change and determine the
15 appropriate investigation that has to occur.

16 We would ask that these regulations
17 be adopted now on an emergency basis because
18 several of the provisions we're very much
19 steeped in at the moment both in notification
20 provisions and the dollar threshold provisions
21 for the current gaming vendor registrants.

22 CHAIRMAN CROSBY: Comments,
23 questions?

24 COMMISSIONER MCHUGH: What's the

1 status of the sections of 134 that are not
2 included here? Have we already passed on
3 those?

4 MS. LILLIOS: Yes.

5 COMMISSIONER MCHUGH: I knew that.

6 MS. BLUE: This is really an
7 amendment to 134 that we've already approved
8 and passed.

9 COMMISSIONER MCHUGH: So these
10 sections -- The rest of 134 is in place and
11 these simply fit right in.

12 MS. BLUE: Yes.

13 CHAIRMAN CROSBY: Anything else? We
14 need a motion for emergency adoption.

15 COMMISSIONER MCHUGH: All right. I
16 move that we adopt on an emergency basis the
17 draft of 205 CMR 134.04 and 134.18 as they
18 appear in the packet of materials. And at the
19 same time move them forward with the remainder
20 of 205 CMR 134 for the formal promulgation
21 process.

22 COMMISSIONER ZUNIGA: Second.

23 CHAIRMAN CROSBY: Further
24 discussion? All in favor, aye.

1 COMMISSIONER MCHUGH: Aye.

2 COMMISSIONER CAMERON: Aye.

3 COMMISSIONER ZUNIGA: Aye.

4 CHAIRMAN CROSBY: Opposed? The ayes
5 have it unanimously.

6 MS. LILLIOS: Thank you.

7 MS. BLUE: Thank you. And that's
8 all we have.

9 CHAIRMAN CROSBY: Okay. Good to
10 hear. I think that gets us to the end of our
11 day. I do have one minor announcement. The
12 meeting on the 4th of December will be held
13 back at the Boston Teachers Union Hall. We
14 couldn't find any of our other alternatives and
15 there was a strong groundswell of support to go
16 back to the Teachers Union Hall. That will be
17 our next meeting on December 4. Anything else?
18 Do we have a motion to adjourn?

19 COMMISSIONER CAMERON: So moved.

20 CHAIRMAN CROSBY: All in favor, aye.

21 COMMISSIONER MCHUGH: Aye.

22 COMMISSIONER CAMERON: Aye.

23 COMMISSIONER ZUNIGA: Aye.

24 CHAIRMAN CROSBY: Thank you all very

1 much.

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(Meeting adjourned at 3:17 p.m.)

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1 ATTACHMENTS:

- 2 1. Massachusetts Gaming Commission November
- 3 20, 2014 Notice of Meeting and Agenda
- 4 2. Massachusetts Gaming Commission November
- 5 6, 2014 Meeting Minutes
- 6 3. 205 CMR 148.01 through 148.05 DRAFT
- 7 4. Massachusetts Gaming Commission Third
- 8 Annual Report
- 9 5. Massachusetts Gaming Commission November
- 10 7, 2014 Memorandum Regarding Play
- 11 Management Tools with attached licensee
- 12 responses
- 13 6. 205 CMR 138.40 through 138.47 DRAFT
- 14 with attached comments
- 15 7. Massachusetts Gaming Commission November
- 16 20, 2014 Memorandum Regarding
- 17 Recommendations for the Annual Gaming
- 18 Research Agenda
- 19 8. Massachusetts Gaming Commission November
- 20 17, 2014 IEB Qualifier Report of Applicant
- 21 Blue Tarp/MGM for Qualifier Alexander
- 22 Hunter Clayton

23
24

- 1 9. Massachusetts Gaming Commission November
- 2 17, 2014 IEB Qualifier Report of Applicant
- 3 Penn National Gaming for Qualifier John
- 4 Finamore
- 5 10. Massachusetts Gaming Commission November
- 6 17, 2014 IEB Qualifier Report of Applicant
- 7 Penn National Gaming for Qualifier Carl
- 8 Sottosanti
- 9 11. 205 CMR 138.01 through 138.72 DRAFT with
- 10 attached comments
- 11 12. MGM Springfield Presentation
- 12 13. Massachusetts Gaming Commission/2014-11-14
- 13 Licensing Schedule Update Category 1
- 14 License - Region C DRAFT
- 15 14. Written License Decision For Category 1
- 16 Gaming Establishment in Region A
- 17 15. Written License Decision For Category 1
- 18 Gaming Establishment in Region B
- 19 16. 205 CMR 129.01 to 129.03 DRAFT
- 20 17. 205 CMR 134 DRAFT
- 21
- 22
- 23
- 24

1 GUEST SPEAKERS:

2 Robert DeSalvio, Wynn MA, LLC

3 Alan Feldman, MGM Resorts

4 Jay Snowden, Penn National Gaming

5 Charles Irving, Davenport Properties

6 Jed Nosal, Brown Rudnick

7

8 MASSACHUSETTS GAMING COMMISSION STAFF:

9 Bruce Band, Deputy Director IEB

10 Catherine Blue, General Counsel

11 Richard Day, Executive Director

12 Todd Grossman, Deputy General Counsel

13 Loretta Lillios, Deputy General Counsel

14 Mark Vander Linden, Dir. Research and Problem

15 Gambling

16 Karen Wells, Director IEB

17 John Ziemba, Ombudsman

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C E R T I F I C A T E

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 24th day of November, 2014.



LAURIE J. JORDAN

My Commission expires:

Notary Public

May 11, 2018