

COMMONWEALTH OF MASSACHUSETTS
MASSACHUSETTS GAMING COMMISSION

CHAIRMAN

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COMMISSIONERS

James F. McHugh

Gayle Cameron

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BOSTON CONVENTION AND EXHIBITION CENTER

415 Summer Street, Room 151A & B

Boston, Massachusetts 02210

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

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3 CHAIRMAN CROSBY: Ladies and
4 gentlemen, I'm pleased to call to order the
5 public hearing to be held on licensing
6 regulations. We're at the convention center
7 Friday, December 13 at 9:30 a.m. or so. And
8 we only have one item on the agenda, which is
9 the conversations about the licensing
10 regulations. And we will start with our own
11 staff and its report and presentation.
12 Executive Director Day, please begin.

13 MR. DAY: Thank you, Mr. Chairman
14 and Commissioners. Good morning.

15 CHAIRMAN CROSBY: Good morning.

16 COMMISSIONER MCHUGH: Good morning.

17 COMMISSIONER ZUNIGA: Good morning.

18 COMMISSIONER CAMERON: Good morning.

19 COMMISSIONER STEBBINS: First, as we
20 started into this set of regulations I would
21 like to just take a minute and acknowledge
22 Director Acosta and his team, and Deputy
23 Counsel Grossman and his team, and Jill
24 Griffin as well, who did a lot of outreach for

1 us on this set of regulations so we could
2 bring them to you today.

3 As we move forward with our
4 discussion, though, I just want to take a
5 couple of minutes and emphasize a few points
6 that may clarify areas that has significantly
7 changed since our first draft, or have been
8 subject of some misunderstanding.

9 First is, we are not generally
10 proposing to license or register employees
11 that do not work in the gaming establishments.
12 Examples would be employees of the
13 construction firms building the facility,
14 employees of the vendors that supply services
15 to the gaming establishment, like linen and
16 food products. As we've continued our
17 discussions in outreach, it seems like there's
18 been some confusion regarding exactly who and
19 how far our reach is in licensing
20 registration.

21 The vendors, though, of course
22 nongaming vendors, will be registered as
23 nongaming vendors, but their employees would
24 not be registered and licensed.

1 There are exceptions, of course,
2 like many things in government, there are --
3 there are always some what ifs. There are
4 exceptions, which would include services like
5 installation and maintenance of gaming
6 equipment on site. Obviously, we'll want to
7 have those -- that personnel registered and
8 have -- have -- the vendors, of course, will
9 be licensed.

10 We're also -- it's important to
11 clarify that we're proposing regulations that
12 implement the licensing and registration of
13 all employees of the gaming licensee, and all
14 employees in a gaming establishment. So
15 there's been a little exchange of information
16 back and forth on which model we -- which
17 model, which state. And, actually, the
18 Massachusetts Law in 23K, Section 30A and C
19 describes, particularly, how that's going to
20 occur. And it does refer to all employees in
21 a gaming establishment, working in a gaming
22 establishment. So we think that is an
23 important clarification as we start, because
24 it helps us -- anybody who wants to frame

1 their comments.

2 We are also proposing two
3 significant changes that directly relate to
4 comments and suggestions received by the
5 commission. One is regarding subcontractors
6 of a vendor. They would not be required to be
7 licensed or registered. The idea here is,
8 instead, the vendor, course will need to
9 include required information about its
10 subcontractors in its application. That
11 information that's in the application with the
12 vendor will be part of their investigation
13 relative to their qualification to do
14 business. Our investigation of the vendor
15 then would -- would include, and the vendor
16 would also be responsible for cost relative to
17 those subcontractors. That will give us
18 discretion to look, in particular, about who
19 those subcontractors might be, as the vendors
20 are required to submit the information we
21 would need. Of course, though, no fee would
22 be charged to the vendor themselves.

23 The other significant change is
24 we've established a second -- or proposed to

1 establish a second level of gaming of gaming
2 vendor that requires a lower initial fee, and
3 less paperwork and less investigation than the
4 gaming vendor primary. So we think that will
5 also provide some flexibility in the
6 regulations and with those that want to get
7 involved in the -- supplying the gaming
8 establishments.

9 The statute itself also seems to
10 have some conflicting, confusing language
11 concerning how we receive, process,
12 investigate and issue licenses and
13 regulations. So to reconcile the statute, we
14 are proposing to insert the commission's
15 division of licensing in the process. And we
16 think that will be helpful.

17 From here Todd will lead our
18 discussion and focus on major changes or areas
19 that we have previously discussed, and then
20 the three of us will do our best to answer any
21 questions that you might have as you go on
22 through -- through the discussion. With that,
23 if there's no questions of me, we'll refer to
24 Todd.

1 MR. GROSSMAN: Thank you and good
2 morning.

3 COMMISSIONER CAMERON: Good morning.

4 MR. GROSSMAN: Now, in addition to
5 the individuals Mr. Day mentioned, I'd also
6 like to just acknowledge that we received a
7 great deal of input from our gaming
8 consultants at both Spectrum Gaming and
9 Michael and Carroll. We're fortunate enough
10 to have Mr. Michael and Mr. Carroll here this
11 morning to offer any further guidance, as we
12 go through the discussion here this morning.
13 And from our legal consultants, I should add,
14 at Anderson and Kreiger.

15 So we can just take it right from
16 the top. And I think there were a couple of
17 key principals that some of them -- Rick just
18 mentioned that we use to help bring us to this
19 point. And the first was that we needed to
20 make sure that we recognized and implemented
21 all of the provisions of the general laws that
22 apply to the licensure and registration of
23 employees and vendors. Those are largely
24 contained in Sections 30 and 31 of Chapter

1 23K, as well as in Section 12 and 16.

2 And, secondly, after conversations
3 with had with a number of stakeholders, we
4 felt like it was important to ensure that we
5 strike a balance between attempting to ensure
6 that no unsuitable individuals were able to
7 become part of the process, but at the same
8 time making sure that we don't create any
9 unnecessary barriers to deserving individuals
10 from being able to become part of the process.

11 So with that, we've created what you
12 have before you here today. And we think it
13 does a pretty good job, or a good job, I
14 should say, of achieving that. So with that
15 backdrop, we can just start at the beginning.
16 And the first note I would just make is
17 relative to key gaming employees where we
18 start.

19 The first thing we did was we
20 renamed the two types of key gaming employees
21 where there was some confusion. And we named
22 them key gaming employee executive and key
23 gaming employee standard. And the
24 significance of that, essentially, is just the

1 level -- or the process for approval that the
2 applications would go through. The executive
3 arm would have to come before the commission,
4 ultimately, after a full investigation by the
5 IEB and the division of licensing prior to
6 having a license issued. The standard version
7 would be able to be issued by the division of
8 licensing after investigation and approval by
9 the IEB. So those are the two types of key
10 gaming employee licenses that are provided
11 for.

12 We made a number of other
13 adjustments to the classification of certain
14 positions with the consultation of our gaming
15 consultants, as well as Mr. Acosta's
16 experience in the industry as well. And I
17 should add, Mr. Day's experience in the
18 industry as well.

19 Then we -- we move on to gaming
20 employee licensees, same type situation.
21 There is just one area of note that we'd like
22 to make with reference to the gaming employee
23 licensees. And that is that it captures --
24 and this is -- I should also note - I'm sorry

1 I didn't cover this at the beginning - that we
2 carefully considered all of the written
3 comments we've received to date relative to
4 these regulations and incorporated where we
5 thought possible and where we thought
6 advisable those recommendations into this
7 draft. So on top of the consultants and what
8 have you, we also, of course, made note and
9 listened to the written comments from the
10 members of public and the stakeholders.

11 And one of the areas that was
12 referenced and that we incorporated here into
13 the regulations is in the arena of gaming
14 employee licensees. Ordinarily, those
15 licenses would go to those individuals who
16 were employed, essentially, by the gaming
17 establishment. And that is true except for
18 three exceptions.

19 And one pertains to individuals who
20 are directly connected to the operation and
21 maintenance of slot machine or other games
22 taking place in the gaming establishment. So
23 individuals will come in to repair slot
24 machines or what have you, are employed by

1 vendors who generally wouldn't require to be
2 licensed as a gaming employee, but in this
3 respect the regulations provide for, subject
4 to your approval, of course, that those
5 individuals of the vendor who perform those
6 services would have to be licensed as a gaming
7 employee. And that was actually at the
8 recommendation of the commenter.

9 The second area includes
10 surveillance personnel. Same type issue.
11 Those would see be employees of a vendor who
12 would, though, come into the gaming
13 establishment to work on the surveillance
14 equipment, or even work on it remotely
15 electronically. So even though those wouldn't
16 be employees of the gaming establishment, the
17 individuals who work for the vendor, who
18 perform that function, would have to be
19 licensed as a gaming employee.

20 And the third category in that
21 section applies to junket representatives. So
22 employees of the junket enterprise, who work
23 as junket representatives, even though they
24 wouldn't be employed by the gaming

1 establishment, would have to be licensed as
2 gaming employees.

3 So those are the three exceptions we
4 have called out in the gaming employee
5 section.

6 CHAIRMAN CROSBY: Explain that third
7 category again, the junket -- the somebody
8 related to junket operators.

9 MR. GROSSMAN: Sure. We have not
10 fully called out or set out regulations
11 governing junkets yet. There is a general law
12 that governs junket -- junkets generally. And
13 in the next phase we'll -- we'll break that up
14 even further. But what we do know is that
15 there are two categories, essentially, of
16 entities and individuals that would have to be
17 licensed by the commission. And they're known
18 as junket enterprises and junket
19 representatives. And they're called different
20 things in different jurisdictions, but here
21 those terms are actually used in the general
22 laws.

23 So a junket enterprise is,
24 essentially, the entity that oversees the --

1 the junket operation. They're -- what were
2 they called in the -- they were called --

3 COMMISSIONER ZUNIGA: The gaming
4 promoter.

5 MR. GROSSMAN: The gaming promoters.

6 COMMISSIONER ZUNIGA: Yep. They're
7 called the gaming promoters --

8 CHAIRMAN CROSBY: Right.

9 MR. GROSSMAN: -- in some of the
10 reports you've read recently. Here they're
11 called junket enterprises. And so that's not
12 necessarily -- it could be an individual, but
13 it doesn't have to be. It's the entity that
14 oversees it.

15 The individuals who work as the
16 representatives are known as junket
17 representatives. And those folks could either
18 be employed by the casino, or they can be
19 employed by the junket enterprise. And what
20 we're saying here is that regardless of
21 whether they're employed by the casino or the
22 junket enterprise, that they would have to be
23 licensed as a gaming employee. That is that
24 we would know who they are and what their

1 background is. And that's -- that's the
2 significance of that.

3 So that is an exception to the
4 general rule, that we're only licensing
5 individuals who are employed by the casino or
6 the gaming establishment.

7 CHAIRMAN CROSBY: Okay. That's
8 helpful. Thank you.

9 MR. GROSSMAN: On the next page,
10 page four, we get into gaming service
11 employees. And there's just once quick
12 distinction I would make there from the
13 previous version.

14 After careful review of the statute,
15 we recognize that the law requires that all
16 individuals who are employed in the gaming
17 establishment be registered as a gaming
18 service employee. So what that means is that
19 even individuals who aren't employed directly
20 by the gaming establishment, but who are
21 employed in the gaming establishment, would
22 need to be registered as a gaming service
23 employee. And, for example, what that means
24 is, if there's a restaurant that is leasing

1 space at a gaming establishment, the
2 restaurant would be a vendor. All of
3 employees of the restaurant would be employees
4 of the vendor. So, typically, they wouldn't
5 have to be licensed or registered by the
6 commission. But here, they're working in the
7 gaming establishment. And for that reason
8 under the statute, according to our read, they
9 would have to be registered as gaming service
10 employees. And that's an important
11 distinction, so I wanted to bring that to your
12 attention. We think that's what the law
13 requires. Because, initially, we had written
14 it the other way, which would be to exempt
15 individuals, essentially, who work for a
16 vendor, who are employed by a vendor from
17 having to be registered. And it actually
18 created a little bit of a disparity between
19 folks who would both be employed in the gaming
20 establishment, some would have to be
21 registered, some wouldn't. But after we
22 looked at the statute, it appears they both
23 have to be registered. And we clarified that
24 point here. That's what the red language in

1 134.03 at the bottom says, just so there's no
2 uncertainty that even employees of the vendor
3 who work in the gaming establishment have to
4 be registered.

5 Still on page four we get into
6 vendors. And there are two kinds of vendors.
7 There are gaming vendors and nongaming
8 vendors. And we -- there was -- there were a
9 number of comments we received on certain
10 types of the gaming vendors. So we took steps
11 to try to clarify what we meant by the gaming
12 vendor moniker.

13 And I think the cause for some of
14 the confusion is the fact that the statute
15 provides for, and we referenced and reflected
16 in the regulations, that certain vendors who
17 may be, by their nature, nongaming vendors,
18 meaning they don't engage in any provision of
19 goods or services that relates in any way to
20 gaming, but who do over a certain amount of
21 business with the casino, may be designated as
22 a gaming vendor. And in other jurisdictions
23 they're called other things. But the statute
24 here in Massachusetts says that the commission

1 may designate them as a gaming vendor. So the
2 source of the confusion was the fact that you
3 have individuals who aren't engaged in gaming
4 in any way, who are now going to be called
5 gaming vendors.

6 So in effort to try to smooth that
7 over, we created two categories of gaming
8 vendors, much like we did with the key gaming
9 employees. And we called them gaming vendor
10 primary and gaming vendor secondary.

11 The gaming vendors primary are your
12 classic gaming vendors who you would think of
13 as a gaming vendor. Folks who sell,
14 manufacture slot machines, table games and all
15 of that type of business.

16 The gaming vendors secondary are the
17 individuals who become gaming vendors by
18 virtue two of the fact that they conduct over
19 a certainly threshold of business. And by
20 statute, it's over \$250,000 within a 12-month
21 period or 100,000 in a three-month period.
22 And we clarified the statute in a few points.
23 I think there's a typo in the statute that we
24 remedy here in the regulations that the

1 commission should be aware of. It talks about
2 hundred thousand of business within a three --
3 is it a three-year period? So here we make it
4 a three-month period. It doesn't really work
5 the other way, and we assumed it had to be a
6 typo. So you should certainly be aware of the
7 fact that this is not what the statute says,
8 but this is what we're saying because it
9 doesn't work the other way.

10 CHAIRMAN CROSBY: Keep that in mind
11 for our legislative fix list, right?

12 MR. GROSSMAN: It's on the list.

13 CHAIRMAN CROSBY: It's on the list.

14 MR. GROSSMAN: Yes. And then the
15 other thing is, we -- we quantify it as gross
16 sales, just so we have some way to measure
17 what the number is. And the other important
18 thing to point out is that it applies to that
19 amount of sales with one gaming licensee. So
20 if you're doing under the threshold with each
21 of the, however many it is, three or four
22 casinos, you won't necessarily be classified
23 as a gaming vendor. It's only when you reach
24 that threshold with one gaming establishment

1 that you may be classified as a gaming vendor.
2 And that is in order to allow the commission
3 to monitor the flow of money that comes
4 through a casino and ensure that we place the
5 proper level of scrutiny on the individuals
6 doing business with a casino. So that's what
7 the genesis of that rule is.

8 And we also added in here, the
9 process that the gaming vendors secondary
10 would -- would go through to be designated as
11 a gaming vendor secondary. What we basically
12 say is that they can either essentially
13 self-designate at -- when they're applying for
14 licensure and say, essentially, look, we have
15 a contract for a million dollars over the
16 course of the next year so here's my gaming
17 vendor secondary application. Or that,
18 through the monitoring of the contracts that
19 the division and the bureau will perform in
20 regulations that we haven't yet developed,
21 that the division will notify those -- what
22 will be nongaming vendors of their obligation
23 to file an application to become a gaming
24 vendor secondary. And then it gives them 45

1 days to either file the application, to cease
2 the business engagement, or to seek
3 clarification or reconsideration of the
4 designation. So those are all new rules that
5 we've added in there.

6 And now, one of the bigger issues
7 that we added in here and sought to clarify,
8 based upon comments we received, pertains to
9 subcontractors. So there was a question as to
10 whether subcontractors, through a vendor, A,
11 had to be licensed at all, and if so, what
12 category they would fall into. And after much
13 discussion, what we've recommended to you
14 here, and what these regulations reflect are
15 the following, essentially, subcontractors,
16 and we define what a subcontractor is, do not
17 have to be licensed or registered directly
18 with the commission. They do, however, have
19 to be identified by the vendor in their
20 licensing process. And the vendor will have
21 to provide certain information about all of
22 the subcontractors. Such that, the commission
23 will still be able to monitor and issue
24 discretionary determinations as to the

1 suitability, if you will, of certain
2 subcontractors, depending upon their level of
3 involvement with the vendor, the type of
4 business they're engaged in and what have you.

5 And it's an important distinction.
6 It -- as I said, it gives the commission
7 discretion which is important here, but at the
8 same time it doesn't unnecessarily create a
9 barrier to certain, perhaps, capable and
10 competent subcontractors from being involved
11 in the process. What it does do, though, is
12 it creates a level of accountability to -- to
13 the vendor themselves, to ensure that they are
14 doing business with suitable individuals. And
15 the regulations provide for the commission to
16 take any action against any vendor who is
17 involved with any unsuitable type individuals.

18 So that's essentially -- that that's
19 the nuts and bolts of the subcontractor plan
20 that we've set forth for you here. And that
21 was one that garnered a lot of attention from
22 the stakeholders so we thought it was
23 important to point that out. And as we kind
24 of go through a little further I can point out

1 some other areas.

2 COMMISSIONER MCHUGH: Could you just
3 tease out a little bit more, the
4 considerations that went into that? That
5 means the effect of that is, for example, if
6 there's a general contractor for the casino
7 that general contractor has to be registered
8 or licensed, but the steel erection company
9 doesn't, and the curtain wall company doesn't.
10 And those contracts can be millions and
11 millions and millions of dollars, so I just
12 wonder if there's -- if you touch on the
13 considerations that led to this approach a
14 little bit more.

15 MR. GROSSMAN: There were -- we
16 looked at a number of different scenarios.
17 The one that comes up first, always, is the
18 construction scenario, where you have a
19 general contractor and then subcontractors.
20 But there are also scenarios where you could
21 have -- and the one I keep coming back to is,
22 perhaps, a wedding-cake baker and a small
23 bakery that's providing cakes to the casino,
24 perhaps. And so the -- the rule has to work

1 for everybody.

2 COMMISSIONER MCHUGH: Right.

3 MR. GROSSMAN: It's easy to create
4 a --

5 CHAIRMAN CROSBY: It could scale.
6 It could do it at break points. It doesn't
7 have to work for everybody.

8 MR. GROSSMAN: Well, that's right,
9 of course. And I think, though, the rule
10 we're created will work for everybody. And
11 the reason it works is that all of the vendors
12 still have to be identified.

13 But to come back to your question,
14 Commissioner McHugh, as to where we came up
15 with this, part of the issue would be in
16 determining who the subcontractors even are
17 and how far out you go, and to some degree we
18 still will have that issue and that onuses
19 will be placed on the vendor in the first
20 instance to tell us who the subcontractor is.

21 But one of the problems we will
22 have, and we'll get to this in -- in a
23 different section, is -- are some of the
24 automatic disqualifiers that the law sets

1 commission with the discretion to look at the
2 situation and say, well, we see that this
3 subcontractor has this issue, but that only
4 have this \$2,000 contract, they never set foot
5 into the gaming establishment. Here's what
6 they do. So we're aware of it, we're okay
7 with it. And that's -- that was part of the
8 consideration that went into taking this
9 approach.

10 Now, when it comes to the
11 construction companies, the reason why I think
12 it still works is that the general contractor
13 will have to file an application for
14 licensure. Based upon the value of the
15 contract, there'll likely be the gaming vendor
16 secondary category. So they will, as part of
17 application, have to file a form that we've
18 identified in here. It's a new form that I'll
19 point out to you in the form section, called
20 the subcontractor, I think, identification
21 form, is what it's called. Whereby they --
22 they identify all the subcontractors,
23 including little steel erection company. They
24 identify all the players in the steel erection

1 subcontractor. And the subcontractor provides
2 us with any releases necessary and information
3 about the principals so that we can conduct
4 whatever investigation is necessary to ensure
5 that there are no unsuitable people involved.
6 And in a situation where you have a company
7 that's doing multimillion dollars worth of
8 business with the vendor, more scrutiny will
9 likely be paid to that type of subcontractor
10 versus the other type. But, ultimately, the
11 process is the same. And the flexibility is
12 still built in here for the bureau and the
13 division of licensure to call upon the vendor
14 to justify the suitability of any of its
15 associates, and subcontractors in this case.

16 So those were, essentially, all of
17 the considerations that -- that went into it.
18 And this was -- is kind of a measured
19 compromise, almost, between the two ways --
20 the two polar potential approaches.

21 COMMISSIONER MCHUGH: I get it, and
22 that's very helpful. Was any thought given to
23 the possibility of having that regime, i.e.
24 the discretionary regime, applied to

1 subcontracts worth X dollars or less -- X
2 dollars or less, and subcontracts worth X
3 dollars or more would require closer scrutiny?

4 MR. DAY: I might weigh in, because
5 yes, we did. As -- as you get to that process
6 it leads you naturally to the discussion about
7 level.

8 COMMISSIONER MCHUGH: Right.

9 MR. DAY: And, essentially, we
10 decided that wouldn't be as efficient. It
11 wouldn't provide us as much -- us particularly
12 as much flexibility. So we're leaning more to
13 the concept of risk assessment.

14 So the vendor advises us who their
15 subcontractors are, whatever the level is, and
16 then from there we can investigate, as we need
17 to do, to make sure the vendor is qualified
18 themselves and they're not associating with
19 unsuitable people. Because it could vary.
20 You know, the level could vary with the amount
21 of record and involvement. And rather than
22 cut it off at some particular point, it seemed
23 more appropriate to provide the complete
24 information.

1 COMMISSIONER MCHUGH: Yeah. I
2 wasn't thinking of it cutting it off. Maybe
3 my question was unclear. I was thinking of
4 having the discretionary call kick in at,
5 hypothetically, a contract worth \$5 million or
6 less. If it's \$5 million or less, then this
7 discretionary regime that we just outlined,
8 that would apply. If it were more than
9 5 million, then suitability would have to be
10 shown. Was that -- was that what you were
11 talking about, Director?

12 MR. DAY: I was actually talking
13 about the -- I think the reverse. What you're
14 suggesting is a level would apply to those
15 that have to be actually licensed --

16 COMMISSIONER MCHUGH: Right.

17 MR. DAY: -- or registered.

18 COMMISSIONER MCHUGH: Right.

19 MR. DAY: We did not focus on that
20 as -- at least I'm not aware. No. We were
21 concerned about the consistency with the --
22 with that part of the process.

23 COMMISSIONER MCHUGH: Yeah. The --
24 the underlying concern that I have here is

1 whether we're opening ourselves up to claims
2 of inconsistent application. You have -- you
3 have five contracts worth \$10 million or more,
4 you required -- you required suitability to be
5 shown in connection with three of them, and
6 the other six you -- you said that's fine and
7 then we find one of the four unsuitable.

8 Are we opening ourselves up to
9 litigation about the consistent application of
10 our processes and -- it's unlikely to arise if
11 we're talking about the box supplier for the
12 wedding cakes, because we're likely to have a
13 consistent application there and the dollar
14 amounts we would want to get those small
15 people in and the like. Just -- just a
16 thought.

17 MR. DAY: Well, I'm certainly sure
18 that, as far as the inconsistent process, or
19 legally there's much more qualified people
20 here, but I think what we're looking at is --
21 is, in fact, we would be handling everybody --
22 each vendor in that process the same requiring
23 them to file --

24 COMMISSIONER MCHUGH: No, no.

1 MR. DAY: -- the subcontractor
2 information, and we would be investigating in
3 that fashion. So every contractor, every
4 vendor would be with us would go through the
5 same procedure and every subcontractor would
6 have the same. So that would be consistent,
7 at least from my impression.

8 COMMISSIONER MCHUGH: Yeah. But how
9 we acted on them. Did we require a proof
10 suitability or did we let them slide? Okay.
11 I've made by point. I offer it for
12 consideration.

13 CHAIRMAN CROSBY: Well -- and I
14 second the point, and I think it makes some
15 sense. I just want to add another -- I don't
16 know whether this fits in this -- with this or
17 not, but I wonder whether, is there a way to
18 either in lieu of this, or in addition to
19 this, to put some kind of accountability on --
20 on the vendor? In other words --

21 COMMISSIONER ZUNIGA: There is.

22 CHAIRMAN CROSBY: Is that already
23 done?

24 MR. DAY: Yes.

1 CHAIRMAN CROSBY: Okay. So
2 you're -- if you bring in a bad person it's
3 going to be your problem --

4 MR. DAY: Exactly.

5 CHAIRMAN CROSBY: -- as well as the
6 bad person's problem.

7 MR. DAY: So it would -- it would
8 affect your qualification --

9 CHAIRMAN CROSBY: Correct.

10 MR. DAY: -- in the business as a
11 vendor.

12 CHAIRMAN CROSBY: Right. So you're
13 putting the burden back on them to make sure
14 that they have done their own due diligence
15 process.

16 MR. GROSSMAN: Well, that's the
17 focus of, essentially the process. Is that
18 the accountability's on the vendor. Now --

19 CHAIRMAN CROSBY: Okay.

20 MR. GROSSMAN: -- they may not be
21 able to do the -- the diligence that we're
22 able to do, and that's recognized.

23 CHAIRMAN CROSBY: Right.

24 MR. GROSSMAN: So we may certainly

1 have to approach whoever and -- and kind of
2 point out --

3 CHAIRMAN CROSBY: Right. Okay.

4 MR. GROSSMAN: -- certain issues.

5 MR. DAY: Comparatively, the process
6 is a lot like what the commission has
7 experienced through --

8 CHAIRMAN CROSBY: Right.

9 MR. DAY: -- the qualifier process,
10 the licensing qualifier.

11 CHAIRMAN CROSBY: Okay, fine. Good.
12 That's clear.

13 MR. DAY: It's kind of the same
14 thing.

15 COMMISSIONER CAMERON: Yeah. We had
16 long discussions about this very subject
17 yesterday because I was uncomfortable with --
18 or I had to understand it better, let me say,
19 because I know about -- I have knowledge of
20 issues in New Jersey where it was through
21 subcontractors that there was a real risk, and
22 issues around unsuitable people.

23 So I really needed to understand the
24 process better and -- and Director Acosta

1 explained to me that he felt comfortable
2 because of this form with all the identifiers,
3 so we would be able to, we had the information
4 we needed to take a quick look at all of those
5 individuals, and then, of course, a harder
6 look, if necessary. Is that -- am I
7 characterizing our conversation David?

8 MR. ACOSTA: Yeah. That is correct.
9 I mean, obviously, coming from New Jersey I am
10 aware of a number of stories with
11 subcontractors that raise some serious
12 eyebrows. I think this process must take
13 those issues under consideration.

14 I want to go back to Commissioner
15 McHugh's point. To some degree we did
16 consider the -- to a small point, consider the
17 level of business. One of the stakeholders,
18 in their comment, indicated that there'd be an
19 exception, in particular to subcontractors in
20 the construction, preconstruction phases,
21 because that is when you're going to have the
22 real big, you know, \$10 million contract.
23 Once the construction phase is completed,
24 you're not going to have that many contracts

1 where subcontractors will be, you know,
2 getting 10, 12, 13 million. In fact, they --
3 they suggest the language to be exempt supply
4 less than \$8 million goods and service, you
5 know, or \$16 million when it's combined, and
6 that's through the construction phase.

7 These regulations, one of the things
8 we talked about is drafting these regulations
9 for the long-term, not just for the initial
10 phase when you are going to have these massive
11 contracts, because a lot of it is dealing with
12 the construction aspect of it.

13 And, yeah, we -- we do recognize
14 that there are going to be some -- some really
15 big subcontractors that are going to get a
16 nice piece of change. But allowing the
17 process to identify who they are, the
18 commission can, if they wish, they may,
19 require these individuals to be licensed at
20 anytime, should we have concerns that we need
21 to determine suitability for these
22 individuals.

23 COMMISSIONER CAMERON: I know that,
24 Bob and Guy, you had a chance to weigh in.

1 Did you have a chance to consider this change,
2 which is gathering information, but not
3 requiring registration for subcontractors?

4 MR. MICHAEL: Yes, we did. We're
5 comfortable with this process. Again, we were
6 just talking about the key here is the
7 disclosure. That form that allows you to
8 identify those who are going to be the
9 subcontractors. And I understand Commissioner
10 McHugh's concern about the standards used in
11 applying your discretion. But, for the most,
12 part, they -- those standards can be pretty
13 clear. It's very hard to establish a
14 threshold that would be efficient. For
15 example if, say, \$5 million is the threshold,
16 you would get an astounding amount of \$4.9
17 million contracts that you would be -- that
18 would be submitted to you.

19 So it's -- I think the discretion is
20 a -- is a rational and reasonable way to
21 handle that kind of situation. And I -- we
22 also agree that there are going to be other
23 contracts in -- in large amounts, but not the
24 number there will be in the construction

1 phase.

2 And then you're going to -- if you
3 establish some kind of mandatory submission of
4 subcontractors, you're going to be faced with
5 situations later on in the operational phase
6 and such. People who supply slot machines
7 have hundreds of subcontractors for glass and
8 for meters and for, you know, all kinds of
9 equipment that go into the slot machine. I
10 don't know that you want to burden yourself
11 with all of that minutia and have to worry
12 about whether they need licenses or don't need
13 licenses. We're satisfied that this kind of
14 process both covers the area and gives you the
15 discretion to be able to make rational
16 determinations.

17 MR. CARROLL: I just want to add to
18 that, that, you know, there will be protocols
19 put in place within the IEB for the analysis
20 of the information that'll be supplied. So
21 that the transparency that's going to be
22 produced by getting that information, and the
23 cross-checking that will be done with law
24 enforcement, we feel will be adequate to

1 identify any unsuitable people. And,
2 particularly, companies that have, you know,
3 traditionally involved in the type of
4 unacceptable activities of an organized
5 nature. And if they can be identified --
6 they're normally tracked by law enforcement
7 anyway. And those type of infiltrations and
8 so forth are looked for, particularly in this
9 industry.

10 COMMISSIONER MCHUGH: Thanks. I
11 forgot about the \$4.9 million contract.

12 CHAIRMAN CROSBY: They're clever
13 people. Go ahead.

14 MR. DAY: Before we do, I just want
15 to check, we could establish a level, if the
16 commission felt that was significantly
17 important that you wanted -- wanted us to do
18 that. So we wanted -- before we get too far I
19 wanted to make sure we're either in agreement
20 or not on how we want to go forward.

21 COMMISSIONER MCHUGH: I am persuaded
22 by Mr. Michael's suggestion that that would
23 not be particularly efficient.

24 COMMISSIONER STEBBINS: I would

1 agree.

2 COMMISSIONER ZUNIGA: Yeah, I agree.

3 I -- I much rather prefer the risk-based
4 approach that reserves the discretion and
5 allows -- doesn't throw out the baby with
6 the -- the water with the -- the baby with the
7 the bath water. The water with the baby.

8 MR. DAY: The concept is to try to
9 be able to balance the competing demands for
10 flexibility on people being able to be a
11 subcontractor, and our need for information
12 and identity of -- of those who are involved
13 in the process.

14 COMMISSIONER ZUNIGA: Yes.

15 CHAIRMAN CROSBY: I'm not sure I
16 understand who's the baby and which is the
17 bath water. But I'll -- whatever, I'll go
18 along with it.

19 COMMISSIONER ZUNIGA: I'm not sure I
20 understood either.

21 COMMISSIONER CAMERON: That was the
22 cake maker.

23 CHAIRMAN CROSBY: The cake make --

24 COMMISSIONER MCHUGH: The cake

1 maker. No, the box supplier.

2 COMMISSIONER CAMERON: The box
3 supplier, yes.

4 MR. DAY: Thank you.

5 MR. GROSSMAN: Okay.

6 CHAIRMAN CROSBY: Carry on, I'm just
7 going to get a cup of coffee.

8 MR. GROSSMAN: Then we move into the
9 gaming vendor qualifiers where we made a few
10 adjustments there, just to stream line that
11 review.

12 The next, I think, significant
13 change from the version you saw last would be
14 on page nine which talks -- we were talking
15 about exemptions. And -- and we discovered
16 that it was important to be able to create
17 exemptions to the requirement that certain
18 individuals be licensed or registered as
19 vendors, or mostly registered as nongaming
20 vendors. And those are -- the one common
21 thread to -- through most of these, not all of
22 them, are that these are individuals who are
23 otherwise licensed or registered through some
24 other governmental entity, whether it be

1 federal or state, or local, with a handful of
2 exceptions. So -- and a number of
3 jurisdictions have similar provisions
4 governing exemptions.

5 So we created on the bottom of page
6 nine, paragraph F, which deals with exemptions
7 to the requirement that these folks be
8 licensed or registered as vendors. It also
9 creates, on page 10, a means by which
10 individuals may petition to be exempt from the
11 registration requirements by demonstrating
12 that their registration's not necessary to
13 protect the public interest. Beginning on
14 page --

15 COMMISSIONER STEBBINS: Todd --

16 MR. GROSSMAN: Yes.

17 COMMISSIONER STEBBINS: -- quick
18 question. Why do you include advertising and
19 media services as one of those exempted
20 categories?

21 MR. ACOSTA: This is to cover the
22 situation in which they buy ads in the
23 newspaper to promote some type of activity.
24 That would not be a vendor that -- that should

1 be captured. You know, this is just a
2 one-time thing for ad to ask the New York
3 Times to come and register because they now
4 are printing and ad for a particular company,
5 I don't think that's the intent of -- of the
6 vendor registration process.

7 COMMISSIONER STEBBINS: Okay. It
8 might be helpful to more define that out a
9 little bit further in this.

10 CHAIRMAN CROSBY: Well, are you
11 talking about advertising agencies? That
12 that's what I thought you were referring to.
13 You're not talking about people who are
14 running ads, you're talking about
15 advertising --

16 COMMISSIONER ZUNIGA: Advertising
17 and media services. So it's broad.

18 COMMISSIONER STEBBINS: Television
19 station, newspapers. Anything where you're
20 printing an ad or -- not the people designing
21 it, but the people -- the entity that is
22 publishing it or airing it, or broadcasting
23 it; is that right?

24 CHAIRMAN CROSBY: If you hired -- if

1 you hired BBD & O to be your advertising
2 agency, would this count as a -- and they were
3 do all your advertising, would that count as a
4 -- a vendor?

5 MR. ACOSTA: That would most likely
6 be a gaming -- nongaming vendor.

7 CHAIRMAN CROSBY: Okay.

8 MR. ACOSTA: I don't think that's
9 the type of service that -- that's being
10 contemplated here.

11 MR. MICHAEL: I think, maybe this
12 could be worded more clearly.

13 CHAIRMAN CROSBY: Yeah. That's --

14 MR. MICHAEL: But, typically, this
15 exemption is done for first amendment reasons.
16 That the licensing of newspapers, and the
17 licensing of television stations raises first
18 amendment questions. And so, in other
19 jurisdictions that -- that's the basis for the
20 exemption so --

21 CHAIRMAN CROSBY: That -- that makes
22 complete sense to me.

23 COMMISSIONER STEBBINS: Right.

24 CHAIRMAN CROSBY: I think I agree

1 with you. Go ahead, finish your point.

2 COMMISSIONER STEBBINS: I just think
3 we just need to -- if I was sitting here and I
4 have an advertising company, I'm thinking, oh,
5 I can do all your mock-ups on your ads and
6 artwork, and I don't need to be registered.

7 CHAIRMAN CROSBY: That's what I --
8 that's what I thought it meant.

9 MR. MICHAEL: We'll word it better.

10 MR. GROSSMAN: We'll fix that.

11 CHAIRMAN CROSBY: Okay. Thank you,
12 Commissioner.

13 MR. GROSSMAN: The next big
14 section -- so the first section dealt with, of
15 course, kind of categorizing who fit into each
16 group of license or registration. The next
17 section deals with the forms that these groups
18 will be required to file, so that begins on
19 page 11. Starts with the multijurisdictional.
20 And there are a few points that we wanted to
21 raise here today for you to take a look at.

22 On page 13, for example, and this is
23 included in a number of the forms, this is an
24 issue that came up a week or two ago relative

1 to whether the commission wants to ask for
2 individuals who can attest to the qualify --
3 to the person's good character and reputation,
4 or whether we should just leave what, or if
5 you'd like to remove it.

6 COMMISSIONER STEBBINS: I understand
7 -- understand from our conversation why it's
8 helpful to leave it in.

9 CHAIRMAN CROSBY: Why is it helpful?

10 MR. DAY: Essentially we -- as we
11 analyzed this we thought it was -- provides
12 good, factual information that can be followed
13 up during the investigation. Also may provide
14 ability for us to locate an individual if we
15 need it. So we -- we thought it -- it may not
16 be the greatest information, I think,
17 Chairman, as you have identified, but on the
18 other hand, it could be productive so that's
19 why we thought we'd just leave it in. But we
20 can go either way as well.

21 CHAIRMAN CROSBY: Just -- I just
22 have a personal thing. It's absurd. But I've
23 seen it in all these reports. It seems
24 preposterous, but it doesn't matter. It's

1 fine with me.

2 MR. DAY: Just leave it?

3 COMMISSIONER STEBBINS: It was
4 somewhat in your camp, but a thoughtful
5 explanation.

6 MR. GROSSMAN: Okay.

7 COMMISSIONER STEBBINS: It shouldn't
8 be a huge, arduous task for somebody -- might
9 be fore me, but to find people who talk well
10 about, I think, should be easy to find.

11 MR. DAY: Yeah. I mean, that's
12 essentially what we thought would happen. You
13 know, the information should be readily
14 provided and may be of some use, and it may be
15 helpful so we thought we'll just leave it
16 there.

17 COMMISSIONER MCHUGH: And if they
18 can't that's a --

19 MR. CARROLL: It's a big issue.

20 COMMISSIONER STEBBINS: It's a big
21 predictor.

22 MR. DAY: That may be also an
23 investigative --

24 CHAIRMAN CROSBY: A threshold

1 question, right.

2 MR. CARROLL: We only have two.

3 CHAIRMAN CROSBY: Can you dig up
4 three.

5 MR. GROSSMAN: So right below that,
6 number 24, another issue, this runs throughout
7 the form section. The part where we ask for
8 people to consent to inspection searches and
9 seizures. There was some concern that this
10 may be some way to acquire people to waive
11 their constitutional rights as a part of the
12 licensing process where you really don't have
13 any say. It's almost coercive. So we thought
14 we would raise that issue here. We've
15 recommended taking it out.

16 CHAIRMAN CROSBY: Which page is
17 that?

18 MR. GROSSMAN: It's page 13, number
19 24 on the bottom. And it's contained in a
20 number of the forms, but that's -- that's one
21 example.

22 MR. DAY: It's right under the
23 yellow.

24 COMMISSIONER CAMERON: What's an

1 example of how that would be used, or has
2 been?

3 MR. GROSSMAN: Well that -- that's
4 another good point. I mean, I don't know. I
5 mean at least the way the language is written
6 in the forms it seems as though you're waiving
7 your constitutional rights that -- you know,
8 search and seizure protection.

9 MR. DAY: As I was trying to think
10 this process through, the thing that comes to
11 mind to me most is that as we go about our --
12 our job of regulation and enforcement, we're
13 going to want access to information to all
14 parties involved and the gaming right of
15 inspection, those kinds of things. But that's
16 all -- will be describing that in separate
17 regulations that make sure we have that
18 ability with any licensee. So it didn't seem
19 that it was particularly useful here and may
20 raise more questions than it's worth.

21 COMMISSIONER MCHUGH: I fully agree
22 with that, striking that. I mean, one can
23 argue that you don't have -- you may have a
24 constitutional right to be free of a search,

1 you don't have a constitutional right to be a
2 qualifier. And -- and you can burden the
3 latter with -- with the surrender of the
4 former, but it raises too many questions and
5 permits too many abuses, it seems to me.

6 MR. MICHAEL: Would there be a
7 problem if the waiver was limited to the
8 gaming establishment, while you are on the
9 gaming establishment, while you're on the
10 gaming premises?

11 There's no intention to go into a
12 person's home or to, you know, greet them on
13 the street and go through their person. But,
14 typically, these kinds of -- this kind of
15 search would occur, or this requirement that
16 they be available for -- you know, to be
17 examined would be while they're on the gaming
18 premises.

19 CHAIRMAN CROSBY: Or like if they
20 had a locker in a dressing room?

21 MR. MICHAEL: Right. Right.

22 CHAIRMAN CROSBY: That the -- we'd
23 have the right to go into their locker?

24 MR. MICHAEL: Right. Right.

1 COMMISSIONER MCHUGH: Is that done
2 elsewhere?

3 MR. CARROLL: Yeah.

4 MR. MICHAEL: In New Jersey,
5 that's -- that's the limitation of the waiver
6 in New Jersey.

7 COMMISSIONER MCHUGH: If you bring
8 -- if you park your car in the casino garage
9 on your way to work your car is subject to --

10 MR. MICHAEL: Well, the gaming
11 premises is defined as --

12 COMMISSIONER MCHUGH: Oh, the gaming
13 premises.

14 MR. MICHAEL: Right. Not -- not the
15 entire gaming establishment, per se, but the
16 gaming premises.

17 MR. CARROLL: Usually it's like, for
18 example, an employee removing something from
19 the gaming floor or where they work, their
20 work station or something, security sometimes
21 will do checks -- spot checks for -- could be
22 anything from employees stealing food or chips
23 or, you know, a variety of different things.
24 You know, they -- they waive their right of

1 privacy to their personal effects. That's in
2 addition to other security measures like
3 people in count rooms having own clear bags
4 and things of that sort.

5 COMMISSIONER MCHUGH: Right. Right.
6 Right.

7 MR. CARROLL: It's part of overall
8 security protocols.

9 CHAIRMAN CROSBY: That -- that
10 seems, to me, like a reasonable -- is that --
11 would that be for you?

12 COMMISSIONER MCHUGH: It does. But
13 this applies to all gaming vendors.

14 MR. GROSSMAN: It's in a couple of
15 the forms, the waivers.

16 COMMISSIONER CAMERON: Maybe it can
17 be removed any -- everywhere except for the --
18 the gaming.

19 MR. MICHAEL: The gaming -- within
20 the gaming premises.

21 COMMISSIONER CAMERON: Yes.

22 MR. CARROLL: While on -- while on
23 the gaming premise.

24 MR. DAY: Frankly, these people

1 aren't really even on the premises, for the
2 most part. I mean, there will be for the
3 gaming keys, but -- not otherwise.

4 COMMISSIONER CAMERON: So maybe that
5 would be the only place that it would be left
6 in?

7 MR. DAY: This is the
8 multijurisdictional form here. But the other
9 side of it is, at least my experience with our
10 regulations and right to inspect and those
11 kind of things, we have a full right to any
12 area, anyplace within -- within any kind of
13 gaming establishment. So I'm not -- I'm not
14 necessarily opposed, but I think the language
15 can cause more difficulty than it can be
16 helpful.

17 COMMISSIONER MCHUGH: What language
18 would be more difficult than helpful?

19 MR. DAY: The inspection searches
20 and seizures waiver that's -- that's in here.

21 CHAIRMAN CROSBY: So you're saying
22 to take it out?

23 COMMISSIONER CAMERON: Take it out?

24 MR. DAY: I think either take it

1 out, or I guess the other side would be maybe
2 the restrict -- some kind of a waiver portion
3 with those employees that might be on premise.

4 COMMISSIONER CAMERON: So a separate
5 form, or a separate part of -- in other words,
6 it wouldn't be part of the disclosure form, it
7 would be a separate form.

8 MR. DAY: Right. It wouldn't be
9 part of these licensing forms.

10 COMMISSIONER MCHUGH: That might
11 be -- that might be a better way to approach
12 it. Part of your employment is the waiver.

13 CHAIRMAN CROSBY: The limited -- the
14 limited waiver.

15 COMMISSIONER MCHUGH: The limited
16 waiver.

17 CHAIRMAN CROSBY: Yeah.

18 COMMISSIONER MCHUGH: That's right,
19 yeah.

20 MR. MICHAEL: Not all employees will
21 have contracts so, you know, it could go on
22 the license form for only those employees --
23 only those persons with -- who would be on
24 the -- who have access to the gaming floor, be

1 on the gaming floor that you would have any
2 need to examine.

3 COMMISSIONER MCHUGH: Yeah, but --

4 MR. CARROLL: The waiver -- we would
5 have to -- excuse me, Commissioner. The
6 waiver -- you know, if the waiver is for the
7 employer to be able to inspect their
8 employees, for example their security
9 department --

10 COMMISSIONER MCHUGH: No. I
11 understand -- I understand that, yeah.

12 MR. CARROLL: Yeah, okay.

13 COMMISSIONER MCHUGH: But the -- but
14 everybody who is going to have a locker is
15 going to have an employment contract, aren't
16 they, or are they not?

17 MR. CARROLL: No.

18 MR. MICHAEL: No.

19 MR. CARROLL: No.

20 MR. MICHAEL: Could be in a manual,
21 but that's not a contract.

22 COMMISSIONER MCHUGH: Okay.

23 MR. MICHAEL: They may have a term
24 in a manual.

1 MR. CARROLL: That's where they put
2 it, usually?

3 CHAIRMAN CROSBY: Well maybe --
4 maybe, rather than right by committee, we
5 ought to ask you to come up with a --

6 COMMISSIONER MCHUGH: Come up with a
7 better approach.

8 CHAIRMAN CROSBY: -- a way to do
9 this. A way to limit the yes we agree with
10 striking it, but let's figure out a way to
11 come up with a more limited application.

12 COMMISSIONER MCHUGH: Right, right,
13 right. I agree.

14 MR. GROSSMAN: You'll see on page
15 22, 23 we added a new form for the gaming
16 vendor secondary to reflect that new
17 categorization. On page -- oh, we did want to
18 add the social security information. Where
19 did we do that?

20 COMMISSIONER CAMERON: It's under
21 subcontractors.

22 MR. DAY: Subcontractors.

23 MR. ACOSTA: Subcontractors.

24 MR. GROSSMAN: So on page 28 -- on

1 page 28 is where we include the form the the
2 vendors will have to file identifying the
3 subcontractors. And it's actually very
4 similar to the information that nongaming
5 vendors would have to provide. There's
6 really -- you can ignore the fact that some of
7 it's in green. That should all be in red.

8 MR. DAY: It's Christmas. The
9 holidays.

10 MR. GROSSMAN: Well, don't ignore
11 it.

12 COMMISSIONER MCHUGH: It's the
13 holidays.

14 COMMISSIONER CAMERON: Yes.

15 MR. GROSSMAN: Don't read into it, I
16 guess I should say.

17 COMMISSIONER MCHUGH: You need some
18 green some red.

19 MR. GROSSMAN: We thought it was
20 important to add a requirement that social
21 security numbers be provided as well so that
22 we can adequately investigate the
23 subcontractors.

24 MR. ACOSTA: That would be added to

1 number five. That will be added to number
2 five. Excuse me. There's -- on page 21 and
3 page 24, this was discussion that we had with
4 Commissioner Stebbins yesterday. We're asking
5 that question 23 on page 21, and question 27
6 on page 25 be striked. We don't believe that
7 they are necessary.

8 MR. DAY: Identify those.

9 MR. ACOSTA: Question 23 on page 21
10 -- no, 33, 33. And question 27 on page 24.

11 COMMISSIONER CAMERON: So the gaming
12 vendor primary would not concerned about
13 political contributions; is that it?

14 MR. ACOSTA: Correct. It was a
15 discussion that we had with Commissioner
16 Stebbins, and I think his point was well
17 taken. And I think staff agrees with
18 Mr. Stebbins' recommendation.

19 CHAIRMAN CROSBY: I'm sorry.

20 MR. ACOSTA: It's not necessary.

21 CHAIRMAN CROSBY: So you're
22 suggesting taking that out?

23 MR. ACOSTA: That is correct.

24 CHAIRMAN CROSBY: We'd be violating

1 their fifth amendment rights to answer these
2 questions.

3 MR. MICHAEL: Is this about
4 political contributions?

5 COMMISSIONER CAMERON: Yes.

6 COMMISSIONER STEBBINS: Yeah.

7 COMMISSIONER MCHUGH: Yes.

8 MR. MICHAEL: Well, there's no
9 prohibitions against political contributions
10 by vendors that I'm aware of so I realize
11 they're not necessarily.

12 COMMISSIONER STEBBINS: I know we --

13 CHAIRMAN CROSBY: Well, this is more
14 about -- B and C are, in effect, about illegal
15 contributions but --

16 COMMISSIONER MCHUGH: But they --
17 but they are already reporting requirements.
18 There's already rules --

19 CHAIRMAN CROSBY: Yeah, right. I
20 agree.

21 COMMISSIONER MCHUGH: -- and to put
22 us in the middle of adding another layer of
23 regulation on top of that, we already got
24 enough to worry about.

1 CHAIRMAN CROSBY: Right.

2 COMMISSIONER STEBBINS: Yeah. It
3 was somewhat -- it's been taking the
4 opportunity to work with Director Acosta and
5 looking at the actual vendor application
6 forms. And what jumped off -- jumped off the
7 page to me was almost a page-and-a-half was
8 listing these contributions. Obviously, you
9 know, we did have a provision where if you
10 were a applicant there was a ban on making a
11 -- on making political contributions during
12 that application period. But this would be
13 ongoing and I don't think necessary.

14 CHAIRMAN CROSBY: I have a question.
15 On page 23 Item No. 21, that seemed -- that
16 seemed unnecessary to me, page 23, Item 21.
17 Partly, I'm just thinking of trying to keep
18 these things from being too onerous for
19 everybody but I'm -- what's the value? What's
20 the point of that one?

21 MR. MICHAEL: We don't have the
22 final version so I'm not sure what --

23 CHAIRMAN CROSBY: Oh. Can somebody
24 give them a copy of the final version?

1 MR. MICHAEL: Page 23, Item 21?

2 CHAIRMAN CROSBY: Yeah.

3 MR. MICHAEL: We don't see any
4 particular value in that. I mean, it's one
5 thing if you're the holding company of the
6 applicant.

7 CHAIRMAN CROSBY: Right.

8 MR. MICHAEL: But if you're not --
9 if these are other companies they have stock
10 in that have no connection to the relationship
11 they have to the casino, it doesn't seem
12 there's any investigative value to that.

13 CHAIRMAN CROSBY: That's what I was
14 thinking.

15 COMMISSIONER STEBBINS: Is -- going
16 a little bit further up the page, number --

17 CHAIRMAN CROSBY: Excuse me just one
18 sec. Did you -- did you guys pick that up?
19 Did you hear?

20 MR. DAY: Yeah.

21 MR. GROSSMAN: Yeah. So just to
22 clarify should we remove these sections that
23 we're talking about now?

24 MR. DAY: Twenty-one.

1 MR. GROSSMAN: Twenty-one and 33 and
2 the numbers?

3 CHAIRMAN CROSBY: Yeah. I think we
4 all agreed on that one. That was your
5 recommendation, we agreed on that.

6 MR. GROSSMAN: Okay.

7 CHAIRMAN CROSBY: I'm now -- I'm now
8 raising the issue of the Section 21 on page
9 23. And guy and Bob said that they saw no
10 investigative value on that.

11 MR. DAY: So we'll delete those on
12 -- in this form --

13 CHAIRMAN CROSBY: Yeah, okay.

14 MR. DAY: -- and if we then have --

15 CHAIRMAN CROSBY: Wherever else they
16 appears, yeah.

17 COMMISSIONER CAMERON: So the
18 numbers will change?

19 MR. GROSSMAN: Right.

20 MR. DAY: Yeah.

21 CHAIRMAN CROSBY: How long, about,
22 do you have to go on? We do have people here
23 who were -- we want to make sure we have time
24 for them to speak?

1 MR. GROSSMAN: I can move more
2 quickly, if that would be helpful. Actually,
3 this is really the bulk of the comments that
4 we had. There's a few other things we can
5 point out.

6 CHAIRMAN CROSBY: Well, and the
7 commissioners may have questions. But I
8 just -- I'm not trying to rush you. I just
9 want to make sure that we do have people --
10 give people a chance to speak. We've already
11 lost one person who wanted to speak.

12 MR. GROSSMAN: No. You know what,
13 actually that was -- that's a lot of -- that's
14 most of the big --

15 CHAIRMAN CROSBY: The big -- the big
16 stuff?

17 MR. GROSSMAN: The big stuff.
18 There's a few other --

19 COMMISSIONER STEBBINS: Do you want
20 to take a break and come back to it?

21 COMMISSIONER ZUNIGA: Well, it's a
22 hearing. We're supposed to hear it.

23 CHAIRMAN CROSBY: I'm sorry. Is
24 there some reason we shouldn't take a break?

1 COMMISSIONER CAMERON: So should you
2 not want to finish?

3 COMMISSIONER ZUNIGA: No, no.
4 There's no reason.

5 MR. DAY: I think we can just finish
6 and it won't be much longer --

7 CHAIRMAN CROSBY: All right.

8 MR. DAY: -- if that works.

9 CHAIRMAN CROSBY: All right. So
10 let's finish up with you guys and take a quick
11 break then we'll get speakers.

12 MR. GROSSMAN: All right. I would
13 just -- I would point out we beefed up the
14 reciprocity for vendors --

15 CHAIRMAN CROSBY: Page?

16 MR. GROSSMAN: Page 30, a little
17 above the middle of the page. We just
18 attempted to clarify a little bit how the
19 reciprocity for vendors section will work.
20 And then on page 30, 31, one of the only
21 changes we really made was to clarify that the
22 -- all licenses and -- and registrations, and
23 we'll just point that out real quick, will be
24 issued by the division of licensing and not by

1 the bureau. So the bureau, of course, will be
2 a critical participant in the process and do
3 all the investigations and what have you. But
4 instead of placing the burden on the bureau to
5 actually issue the licenses and the
6 registrations, we directed that that be done
7 by the division of licensing.

8 So to that end there are just two
9 places that I would like to amend the draft
10 here. So it's on -- that's on page 31 and 32.
11 And just to clarify that the registrations
12 will be issued by the division and not the
13 bureau.

14 I think it's just worthy of note,
15 and I -- I think we've had a chance to brief
16 you all on this issue individually, on the
17 rehabilitation provision of the statute when
18 certain individuals may --

19 CHAIRMAN CROSBY: Page?

20 MR. GROSSMAN: I'm sorry. 34. It's
21 on 34 for licensees and 36 for registrants.
22 The statute - this is Section 16 of Chapter
23 23K of the general laws - sets out a mechanism
24 by which the commission may consider the

1 rehabilitation of certain individuals who have
2 been convicted of certain crimes. And that's
3 -- that's a critical component of this whole
4 process. And we -- we've highlighted them in
5 here just to draw your attention to the way
6 we've reflected it in the regulations. And we
7 wanted to just make sure that you understood
8 the interpretation that the staff assigned to
9 what the statute says.

10 And what that is that in -- first of
11 all, the key games employees are not afforded
12 to the opportunity under Section 16 of the
13 general laws, Chapter 23K, to demonstrate
14 rehabilitation for any convictions for any
15 felonies, or crimes involving fraud, perjury
16 or theft. And that's -- that's our reading of
17 the law.

18 It's also important to note here
19 that the auto -- and these are automatic
20 disqualifiers we're talking about. The
21 commission can always take into account any
22 other arrests and other things, and make
23 determinations as to someone's suitability
24 based upon a pattern of certain arrests or

1 other court involvement, but they're not
2 automatic disqualifiers.

3 The key here is the automatic nature
4 of certain convictions and the automatic
5 disqualifying nature. And the law says that,
6 the way we read it, if you're -- you're
7 applying for a key gaming licenses and you
8 have any of these convictions you're
9 automatically disqualified from being issued a
10 key gaming employee license.

11 What the law does, though, is that
12 it allows for individuals applying for the
13 registrations and the gaming employee license
14 demonstrate before the bureau rehabilitation
15 for those convictions, which are otherwise
16 automatic disqualifiers. And it's also
17 important to point out for everyone that the
18 law and regulations talk about convictions for
19 these offenses. Not charges, not pretrial
20 disposition, not even what in Massachusetts we
21 refer to as CWAFS, continuations without a
22 finding. So you have to have been convicted
23 of these crimes for them to be automatic
24 disqualifiers. Otherwise, we can, of course,

1 take them into consideration. We don't ignore
2 them, but they're not automatic disqualifiers.

3 And the way the regulations and the
4 process will work, based upon our reading of
5 the statute, is that, if you've been convicted
6 of any of the automatic disqualifying
7 offenses, you can only demonstrate
8 rehabilitation if the offense occurred more
9 than 10 years ago, not within the 10-year
10 period. So if you've been convicted of a
11 felony, or a crime involving theft,
12 embezzlement or perjury six years ago, or
13 eight years ago, then you're not allowed to
14 come in and demonstrate rehabilitation. It's
15 an automatic disqualifier. You'd have to wait
16 until the 10-year period lapses. At which
17 point, you could reapply and come in and
18 demonstrate rehabilitation before a hearing
19 officer or before the division.

20 So we thought it was important that
21 the commission understands what our
22 interpretation of the law was and is -- is in
23 agreement with that because it will have a --
24 perhaps broad implications.

1 COMMISSIONER MCHUGH: A plea of
2 guilty is a conviction for these purposes,
3 right?

4 MR. GROSSMAN: Well, A plea of
5 guilty of course --

6 COMMISSIONER MCHUGH: That's what I
7 said.

8 MR. GROSSMAN: Yes. You did say.
9 You did say that.

10 COMMISSIONER MCHUGH: Right.

11 MR. GROSSMAN: Yes. Or it's a
12 conviction after trial. If you go to trial
13 and a jury or a judge find you guilty, then
14 you're guilty. Or if you plead guilty that's
15 a guilty. So when we look at your record, if
16 it has a G then that's what we would consider.
17 If there's any -- anything else, with certain
18 exception, perhaps, then it's not a
19 conviction. It's some other resolution of
20 your criminal matter that we will look at.
21 So, anyway, that's -- that was what we had to
22 say about that.

23 CHAIRMAN CROSBY: You look like you
24 were about to say something about that.

1 MR. MICHAEL: Well, I mean, that's
2 the reading of the statute. It's -- in
3 certain instances it could be harsh. I mean,
4 there's -- you have somebody who has a
5 shoplifting nine hears ago, that's a theft
6 offense, they would be prohibited from being a
7 slot mechanic. You know, that -- that is a
8 harsh result, but if that's the legislative
9 intent, then there's really nothing else the
10 commission can do.

11 CHAIRMAN CROSBY: And on that case
12 and point, that is legislative intent?

13 MR. GROSSMAN: Well that's -- that's
14 the way we read it. Now, again, though, that
15 would have to be a conviction. And for
16 someone to be convicted of shoplifting in
17 Massachusetts you either most likely -- there
18 are exceptions to everything. But you either
19 have a very lengthy record or the shoplifting
20 was particularly egregious in some way.

21 COMMISSIONER MCHUGH: You mean, you
22 have to shop lift a car.

23 MR. MICHAEL: I leave the
24 Massachusetts administration to you.

1 CHAIRMAN CROSBY: Yeah, right.

2 Okay. Thank you. I may have missed
3 something. On page 28, on the subcontractor
4 identification form, would we not want the
5 amount of the subcontractor be in the form?

6 MR. GROSSMAN: That's a good point.
7 We probably should do -- add that.

8 CHAIRMAN CROSBY: Yeah. Okay.

9 MR. GROSSMAN: We'll add that.

10 CHAIRMAN CROSBY: Okay. Are you
11 done your highlights?

12 MR. DAY: You want to just do the
13 fees.

14 MR. GROSSMAN: We'll draw your
15 attention just to page 38 and 39 where we talk
16 about fees. I made some adjustments there.
17 For example, we added a gaming vendor
18 qualifiers. We added that there's no fee.
19 That, that fee will be wrapped into the gaming
20 vendor fee as part of the investigation.

21 We added the gaming vendor secondary
22 fee of \$5,000 as opposed to the \$15,000 gaming
23 vendor primary fee. We added in a late fee of
24 10 percent if you don't file on time. And

1 that's -- that's essentially it.

2 CHAIRMAN CROSBY: Okay.

3 COMMISSIONER STEBBINS: Do we talk
4 about the length of time for the license?

5 MR. GROSSMAN: The -- okay, so the
6 terms is on page 39 and 40. We didn't -- I
7 don't think we changed any of the term from
8 the last time you saw it.

9 COMMISSIONER STEBBINS: My only -- I
10 mean, my only comment about that is somebody
11 looks at \$5,000, if they're going to be a
12 small vendor, but when you realize it's over a
13 term of three years it begins to cost itself
14 out and not look like such a heavy burden to
15 pay.

16 MR. GROSSMAN: I mean, and to that
17 point, the fees are intended to ensure that
18 the commission is reimbursed for the cost of
19 any investigation. And they're -- that's why
20 they're priced as they are.

21 COMMISSIONER CAMERON: And -- and if
22 I remember correctly, our prices are not at
23 the top, are there?

24 MR. ACOSTA: No, they're not.

1 COMMISSIONER CAMERON: They're
2 pretty much the median?

3 MR. ACOSTA: Yes. In fact, outside
4 of one particular state, they're probably
5 lower than most states.

6 CHAIRMAN CROSBY: And A gaming
7 vendor would be -- would that be a wedding
8 cake?

9 MR. ACOSTA: No.

10 CHAIRMAN CROSBY: No, because of --
11 because of volume?

12 MR. ACOSTA: A gaming vendor
13 secondary because now we call them a gaming
14 vendor primary and gaming vendor secondary.
15 So gaming vendor primary --

16 CHAIRMAN CROSBY: Right. Okay.

17 MR. ACOSTA: -- would be the
18 companies that manufacture slot machines. The
19 wedding cake, if they sell enough wedding
20 cakes to meet the threshold, then they -- they
21 would reach the --

22 CHAIRMAN CROSBY: They'd be
23 secondary.

24 MR. GROSSMAN: Yes.

1 MR. ACOSTA: Secondary in that
2 event.

3 CHAIRMAN CROSBY: But if you -- your
4 contract for wedding cakes might be \$4,000.

5 MR. GROSSMAN: Then you'd just be
6 registered.

7 CHAIRMAN CROSBY: Just registered.
8 Okay. Fine. Okay.

9 MR. GROSSMAN: I think those are the
10 highlights. Well I should -- one last thing.
11 There's the second part, which were the
12 amendments to the existing regulations that
13 you have before you too. They're after the
14 green sheet in your -- your book. Although,
15 my book as whats a green sheet --

16 COMMISSIONER CAMERON: We have an
17 orange sheet.

18 MR. GROSSMAN: You have an orange
19 sheet. And on page three there we talk about
20 the definition of restrict the area. This
21 is -- is complicated. And, at this point, we
22 recognize the need to define the term. And
23 without -- at this point in the process,
24 without having the rest of the regulations,

1 what you've done one page one and two -- of
2 one and two of this supplemental --

3 MR. GROSSMAN: Right.

4 COMMISSIONER MCHUGH: -- is to leave
5 those regulations where they are, right, in
6 Section -- back at Section 101.2 -- 02?

7 MR. GROSSMAN: Well, these would be
8 deleted because we talk about them in the --
9 in 134.

10 COMMISSIONER MCHUGH: Well, okay.
11 I -- I know we're running -- I have some
12 concerns. We can come back to that later
13 after people have had an opportunity to talk.
14 Are we -- are we finished now?

15 CHAIRMAN CROSBY: Are you all
16 finished?

17 MR. GROSSMAN: Yes, we are.

18 CHAIRMAN CROSBY: Do we have --
19 before we get to speakers, are there any other
20 questions from the commissioners?

21 COMMISSIONER CAMERON: No.

22 COMMISSIONER MCHUGH: I want to come
23 back this point, but we can come back to it
24 later.

1 CHAIRMAN CROSBY: Well I -- I just
2 wanted to ask you -- any -- and all of you, is
3 it whether -- just sort of big picture now,
4 stepping back, are there any issues hanging
5 out there that -- that we should be thinking
6 about? Are there any, you know, sort of
7 cutting-edge best practices that we're not
8 accommodating? Are there new movements that
9 were -- are we taking into account of all the
10 good thinking that's going on out there? Is
11 there -- have we -- have we been as rigorous
12 as we can all be to make sure that we're not
13 asking questions that, really, are just
14 pushing paper and getting in the way of people
15 trying to do business? Is there anything
16 else -- have you looked at it from that
17 standpoint, that we're being as thought and
18 innovative and appropriate?

19 MR. MICHAEL: From our point of
20 view, I think this -- this certainly meets the
21 challenge that you have to establish these
22 initial licensing requirements. As time goes
23 on, there will be other developments that --
24 you know, commission like any -- any agency

1 would need to adapt to Internet and those
2 technological advancements that raise all
3 kinds of new issues regarding, you know, where
4 the gaming is conducted, what's the gaming
5 establishment, who needs to be licensed and
6 all of that. But --

7 CHAIRMAN CROSBY: Right.

8 MR. MICHAEL: -- since there is no
9 Internet or there -- the other kinds of gaming
10 that might come about in the future isn't
11 something you'll have to deal with at the
12 present time, this call seems adequate to us.

13 CHAIRMAN CROSBY: Okay. And, Jill,
14 have -- have we -- and everybody, have we
15 thought through as carefully as we can about
16 removing the impediments to minority and --
17 and other sort of underutilized resources?

18 MS. GRIFFIN: I think so. We
19 brought these draft regulations out to
20 multiple community groups and chambers --
21 chambers of commerce, our vendor advisory
22 group, Workforce Professionals, and
23 association that represents the career
24 centers. So a lot of the feedback and change

1 that is you see here were informed by remarks
2 and comments within the community so --

3 CHAIRMAN CROSBY: Okay. Good. And
4 the issue of the impacts of CORI, credit and
5 drug testing and -- you know, have we
6 modulated that as much as thoroughly as you
7 think we can?

8 MS. GRIFFIN: Well, you know, the --
9 the comment about the statute, you know, I --
10 I share concerns about someone who has a
11 shoplifting conviction from nine years ago,
12 but that is the statute so --

13 CHAIRMAN CROSBY: Right.

14 MS. GRIFFIN: So I -- I think the
15 commission has done as much as possible.

16 CHAIRMAN CROSBY: Okay. We might
17 think -- I don't know exactly where --
18 which -- you know, where the various lines are
19 drawn, but that might be something that if we
20 got -- did we get push back; was there a lot
21 of constructive comment that said this is --
22 this is onerous and, what, we couldn't do
23 anything about it because of the law?

24 MS. GRIFFIN: So there were some

1 concerns about CORI check, specifically for
2 gaming service employees. You know, for
3 example, employees who work in the restaurants
4 in the gaming establishment. You know, so I
5 guess the interpretation of the gaming
6 establishment of it. And there were concerns
7 about the licensing fee and -- you know, so
8 those are some of the concerns. I think folks
9 were pleased that the credit check was not
10 going to be a barrier so -- but I think some
11 of the people in comments, they're here today
12 so you can hear directly from them.

13 CHAIRMAN CROSBY: Right. Okay.
14 Good. Well, and on the issue of CORI for
15 service workers is a really good example. You
16 know, it may be, if that's one that the law
17 imposes on us then we're stuck with that. But
18 you might want to file this away too. We will
19 be talking some day with the legislature about
20 whether or not there -- there are things we
21 want to address in the law, and that might be
22 one we may want to think about.

23 MS. GRIFFIN: The other concern,
24 which is directly in the statute was the

1 threshold for the secondary -- what do we call
2 it, secondary vendors, that simply that the
3 dollar amounts were low, but that is directly
4 from the statute. And I think Director Acosta
5 and -- and others really have come up with an
6 interesting solution creating the secondary
7 vendor category --

8 CHAIRMAN CROSBY: Right.

9 MS. GRIFFIN: -- where the licensing
10 fee is not as onerous. So I think that was a
11 really great solution based on feedback from
12 the -- I believe it was from the Minority
13 Contractors Association so --

14 CHAIRMAN CROSBY: Okay. Good.
15 Thank you. Anybody else? Okay.

16 COMMISSIONER MCHUGH: I just have
17 one thing I wanted to say, my clever quip
18 about shoplifting a car, which was clever, but
19 like many clever quips, it was wrong. And I
20 apologize to mr. Michael. Mr. Michael's point
21 is exactly right. Shoplifting of any kind --
22 and the point was just made by director is --
23 would -- would trigger the 10-year
24 disqualification, and it would -- it would be

1 -- it doesn't have to be a felony theft, it's
2 any theft. And that's something we might
3 think about when we go back to the
4 legislature.

5 MR. MICHAEL: It's perfectly okay.
6 In New Jersey, shoplifting of cars is not that
7 unusual.

8 COMMISSIONER CAMERON: Still one of
9 the highest in the nation, yes.

10 MR. CARROLL: I lost one, I know.

11 COMMISSIONER STEBBINS: That's why
12 they take the train.

13 CHAIRMAN CROSBY: Okay. We have a
14 list of people who have asked to speak. Thank
15 you very much. This is a lot of really great
16 work, and we appreciate it.

17 We lost, I believe,
18 Mr. Steve O'Neill who had to leave. He was
19 first on the list is he go? Then Sunni Ali,
20 from BWA in Boston.

21 THE FLOOR: He was not able to make
22 it.

23 CHAIRMAN CROSBY: Okay. Hakim
24 Cunningham from the same organization. Yes,

1 sir. Why don't you come over here? Welcome.

2 MR. CUNNINGHAM: Welcome. Good

3 morning --

4 COMMISSIONER CAMERON: Good morning.

5 CHAIRMAN CROSBY: Good morning.

6 COMMISSIONER ZUNIGA: Good morning.

7 COMMISSIONER MCHUGH: Good morning.

8 COMMISSIONER STEBBINS: Good

9 morning.

10 MR. CUNNINGHAM: -- from the Mass
11 Gaming Commission. I was actually on my way
12 out but I was like, you know, what this is a
13 strong -- very strong reason to stay, once I
14 heard a lot of what came from the left.

15 My name is Hakim Cunningham. I'm
16 actually a director of labor and human rights
17 organizer for Boston Worker's Alliance. And
18 we represent 4,000 underemployed and
19 unemployed workers from the Boston area. We
20 also represent a citywide neighborhood
21 coalition that's focused on construction jobs
22 and also permanent jobs.

23 One of the main things is -- I want
24 to talk about economic opportunity in relation

1 to the casino as a whole. This is such a
2 pivotal situation right now in relation to
3 Massachusetts and poverty, and economic
4 opportunity, I don't really think people have
5 deeply looked at the gravity of how this can
6 impact families, who are going to be affected
7 by thousands of jobs created from this. This
8 is such a magnitude, that if properly
9 understood, this casino, if done right, it can
10 be positive impacts on thousands of families
11 that have been waiting for some opportunity
12 like this to come.

13 I've listened to a lot. Some of the
14 regulations have class discrimination. Poor
15 people, credit checks, if you're poor what
16 is -- a credit check really doesn't matter.
17 If you're surviving off of \$300 a month,
18 government assistance, what does a credit
19 check really do for you. Right? So we have
20 to start to think critically, like you were
21 saying earlier, about impediments to economic
22 opportunity. Where the casino can actually
23 provide permanent jobs, construction jobs,
24 vendor and contractor services. But, also,

1 you should have human rights provisions. It
2 should be a human right for individuals who
3 live in the state of Massachusetts to actually
4 deal -- to be able to be impacted in a way
5 where what takes place at these casinos
6 actually helps their families also. People
7 have been waiting for casinos to come to
8 Massachusetts. Not for the fact that they
9 want to spend their 401k, not at all, not for
10 the fact that they want to raid the piggy
11 bank. They actually want job that they can go
12 to, they can be proud of, they can tell their
13 children about, they can go to their wife or
14 husband and say, hey, I got a job at the
15 casino. I think we're going to be okay. We
16 can get away from food stamps. We can get
17 away from WIC, and we can get away from all
18 these government subsidies because I've got a
19 decent job that's going to pay me a decent
20 wage, and it's going to impact our family in a
21 way where we might be able to send our first
22 or second to college.

23 I'm pretty sure you all have
24 children and grandchildren that you put

1 through school, right, and now they have
2 economic opportunities and they bring back
3 wealth and energy, and vitality to the family
4 at holiday parties and, you know, dinners
5 where you're like, wow, I had that job for 15
6 or 20 years, my child when to college. They
7 have a bachelor's and masters degree, and they
8 have all types of opportunities and options
9 that were given to them by me working hard.

10 And I think we have to look at the
11 family structure and how these casinos can
12 impact families in a way that people remember
13 that you're employing not only a person, but a
14 person that belongs to the household. And you
15 should look at the regulations around CORI
16 background checks and everything in a way
17 where you start to put a human rights lens to
18 it people have that opportunity.

19 CHAIRMAN CROSBY: I appreciate this,
20 and I want to be sure that we're specific
21 about your -- the points. You mentioned both
22 CORI and credit.

23 MR. CUNNINGHAM: Yes.

24 CHAIRMAN CROSBY: And we talked

1 about credit. Would you just explain where --
2 where does the credit status sit for levels of
3 employee?

4 MR. GROSSMAN: Well, it may be that
5 we will check credit histories. But it's
6 important to understand that there is no
7 reason to suspect that it will necessarily be
8 any kind of disqualifier, depending upon the
9 nature of the position you're applying for a
10 license for. The only automatic disqualifier
11 are for certain crimes and those are in the
12 law. So it's really just a piece of the
13 puzzle, I would submit.

14 CORI is different. The law, I
15 believe, requires us to check CORI. But I
16 think it's important to understand with the
17 exception of the crimes that are listed in the
18 statute, the ones I mentioned, which are
19 felonies, crimes for embezzlement, theft or
20 perjury. Everything else is wholly
21 discretionary.

22 So we have spoken to individuals who
23 share your outlook, and I can tell you that --
24 that we share that outlook, and we have looked

1 at all these issues. And there is absolutely
2 no intention to unnecessarily or artificially
3 exclude individuals from this process. I
4 think the commission has recognized from the
5 beginning, the importance to offering
6 opportunity to individuals who don't otherwise
7 have them now.

8 CHAIRMAN CROSBY: Right. We've
9 clearly established this as the wish of the
10 folks sitting up here. But sometimes
11 translating the wish down to the real lives of
12 people that are struggling figuring out how to
13 get a \$15 to \$20 an hour job is different.
14 And I just want to make sure that we're doing
15 everything that we can to bridge from what I
16 think is a policy intention that you would
17 agree with, to bridge from that to the reality
18 of the application of the real people that a
19 person like Mr. Cunningham works with, and
20 figuring out how to facilitate their chance to
21 get these jobs.

22 And, you know, that's your job,
23 Jill, is to make sure that bridging from our
24 policy to the reality of the people he lives

1 with happens. And so that's why I wanted to
2 clarify. Go ahead.

3 MR. CUNNINGHAM: Thank you. I just
4 feel like a certain population is going to be
5 isolated altogether from the casino movement
6 in Massachusetts.

7 And there are thousands of people
8 who have voiced concern over our citywide
9 meetings about, you know, immigrant
10 population, African-American minorities,
11 people of color, who are just not going to be
12 able to be in a position of opportunity when
13 the casino comes to Massachusetts.

14 So I think for us we would ask for a
15 little bit more deeply-looked-at analysis of
16 the regulations, CORI, background checks. And
17 just to see in that works for people who are
18 not affected adversely from economic -- you
19 know, if you -- you're making a hundred
20 thousand, 200, 300, \$400,000 a year you're not
21 affected. But if you're making under
22 \$13,000 a year to survive, like, think about
23 it, right? A person has to survive for 12
24 months off of less than \$13,000 in America.

1 So we need to look at how the
2 Mass Gaming Commission and this it casino
3 opportunity can actually help families that
4 are suffering in one of the richest states in
5 the world. Let's just be honest.
6 Massachusetts is one of the richest states in
7 the world. You know, we have old, old, old
8 money here. So we need to figure out how the
9 casino can address the population issues, deal
10 with the isolation of certain classes and
11 races.

12 I understand the tier classification
13 process, I get it. But at the same time, you
14 have to say to yourself, how can this help
15 populations. And it's a good PR move, right?
16 Mass Gaming Commission is brand new, casinos
17 want to come to Massachusetts, a lot of
18 developers want to come here and build. So if
19 you positively look at the diversity issues in
20 relation to permanent jobs, construction jobs
21 and contracts, and I think you'll -- you'll
22 attract more individuals to the -- to the
23 state of Massachusetts from saying that, yes,
24 we do address, you know, the diversity and

1 people of color issue in relation to permanent
2 jobs, construction jobs, contracts. And
3 they're like, okay, you know, Massachusetts
4 has a good grasp on what it is for people of,
5 you know, excluded population.

6 And I'll end on the fact that
7 everyone here is not really affected by the
8 economic downturn that took place in '08 and
9 '09. People are -- lost their homes, they
10 lost their will to fight. And I think if we
11 start to look at this casino in a way where
12 the casino is going to be a catalyst for
13 thousands of families to get back on the right
14 track after being on welfare and food stamps
15 for three or four years because they've lost
16 jobs and they've lost the will to fight in
17 America, I think everyone here will be in a
18 position where they can leave feeling like
19 they did a good thing, and people feel like
20 the casino is a good thing. So I'll end on
21 that note.

22 CHAIRMAN CROSBY: Okay.

23 MR. CUNNINGHAM: Thank you.

24 COMMISSIONER MCHUGH: Thank you.

1 CHAIRMAN CROSBY: Thank you very
2 much. I appreciate your -- your perspective.
3 And I don't know how much of this you've
4 already done, but I hope you can follow
5 through with Mr. Cunningham to be looking for
6 practical ways to -- to get through this.
7 Thank you very much.

8 MR. CUNNINGHAM: I'm going to make
9 sure that everyone gets my contact info,
10 because my organization is willing to work to,
11 like, think through these things.

12 CHAIRMAN CROSBY: Yeah.

13 MR. CUNNINGHAM: Because I feel
14 like, you know, if we can help from a
15 grassroots level, we can have a happy medium.

16 CHAIRMAN CROSBY: Great. That's
17 what -- that's what we're looking for. So why
18 don't you and Jill exchange information right
19 now. Thank you very much, Mr. Cunningham.

20 COMMISSIONER ZUNIGA: Thank you.

21 MR. DAY: Mr. Chairman I just wanted
22 to you point out that -- you mentioned a
23 practical example.

24 CHAIRMAN CROSBY: Yep.

1 MR. DAY: And I think the -- the
2 whole concept around the subcontractor is --
3 is an example of that kind of thinking that
4 we're trying to move forward, because it -- it
5 removes some of the mandatory elements but
6 provide the ability for us to take a more
7 global look and still get the information we
8 need to protect the --

9 CHAIRMAN CROSBY: Yeah, that's
10 great. And I -- I know that a lot of efforts
11 have been made to try to deal with these kinds
12 of issues. And we've talked about this a lot.
13 We need to make sure that the various
14 communities we're trying to affect know that
15 these efforts are being made and know how it's
16 being done. So it's got to be a lot of
17 proactive outreach. But also there's still,
18 you know, identifying the companies and the
19 folks that might be interested in talking more
20 and more about practical steps is worth
21 continuing to do. But I know you've worked
22 hard on this, but I want to keep working hard
23 on it.

24 Mr. Watkins from the Urban League.

1 THE FLOOR: He also sends his
2 regrets. Last minute he got called to another
3 meeting, but he's going to submit via e-mail,
4 his comments.

5 CHAIRMAN CROSBY: Okay. Great.
6 Lisa Clauson. Welcome.

7 MS. CLAUSON: Thank you. Good
8 morning. Thank you for hearing from me. So
9 my name is Lisa Clauson. I'm a resident of
10 Dorchester of Massachusetts, and I'm a
11 director at Unite Here, Local 26 here in
12 Boston. I'll be offering comments today on
13 behalf of Unite Here. And we're the largest
14 union representing gaming service workers
15 across the country, and I've also submitted
16 written comments prior to the hearing.

17 Our primary concern is that some of
18 the proposed regulations concerning the
19 registration and licensing of casino workers
20 would creates barriers to access for the jobs
21 that will be created with the introduction of
22 casinos. And the -- a primary goal of the
23 gaming legislation was job creation. Our
24 union's experience representing gaming workers

1 shows that these can be good, full-time jobs,
2 and many of the jobs do not require a high
3 school diploma or college degree, and provide
4 economic opportunity, especially to
5 communities that have experienced, as
6 Mr. Cunningham said, high rates of
7 unemployment and underemployment.

8 Our concern, however, is that the
9 registration and licensing process may prevent
10 many people from accessing the casino jobs
11 that will be created, and that low income
12 communities and communities of color will be
13 disproportionately cut off.

14 We're particularly concerned about
15 the handling of CORI checks. And the
16 requirement of a CORI check and a list of
17 arrests and charges for all workers,
18 especially gaming service employees, prevents
19 a barrier to gaining access to those jobs.

20 Even if the commission intends to
21 take into account rehabilitation when
22 considering whether to register an applicant,
23 the requirement to run a CORI check may cause
24 some employers to screen job applicants and

1 avoid hiring workers with an open CORI of any
2 kind. The CORI reform law of 2010 bans
3 questions about criminal history from initial
4 written job application, unless the absence of
5 a conviction is required from a particular
6 job.

7 And Massachusetts appears to be
8 following the model of New Jersey. However,
9 in other long-established gaming
10 jurisdictions, including Nevada and
11 Mississippi, service workers are not required
12 to be licensed or registered by the state. We
13 understand that Massachusetts requires some
14 form of registration for service workers, but
15 following the Nevada or Mississippi models, we
16 encourage the commission to -- to follow those
17 and minimize the impact of the registration
18 requirement investigations upon service
19 workers, and to ensure that the establishment
20 of gaming in Massachusetts has the intended
21 outcome of expanding economic opportunity to
22 the unemployed and underemployed.

23 If it is necessary to conduct some
24 sort of CORI check on all workers in order to

1 be compliant with the gaming statute, we
2 caution the gaming commission that it needs to
3 work closely with employers to ensure that
4 they don't use CORI checks to screen out
5 applicants.

6 Without clear directions and
7 oversight, employers are likely to avoid
8 hiring workers with a CORI to avoid the
9 uncertainty of whether the person will meet
10 the commission's registration requirements.

11 There is some additional areas of
12 concern for us, in addition to the CORI
13 requirement. One is fees. And the fee of
14 \$300 for gaming employees and \$75 for gaming
15 service employees have been proposed. And
16 these fees prevent a real barrier for people
17 from lower-income communities seeking to apply
18 for gaming jobs. Particularly for job seekers
19 who are currently out of work.

20 We encourage the commission to
21 consider whether these fees exceed the cost of
22 licensing or registering the worker. And if
23 that's the case, the fees should be reduced,
24 particularly for service workers so that the

1 applicant do not prevent an unnecessary
2 barrier to employment.

3 We also encourage the commission to
4 consider requiring that the employer, not the
5 employee, pay the fee, or at least requiring
6 employers to offer payroll deductions for
7 those fees to allow workers to pay for the
8 fees after they begin earning wages, and to
9 divide the payment over multiple pay periods.

10 We're also concerned about the
11 financial suitability. We're encouraged to
12 see that a federal check -- that a -- I'm
13 sorry, a credit check is not required as part
14 of the employee licensing and registration
15 process. However, we note that all applicants
16 must provide a list of all financial liens or
17 judgments. And we hope that owing money for
18 child support or student loans will not be a
19 barrier to working in the gaming industry.

20 For individuals who had been
21 unemployed or underemployed, again, a job in
22 the gaming industry could provide stable
23 income needed to repay back debt.

24 We're also concerned about the

1 definition -- the draft regulations defining
2 restricted area -- area as part of the gaming
3 establishment in which gaming operations are
4 conducted. We interpret this definition to
5 include the gaming floor containing slot
6 machines and table games. And we believe this
7 definition is problematic because certain
8 service workers working on the gaming floor do
9 not participate or over gaming operations.
10 For example, an EVS worker, a janitor, vacuums
11 around the slot machines, a cocktail server
12 delivers drinks to customers playing slot
13 machines or table games, or a bar -- bar back
14 walks bottles of champagne or other beverages
15 over to a VIP area. And, therefore, the
16 definition of restricted area is so broad that
17 it would have the consequence of requiring
18 that many service workers have to hold gaming
19 employee licenses, rather than just register.

20 We understand the need for security
21 in a casino. However, we also note that
22 customers have similar access to these areas
23 but are not licensed by the commission.

24 We appreciate that the commission

1 has taken a thoughtful approach to
2 implementing the gaming commission statute.
3 We hope that the commission will approach the
4 licensing and registration of workers in a
5 manner that maximizes access to job
6 opportunities that will be created.

7 And we also ask that there be an
8 opportunity that there'll be a second hearing
9 on this issue, perhaps, in January. We have
10 heard from different people who wanted to
11 speak today, but weren't able to on the short
12 notice. Steve O'Neill from EPOCA, who had to
13 leave early, came from western Mass. He knew,
14 because he had to leave early, there was a
15 good chance he wouldn't have an opportunity
16 speak. But it was still important enough to
17 make the trek out from there this morning. We
18 believe that there are legislators and other
19 organizations, who would also be interested in
20 speaking, if they had more opportunity in
21 which to do so. There are a lot of people at
22 the state house who were involved in the CORI
23 legislation in 2010, who we would like to have
24 an opportunity to weigh in on this. Thank

1 you.

2 CHAIRMAN CROSBY: Thank you.

3 COMMISSIONER STEBBINS: Thank you.

4 CHAIRMAN CROSBY: Go ahead.

5 COMMISSIONER MCHUGH: I was going to
6 say that -- that your comments echo those of
7 Mr. Cunningham, particularly with respect to
8 the CORIs and credit checks. And I wonder if
9 part of the solution on the one hand it'd be
10 good to know if a housekeeper had seven theft
11 convictions of one kind or another. That --
12 that would be a helpful kind of thing to know.

13 On the other hand, as Mr. Grossman
14 said, it's not an automatic disqualifier. And
15 I wonder if the regulations couldn't, with
16 respect to both CORI and credit, have some
17 further statement about how we're going to use
18 that stuff. And -- that would be reassuring
19 so that the minor shoplifting conviction, if
20 we could get around the statutory barrier, is
21 not the kind of thing that's going to be a
22 disqualifier. And so the employers would know
23 that, and so that respected employees would
24 know that. And that's something we can

1 address i the regulations themselves. We've
2 already focused on the restricted area issue.
3 We need to think more about that. But I think
4 we ought to do more to restrict the
5 commission's discretion with respect to those
6 kinds of things.

7 CHAIRMAN CROSBY: Well, to restrict
8 the hiring from organizations discretion.

9 COMMISSIONER MCHUGH: Yes. But I
10 was tieing the two together. May that too.
11 But I was thinking that if we indicated in our
12 regulations that only serious financial
13 problems -- for example, hundreds of thousands
14 of dollars in debt, you're not going to be
15 employed in the counting room. Maybe you can
16 be employed someplace else. That's just an
17 example.

18 If we -- if we say that in our
19 regulations, then it seems to me the employers
20 are given a heads-up upfront, that if the
21 person's otherwise desirable, that isn't going
22 to be a barrier.

23 MS. CLAUSON: We would welcome you
24 taking a -- you know, really working on this

1 issue and taking a look at where there are
2 wastes to address it. We do continue to worry
3 that having any CORI requirements for service
4 employees just means that many times employers
5 just don't look at the nuances of what -- what
6 is on the CORI. And, immediately, if someone
7 has one, they're kind of put into a different
8 category. And as long as they have, and they
9 will have plenty of people who are also
10 applying --

11 CHAIRMAN CROSBY: But we'll be doing
12 the CORI, right?

13 MR. GROSSMAN: We do do the CORI.
14 And I think the law requires us to do the
15 CORI.

16 CHAIRMAN CROSBY: And employer won't
17 know what's on the CORI, necessarily?

18 MS. CLAUSON: Will they know that
19 there's an employee with a CORI versus an
20 applicant without one?

21 MR. GROSSMAN: Not necessarily,
22 because the way the system was set up to
23 work -- we didn't actually discuss this. We
24 should discuss this too. The -- as part of

1 application, the applicant would have to get
2 some letter or acknowledgment from the
3 employer that if they become registered that
4 they will be employed. So that's still in
5 here, and we should actually talk about that.

6 But, otherwise, the application
7 comes to the commission, the commission will
8 run the person's CORI and make a decision as
9 to whether to issue the -- well, the
10 registration will be issued, but whether to
11 rescind the registration based upon a
12 conviction.

13 So there's no reason to suspect that
14 the employer -- the employer won't have access
15 to the CORI because we have restrictions
16 placed on us as to what we can do with the --

17 CHAIRMAN CROSBY: Right. We can't
18 disclose that information, in any event.

19 MR. GROSSMAN: So we will either
20 revoke the registration ourselves based upon
21 some conviction or pattern of conduct, which
22 we can, of course, clarify how we'll go about
23 doing that, or not.

24 So it seems unlikely that the

1 employer would get the information from us
2 anyway, or through the application process as
3 to what was on the person's CORI. But -- and
4 I welcome you to read it, and I'd be happy to
5 go through it with you.

6 In Section 16 of the general laws it
7 talks about reasons why the commission must
8 deny an application for registration of
9 licensure, and it talks about these
10 convictions. So, of course, the only way for
11 the commission to know whether these people --
12 whether these convictions exist is to run
13 somebody's CORI.

14 COMMISSIONER MCHUGH: But the bottom
15 line is, isn't it, that the prospective
16 employee goes to the employer. The
17 prospective employee is interviewed by the
18 employer who makes a decision yes or no.
19 Then, if the prospective employer makes a
20 decision yes, then the prospective employee is
21 sent over to the commission, the commission
22 does the background check, comes up with the
23 information, which it stays in the
24 commission's files, and either issues the

1 license or doesn't. So the screening-out
2 function.

3 CHAIRMAN CROSBY: Is taken by the
4 commission not the employer.

5 MS. CLAUSON: I think it would be
6 very useful to spell out the extent of what --
7 what is acceptable and what's not around CORI
8 so that people know whether it's worth their
9 time and energy --

10 COMMISSIONER MCHUGH: Right. No. I
11 agree with that.

12 CHAIRMAN CROSBY: Totally.

13 MS. CLAUSON: And so, the \$75 fee,
14 does that only happen if they've been approved
15 by the employer to be hired and then have to
16 have the check done?

17 COMMISSIONER MCHUGH: I don't know.

18 MR. GROSSMAN: Well, that would be
19 part of the application. So they would have
20 gone -- assuming we keep that provision in
21 here, they would have gone to the employer,
22 the employer sends them a letter or whatever,
23 saying we will hire you, if you get
24 registered. And then we will have to file

1 that letter with the filing fee and the other
2 application materials with the commission.

3 COMMISSIONER MCHUGH: So it's only
4 if the employer's promised them a job.

5 CHAIRMAN CROSBY: But even with that
6 in mind, I'm not sure about the 300 and the 75
7 bucks. I mean it's hard for people like us to
8 realize that some people don't have \$75.

9 COMMISSIONER MCHUGH: Well, suppose
10 you allow them to -- to pay that fee within 30
11 days?

12 CHAIRMAN CROSBY: Yeah, I'm --
13 that's what I'm saying. So if you get the job
14 but -- even if you don't get the job then
15 you've paid 75 bucks from what and you don't
16 have the job.

17 COMMISSIONER CAMERON: There are
18 provisions. Director Acosta, we've talked
19 about this.

20 MR. ACOSTA: There is nothing that
21 says that the casino cannot enter into payroll
22 deduction. There's nothing that says the
23 casino cannot agree to pay that fee at time of
24 application on behalf of the individual and

1 recoup that fee later.

2 One of the main reasons why we
3 recommended -- staff recommended to have the
4 casino promise employment before we accept an
5 application is to avoid a situation in which
6 an individual files an application, pays \$300
7 and then doesn't get a job and then they're
8 out of \$300 when they really can't afford that.

9 It's my experience, that most
10 casinos are much more interested in the
11 employment and will enter into agreement that
12 they've done in other states with some type of
13 payroll deduction over a period of time. I
14 mean, that's standard practice that I don't
15 foresee not having here.

16 CHAIRMAN CROSBY: Well, if it's
17 standard practice, I mean, I would say -- I
18 don't see a reason why we shouldn't codify
19 that. We don't have the time to work -- to work
20 all these things out. But I would like to see
21 the 75 and the 300 thought through some more.
22 Maybe it is standard practice, but we ought to
23 say that's the standard practice we want, if
24 we have to have it at all. And I, for one,

1 would like to think about that a little bit.

2 And some of the these other nuances,
3 these are, again, the kinds of things that
4 bridge the theory to the practice. And if you
5 could follow-up, maybe, with Ms. Clauson on
6 some of these issues, and make sure that she's
7 read this stuff right, and that she
8 understands, really, what we've said and what
9 we're dealing with in terms of the law. But
10 where she does, make sure that we're trying to
11 accommodate the realities that she's raising
12 as much as possible.

13 MR. DAY: Mr. Chairman, too, I think
14 it's important for us to note that the \$75 is
15 once every five years, and the 300 is once
16 every three years.

17 CHAIRMAN CROSBY: I understand that,
18 but it's still -- you know, \$75 is a lot of
19 money for someone --

20 COMMISSIONER STEBBINS: It's
21 initial -- not initial payment.

22 CHAIRMAN CROSBY: Right.

23 COMMISSIONER STEBBINS: I'm not
24 worried about subsequent years but --

1 CHAIRMAN CROSBY: If it could be
2 taken out in five --

3 COMMISSIONER STEBBINS: Well, like
4 the idea of codifying some place, it gives the
5 employer the flexibility to do what she -- you
6 know, suggests, do the -- you the payroll
7 withdrawal or paying on behalf of the
8 applicant up front.

9 CHAIRMAN CROSBY: And there's also
10 the person that does get promised a job, does
11 apply, puts up their money and we don't
12 approve them and they're out \$75 or \$300.

13 So we have to move on, but I do want
14 to have this thought about more. I think this
15 is really important points.

16 MS. CLAUSON: Thank you.

17 CHAIRMAN CROSBY: Thank you very
18 much. Aaron Tanaka. Hello. Welcome.

19 MR. TANAKA: Morning.

20 COMMISSIONER MCHUGH: Good morning.

21 MR. TANAKA: Thanks for having me
22 here. My name's Aaron Tanaka, I'm actually
23 the former director at the Boston Worker's
24 Alliance with Hakim's organization. I was

1 also the cochair of the Commonwealth CORI
2 Coalition, which was the statewide coalition
3 that was responsible for helping pass the 2010
4 CORI form legislation. And so, in that
5 capacity, I worked with over 135
6 organizations, labor groups, community, youth,
7 faith organizations across the state on the
8 issue of CORI. So I'm very happy to be here
9 and to see the attention that's being given to
10 this issue. I'm not going to go on too long
11 because I think Hakim and Lisa addressed
12 issues that I was concerned about. But I did
13 just want to say a few things.

14 I really would encourage -- so just
15 to put it out there from the beginning, I
16 think there's the timeline to really
17 understand and wrap our heads around what the
18 regulations are saying and also what's
19 required by law has been short. And so, from
20 our standpoint it would just be beneficial for
21 the state as a whole to have some more time to
22 process this information. And, actually, I
23 would really ask to see if the commission
24 would be able to help draft documents and some

1 information that could really help simplify
2 the regulations so that everyday persons can
3 understand what they're saying. And, also, to
4 give us some time so that, as Lisa mentioned,
5 perhaps in later -- later in January we could
6 have a opportunity where people and
7 stakeholders can come and speak to this issue.
8 So just from more of a transparency and
9 processing standpoint, if possible to give
10 communities more time and try to, you know, as
11 much as possible, make this information
12 available. That's the first thing.

13 Beyond that, I did want to just
14 speak a little bit to the issue of this notion
15 of sort of automatic disqualification, and
16 sort of what -- what crimes fall under that
17 category. And, also, the discretion that the
18 commission will have in reviewing those who
19 are -- the third level tiers, those who are
20 not licensed but are trying to get registered.

21 To be honest, after you were doing
22 your comments in -- earlier in the morning, it
23 sort of changed my understanding of what the
24 regulations were saying. So now I'm a little

1 -- finding a little trouble to sort of speak
2 precisely onto what my concerns are,
3 whether -- because I'm not sure if I've
4 interpreted the regulations incorrectly.

5 CHAIRMAN CROSBY: Let me just
6 interrupt here for one sec., because this may
7 be helpful.

8 MR. TANAKA: Yeah.

9 CHAIRMAN CROSBY: The rest of the
10 process here is -- on these regs is what?
11 Explain what the next steps are.

12 MR. TANAKA: Yeah. That would be
13 great. Thank you.

14 MR. GROSSMAN: At some point,
15 whether it's today or next week, or next
16 month, the commission will have to vote to
17 approve the final language. Now, with the
18 understanding that regulations can be amended
19 at any point if they need to be changed, but,
20 essentially, the commission will have to vote
21 on the final version of the regulations.
22 There Beebe an accompanying impact statement
23 that doesn't really affect what you're talking
24 about, that will have to be filed with the

1 Secretary of State's office. And when that's
2 done, the regulations become effective two
3 weeks after that filing. At that point,
4 obviously, the applications will become, you
5 know, official and we'll start looking at
6 those and make those public?

7 CHAIRMAN CROSBY: So there's no more
8 public hearings at the moment scheduled?

9 MR. GROSSMAN: None required. But
10 certainly --

11 COMMISSIONER MCHUGH: None
12 scheduled.

13 MR. GROSSMAN: None scheduled. And
14 it's up to the commission to decide, kind of,
15 when the final -- the end date is.

16 CHAIRMAN CROSBY: Right. Well,
17 since Mr. Tanaka's candid enough to say right
18 at the moment he's not exactly sure what the
19 regs say, what the issues are, rather than do
20 this in public, what I would like to suggest,
21 if you'd be willing, to have you talk with
22 Todd or others, and make sure that you've got
23 -- that you see exactly where we are and give
24 us what feedback you've got. And if it looks

1 look there are significant unresolved issues
2 that we need more people to weigh in on, then
3 we'll think about doing that.

4 MR. TANAKA: I would be happy to do
5 that. And my sense is that -- I mean, there
6 seem to be a reinterpretation to some of these
7 regulations just this morning, so my
8 assumption is that everybody is sort of
9 recalibrating their understanding.

10 CHAIRMAN CROSBY: That's what this
11 is about. You know, these are draft and these
12 are discussions. And you --

13 MR. TANAKA: I would be happy --

14 CHAIRMAN CROSBY: All right. That
15 would be great.

16 MR. TANAKA: -- and would appreciate
17 the opportunity to communicate. If I could
18 just briefly share a couple of thoughts that
19 are more broad.

20 CHAIRMAN CROSBY: Yeah.

21 MR. TANAKA: So, I mean, one thing
22 that I wanted to share is just to offer the
23 models of hiring standards that have been
24 modeled in the city of Boston and have been

1 replicated in Cambridge and Worcester. We
2 have all passed CORI ordinances. And in those
3 circumstances -- just from a philosophic or
4 ideological standpoint, those cities do not
5 require CORI checks for positions that are not
6 sensitive in nature.

7 So not only do they say -- not
8 only -- not only do they not sort of say this
9 allows you to be hired, this does not allow
10 you to be hired. If you don't have a
11 sensitive position, then, actually, the city
12 says we're not going to do a CORI check
13 period.

14 So I just want to contrast that
15 model to what's being spoken about here. I
16 understand that obviously a casino's a
17 different situation. But in a lot of ways the
18 question is -- and this speaks to the very
19 question of the requirement of registration
20 and CORI checks, as Lisa was speaking about
21 earlier. Again, I'm speaking about the
22 registrations not the licensing positions.
23 Right.

24 And in those circumstance, I again

1 would submit that I think it's in the interest
2 of inclusivity [sic], as far as the workforce,
3 to not have requirements around CORI, per se.
4 Particularly around things that would
5 automatically disqualify people for those
6 types of positions. I do think that it makes
7 sense for people to have CORI checks, or I'm
8 sure that's going to happen either way. But
9 sort of saying across the board, for example,
10 that having a felony would necessarily --
11 would presumptively prevent somebody from
12 getting that job, even if there is space for
13 discretion I think is problematic. That I
14 would just really encourage you to rethink,
15 sort of, that piece. And, again, I recognize
16 that I don't know what the statute actually
17 requires. And so from that standpoint, I'd be
18 curious to understand a little bit more finely
19 what the requirement are.

20 CHAIRMAN CROSBY: That's why it's
21 important.

22 MR. TANAKA: And, also, I would
23 just -- I would echo the concern around the
24 fees. I think that's a -- I mean, honestly I

1 don't think -- I don't know what -- what other
2 states do and how typical this is. Sounds
3 like it is fairly typical. But I would
4 encourage the commission to consider not
5 having fees for working-class workers. These
6 are not people who are going to be making a
7 lot of money. Even if you allowed them to
8 spread it across a few paychecks, 75 bucks,
9 300 bucks for working-class people, you know,
10 is a difference between a couple weeks of
11 food.

12 So that's -- that's a real
13 consideration and I encourage you as much as
14 possible, assuming that the finances allow
15 this to bear out, that you just remove the
16 fees all together. So I'll leave it at that.
17 I'll definitely appreciate the opportunity to
18 speak more with the staff. I appreciate all
19 the hard thinking and work that's gone into it
20 thus far. Thank you.

21 COMMISSIONER STEBBINS: You
22 mentioned the CORI ordinances in Boston,
23 Cambridge and Worcester. Are those for
24 municipal hires?

1 MR. TANAKA: They're for municipal
2 hires, as well as actually for vendors of the
3 city. So in the city of Boston, there's
4 several thousand vendors for their own
5 positions, if they're not sensitive jobs, then
6 they actually do not do CORI checks. In fact,
7 they're not supposed to do CORI checks at
8 those circumstances.

9 CHAIRMAN CROSBY: Thank you. Maybe
10 you guys can exchange cards before you go.
11 Bill Messner. Another visitor from western
12 Mass.

13 MR. MESSNER: Thank you very much.
14 Good morning.

15 CHAIRMAN CROSBY: Good morning.

16 MR. MESSNER: Good to see members of
17 commission again.

18 COMMISSIONER MCHUGH: Good morning.

19 MR. MESSNER: I appreciate the
20 opportunity to offer testimony relative to the
21 draft regulations on licensure. You may be
22 aware that we provided the specific
23 recommendations on December 5th, which you may
24 have had an opportunity to look at.

1 CHAIRMAN CROSBY: We have all of
2 that. It's right here.

3 MR. MESSNER: I, this morning, just
4 look to highing light certain items in that
5 input that we provided you with.

6 We appreciate, very much, the hard
7 work that the commission has done,
8 particularly in the area of licensure and
9 workforce. Particularly appreciative of
10 Commissioner Stebbins and the interest and
11 time he's put in to working with our
12 consortium. Jill Griffin, members of your
13 staff have been wonderful to with.

14 Insofar as the draft regulations
15 that have been put forth, we would
16 respectfully suggest that there are two areas
17 that we are recommending for the development
18 needs to be put into. Those two areas were
19 grow out of Chapter 23K, which state that the
20 commission shall promulgate regulations that
21 all gaming establishment employees be properly
22 trained in their respective professions. And
23 go on to state that the commission may
24 establish certification procedures for any

1 training schools.

2 We would recommend that growing out
3 of both that statement that the commission has
4 a requirement to see to the proper training of
5 all employees within the casinos, and that you
6 may establish certification procedures for
7 training schools, that, in fact, specifics
8 need to be built into the regulations
9 regarding the certification for training
10 schools.

11 We believe that to be the case,
12 number one, because of the emphasis that this
13 commission as has put upon the integrity of
14 the gaming industry in Massachusetts. We
15 would further suggest that the history of the
16 casino industry in this country, and of the
17 training for that industry in this country,
18 would suggest that there have been abuses,
19 abuses by training providers that have been
20 widespread, abuses that we've seen, even in
21 the last several months right here in the
22 state of Massachusetts. And that, without
23 those requirements, the integrity of the
24 gaming industry, and the integrity of the

1 training upon which that industry, at least in
2 part, will be predicated, is going to be
3 called into question.

4 And so, we've given you, in our
5 written testimony, the specific
6 recommendations in that regard. The specifics
7 of those recommendations, candidly, are less
8 important than the -- our firm belief that
9 some requirements need to be made for training
10 institutions. And if they are not made, we're
11 going to see the same kinds of abuses here in
12 Massachusetts that other states have seen.

13 Similarly, the requirement that the
14 commission see to the proper training of all
15 employees, number one, is predicated on the
16 quality and integrity of the training
17 providers. Further reason for stipulating
18 specifics in terms of who can do that
19 training.

20 We have also provided you with
21 recommendations in terms of the specifics of
22 that training. Now, there will be some who
23 will suggest, well, shouldn't we leave the
24 specifics of the training to the employers

1 themselves? And we certainly recognize that a
2 large share of the specifics of the training
3 need to be driven by the employer. And, in
4 fact, our consortium has been working for over
5 a year with all of the potential casino
6 developers in terms of developing job
7 specifics, and we will continue to work with
8 them.

9 But based on precedent from other
10 states, as well as, again, the emphasis that
11 this commission has placed on the integrity of
12 the gaming enterprise, we believe that there
13 are elements of that training that may well
14 not be emphasized or even touched upon by the
15 casino employers themselves.

16 In particular, areas such as problem
17 gaming. Areas such as ethical behavior.
18 Areas such as knowledge of the Massachusetts
19 gaming law we believe should be required as
20 part of the training of all casino employees.
21 And we don't believe it should be left up to
22 the casinos themselves to see to it that that
23 training is provided.

24 So again, we've given you some

1 specific suggestions along those lines. The
2 specifics, again, are less important than the
3 specific point that we believe training
4 requirements need to be made part of these
5 regulations.

6 Let me simply close by saying,
7 irrespective of what your determination is
8 along these lines, we will continue to
9 enthusiastically work the the commission and
10 your staff in terms of providing a quality
11 workforce for this new industry.

12 CHAIRMAN CROSBY: Great. Thank you
13 Mr. Messner.

14 COMMISSIONER MCHUGH: Thank you very
15 much.

16 COMMISSIONER ZUNIGA: Thank you.

17 COMMISSIONER CAMERON: Thank you.

18 CHAIRMAN CROSBY: Commissioner
19 Stebbins, you've probably been wrestling with
20 this issue. Do you want to bring to us a
21 recommendation on where you come down on this,
22 or do you -- or do you already sort of, got a
23 position?

24 COMMISSIONER STEBBINS: I'd be happy

1 to. I think I wanted -- one of the specific
2 points that President Messner raises, it's one
3 we've talked about before, but it's raised its
4 head recently is over the conduct of these
5 individual private schools that seem to pop
6 up. And we are wrestling, just as much as you
7 alluded to, the DPL over it, how to license
8 these schools.

9 We actually had a meeting over there
10 the other day that we had to reschedule
11 because a couple of the people from the DPL
12 side weren't there. So it's not something
13 we've lost track of. It's something that
14 we -- we know we want to protect the consumer.
15 And I think to your broader point, we want to
16 get back to making sure that, you know, we
17 follow the statute, making sure everybody on
18 the gaming floor is properly trained.

19 And, certainly, course requirements,
20 curriculum requirements, are relatively
21 consistent across other jurisdictions, and
22 they are requirements that both operators and
23 regulators have all signed off on. So that's
24 the direction we continue to work towards.

1 CHAIRMAN CROSBY: Yeah. And this is
2 an issue -- we've been talking about this off
3 and on for many months, I think, this -- of
4 our role in this. And if you'd be willing to
5 sort of take this on as a project, these
6 particular suggestions --

7 COMMISSIONER STEBBINS: Sure.

8 CHAIRMAN CROSBY: -- and tee it up
9 for us whenever you can.

10 COMMISSIONER STEBBINS: Happy to do
11 that.

12 CHAIRMAN CROSBY: We'll take that
13 under consideration again. Thank you very
14 much.

15 MR. MESSNER: Thank you.

16 COMMISSIONER MCHUGH: Thank you.

17 CHAIRMAN CROSBY: And last on our
18 sign-up sheet is -- I think it's Bill Kelley.
19 Welcome.

20 MR. KELLEY: Good morning.

21 CHAIRMAN CROSBY: Good morning.

22 COMMISSIONER MCHUGH: Good morning.

23 COMMISSIONER STEBBINS: Good
24 morning.

1 COMMISSIONER ZUNIGA: Good morning.

2 COMMISSIONER CAMERON: Good morning.

3 MR. KELLEY: My name is bill Kelly,
4 and I am now the president of the Beer
5 Distributors of Massachusetts Incorporated.
6 The remarks I'm going to share with you this
7 morning I have sent by e-mail for ease of
8 reference. But I was late and that just went
9 out this morning, so it should be waiting for
10 you back at the office.

11 The Beer Distributors of
12 Massachusetts Inc. is the leading trade
13 association advocating in Massachusetts on
14 behalf of family-owned businesses in the beer
15 distribution industry in working to promote
16 the responsible use of its alcoholic beverage
17 products.

18 The beer distributors also represent
19 distributors in Massachusetts that are second,
20 third and even fourth generation family-owned
21 businesses that employ over 2200 people in the
22 commonwealth.

23 The members of the beer distributors
24 association offer union jobs and are active

1 participants at community activities as well
2 as charitable endeavors. As the trade
3 association representing 12 beer distribution
4 companies across Massachusetts the beer
5 distributor serves -- the association serves
6 as a resource to policymakers and the public
7 on alcohol regulation and educational programs
8 designed to combat underage drinking and drunk
9 driving.

10 Each member of The Beer Distributors
11 Association is licensed by both the federal
12 government and the Commonwealth of
13 Massachusetts, to engage in the distribution,
14 importation storage, sale and transportation
15 of alcoholic beverages. Each member currently
16 holds a lawful permission from the Federal
17 Alcohol Tax and Tobacco trade bureau, commonly
18 referred to as the TTB, who as a Web site at
19 ttb.org, as well as that is an agency within
20 the United States Department of the Treasury.
21 And they also hold a lawful permission from
22 the Alcoholic Beverages Control Commission
23 here in Massachusetts, the ABCC, who's Web
24 site is at mass.gov/abcc.

1 The Beer Distributors Association
2 understands the commission's general purpose
3 of requiring the registration of any vendor of
4 alcoholic beverages to a gaming licensee
5 within the jurisdiction of this commission.

6 Yet, the association is concerned
7 about an administrative process that might be
8 duplicative of at least to prior
9 administrative processes. One, an agency of
10 the federal government, the TTB, and the
11 second, an agency of the commonwealth, the
12 ABCC.

13 The concern is that a third
14 duplicative government process would be a
15 barrier to business, impede the orderly
16 conduct of business, and negatively impact the
17 performance, growth and success of both the
18 distributor and the gaming licensee within the
19 jurisdiction of this commission.

20 Now I understand and I heard this
21 morning that, in fact, there is a proposal to
22 create a process by which a vendor could
23 petition for exemption from registration. And
24 that is a good development. And the BDM, the

1 Beer Distributors of Massachusetts, welcome
2 the opportunity to work with the commission
3 members and the commission staff to develop
4 and further devine -- devise an alternative to
5 eliminate any duplication of government
6 processes.

7 The Beer Distributor Association's
8 grateful for the time already given to us by
9 the commissions's director of licensing, his
10 licensing supervisor and its deputy general
11 counsel.

12 There are a number of options the
13 members of the beer distributors have
14 considered to avoid that unnecessary
15 duplication. One option would be to insert
16 language that created a provision that any
17 person who's required to hold and in fact does
18 hold a license or other permission from both
19 the federal government and the state
20 government here in Massachusetts to engage in
21 the business of offering or selling the
22 products, and specifically alcoholic beverages
23 to a gaming licensee, shall be registered as a
24 nongaming vendor.

1 A second option would be to increase
2 the volume of business required to be done in
3 alcohol beverage sales before the commission
4 exercised its discretion to require more than
5 a vendor registration, and to require the next
6 level, a more formal licensing.

7 I thank the commission and its staff
8 for the opportunity to provide comments on the
9 draft regulations. And on behalf of the Beer
10 Distributors of Massachusetts and its members
11 and over 2,000 employees, thank you for your
12 attention to these matters and my comments.

13 CHAIRMAN CROSBY: Thank you very
14 much, Mr. Kelley. I'm very much in favor of
15 not having folks have to do multiple things --
16 the same thing multiple times. Obviously,
17 they're not -- the background checks aren't
18 necessarily the same, I understand that. But
19 as a matter of -- I'm sure everybody here
20 would agree on this, and we've talked about
21 it, that if it is possible to either use other
22 poem's certifications or to swap our
23 certification for other people's
24 certifications, if ours are the more rigorous

1 or whatever. But anything that we can do to
2 minimize -- I mean, eliminate duplication of
3 effort and streamline these kinds of
4 regulatory hurdles for folks, particularly
5 smaller business, it's really high priority.
6 And I think we all agree with that. I'm sure
7 you do too. So -- and if they have
8 suggestions that are good ones, let's try to
9 accommodate them.

10 COMMISSIONER ZUNIGA: Yeah. I
11 haven't looked at this particular section
12 lately. But the statute specifically mentions
13 the ABCC and coordination of certain things,
14 so we should really look at that.

15 CHAIRMAN CROSBY: Right. Right.
16 Thank you. Any other comments, questions,
17 anything on licensing?

18 COMMISSIONER MCHUGH: No. I
19 think -- are we finished the speakers? I just
20 have one brief comment, and that was the
21 regulations -- the hearing regulations that
22 we're talking out of Section 1 and putting in
23 Section 134. My question really was a
24 collateral question. And that is, we have a

1 number of hearings that we hold for racing
2 employees, for example. We'll have a number
3 of others. We need someplace -- someplace
4 provisions for those. And I quickly checked
5 back in Section 101 and we never had them. We
6 only had them for these.

7 So I agree with moving these, but at
8 some point I think we need to look at another
9 set of regulations that deal with other things
10 that could happen before the bureau and --
11 before hearing examiners and the like. But
12 this is not now the time to go into the
13 details of those. I just think we need to put
14 that on the agenda.

15 MR. GROSSMAN: Okay. I agree.

16 CHAIRMAN CROSBY: Anything else?

17 COMMISSIONER ZUNIGA: Just yesterday
18 we also heard from the minority council and
19 others on this topic of waiver of fees, which
20 -- which, of course, we heard comments from
21 today. And I believe if we could give
22 ourselves the flexibility by certain --
23 inserting in the regulations the possibly of a
24 waiver at the discretion of either the bureau

1 the licensing division, or even the
2 commission, even if it's a temporary waiver.
3 So I think we should look at that.

4 On the flip side, I think it's very
5 important that we apportion the cost, because
6 we are spending a significant amount of money
7 on the infrastructure for licensing. So
8 it's -- it's something that we have to
9 consider and monitor and think carefully
10 about.

11 COMMISSIONER MCHUGH: I don't
12 disagree with that at all, but I was thinking
13 as we were talking about that, that we really
14 should think some more about that, because if
15 this is going to be an employer-pay at
16 least -- system, at least -- or at least an
17 employer fronting the money system, for those
18 at least who are successful in getting
19 licenses, might we think about not charging
20 the fee and just having that go into our
21 operating expenses.

22 I recognize that there's a
23 difference --

24 CHAIRMAN CROSBY: You're talking

1 about the 75 --

2 COMMISSIONER MCHUGH: The 75 and
3 300.

4 CHAIRMAN CROSBY: Yeah. Right.

5 COMMISSIONER MCHUGH: I recognize
6 there's a difference between an employer
7 fronting the money and then getting it back
8 over time, and the employer not paying
9 anything where the license isn't granted. But
10 maybe -- maybe we ought to think about how
11 much the employers ought to collectively share
12 in that part of our operations, rather than
13 having it fall on the employees. And maybe
14 use that as a way of lowering the tax, if you
15 will, that it takes to become employed. I
16 don't disagree that we've got to find the
17 money someplace.

18 COMMISSIONER ZUNIGA: Right.

19 COMMISSIONER MCHUGH: And I don't
20 know how to allocate that, and I don't even
21 know if it's a good idea, but I think we ought
22 to talk about that.

23 CHAIRMAN CROSBY: All right. I
24 agree.

1 COMMISSIONER STEBBINS: Did you have
2 an additional question about coming to us with
3 a letter in hand or a confirmation of
4 employment prior to licensing?

5 MR. GROSSMAN: That is an issue that
6 has come up before and it remain in place.
7 And, perhaps, that something the commission
8 should discuss. Whether it's now or prior to
9 approving these regulations.

10 COMMISSIONER MCHUGH: The regulation
11 requires a letter from an employer saying I'll
12 hire you if you get a license?

13 MR. GROSSMAN: Right.

14 COMMISSIONER MCHUGH: That's a good
15 idea, isn't it?

16 CHAIRMAN CROSBY: I think -- well, I
17 was just going to say, in the interest of time
18 there are -- there are several issues -- I
19 think, pretty much for the most part, we have
20 agreed with all the changes you've made.
21 There are a handful of issues, a lot of it
22 having to do with the hiring of the low-end
23 positions, low-paid positions, but others as
24 well that we've asked you to go back on.

1 I'm wondering whether we could put
2 this back -- put this on the agenda one more
3 time. And we can get your feedback on
4 these -- on these six or eight issues that
5 we've raised and try to have that be the last
6 shot.

7 In the meantime, you can talk to
8 some of the folks who have talked to us to see
9 whether or not there are more perspectives
10 that we need to hear from. And if so, we can
11 add that to the mix. If they can get it
12 directly to you, then that would do it as
13 well.

14 COMMISSIONER MCHUGH: Are we under
15 any time constraints here, and if so what are
16 they? I mean, I know we have to publish and
17 then it's two weeks. But do we need to have
18 this in place by a drop-dead date, as it were?

19 MR. DAY: We were definitely trying
20 to have these in place so we could begin
21 licensing before there is award of the gaming
22 license.

23 COMMISSIONER MCHUGH: Right.

24 MR. DAY: So we have -- now the

1 commission is looking like it's going to have
2 to postpone that so I think we have some
3 additional time.

4 CHAIRMAN CROSBY: It's not going to
5 be until the end of February or 1st of March
6 at this point.

7 MR. DAY: The effective --
8 regulations have to be effective before the
9 first part of March.

10 COMMISSIONER MCHUGH: But if we had
11 another meeting in, say, the early part of
12 January, and that was the final meeting,
13 depending on what the Secretary of State's
14 two-week schedule is, we could get them by --
15 probably around -- effective by the end of
16 February -- I mean, the beginning of February
17 sometime.

18 MR. GROSSMAN: That's right. The
19 next publication date is next Friday.

20 COMMISSIONER MCHUGH: Right.

21 MR. GROSSMAN: So I don't have my
22 calendar in front of me, but it works from
23 there every two weeks.

24 COMMISSIONER MCHUGH: Every two

1 weeks.

2 MR. GROSSMAN: So if the commission
3 could approve a day or two before every other
4 Friday, then that's what we're working off of.

5 CHAIRMAN CROSBY: Let's find a place
6 to do that.

7 MR. DAY: If we could target early
8 meeting January, that would take care of it.

9 COMMISSIONER MCHUGH: Right. Would
10 give us all a chance -- one more crack at
11 this.

12 CHAIRMAN CROSBY: Right.

13 COMMISSIONER ZUNIGA: And if, in the
14 meantime, we can also prepare a quick
15 reference guide. I take the comment from one
16 of the speakers very -- as very important
17 because it's -- it's easy to get into the
18 weeds because we have --

19 CHAIRMAN CROSBY: Are you talking
20 about --

21 COMMISSIONER ZUNIGA: Reference of
22 the reg -- of the regulations. Just what
23 they -- quick reference guide, summary --

24 CHAIRMAN CROSBY: Somebody

1 Mr. Cunningham or Mr. Tanaka, somebody. Yeah,
2 I think that would be a great idea.

3 COMMISSIONER ZUNIGA: Yes.

4 CHAIRMAN CROSBY: A handbook for
5 employment with casino operators or casino
6 establishments that puts this into simple
7 language. That would be a really good idea.

8 MR. DAY: We had anticipated and had
9 discussion with some of our stakeholders about
10 a communication plan, once the -- once the
11 regulations are adopted and be able to bring
12 forward the information as to what the
13 requirements really are.

14 COMMISSIONER ZUNIGA: That would be
15 great.

16 CHAIRMAN CROSBY: Do I have a motion
17 to adjourn the public hearing?

18 COMMISSIONER MCHUGH: Yes. With
19 congratulations -- I think we already did
20 that, but this -- this is really --

21 COMMISSIONER CAMERON: Great work.

22 CHAIRMAN CROSBY: Good work.

23 COMMISSIONER MCHUGH: Great effort,
24 so I so move.

1 CHAIRMAN CROSBY: All in favor?

2 COMMISSIONER CAMERON: Second.

3 CHAIRMAN CROSBY: Aye.

4 COMMISSIONER CAMERON: Aye.

5 COMMISSIONER MCHUGH: Aye.

6 COMMISSIONER ZUNIGA: Aye.

7 COMMISSIONER STEBBINS: Aye.

8 CHAIRMAN CROSBY: All right. Thank

9 you, folks.

10

11 (Proceeding concluded at 11:52 a.m.)

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24 MASSACHUSETTS GAMING COMMISSION STAFF:

1 Richard Day, Executive Director
2 Todd Grossman, Deputy General Counsel
3 David Acosta, Licensing Division
4 Jill Griffin, Director of Workforce Supplier and
5 Diversity Development

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24 GUEST SPEAKERS:

1 Hakim Cunningham, Boston Worker's Alliance

2 Lisa Clauson, Unite Here, Local 126

3 Aaron Tanaka, Boston Worker's Alliance

4 William Messner, MCCTI

5 William Kelley, Beer Distributors of Massachusetts

6 Robert J. Carroll, Michael & Carroll

7 Guy S. Michael, Michael & Carroll

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C E R T I F I C A T E

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I, Brenda M. Ginisi, Court Reporter, do hereby certify that the foregoing is a true and accurate transcript from the record of the proceedings.

I, Brenda M. Ginisi, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive of Transcript Format.

I, Brenda M. Ginisi, further certify that 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 18th of December 2013.

BRENDA M. GINISI My Commission expires:
Notary Public July 11, 2014