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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** January 3, 2023, 1:30 p.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 318 9205

The Commission conducted this public meeting remotely utilizing collaboration technology. The use of this technology was intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public.

### **Commissioners Present:**

Chair Cathy Judd-Stein  
Commissioner Eileen O'Brien  
Commissioner Bradford Hill  
Commissioner Nakisha Skinner  
Commissioner Jordan Maynard

#### 1. [Call to Order](#) (00:00)

Chair Judd-Stein called to order the 418<sup>th</sup> Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

Chair Judd-Stein stated that the Commission's principal responsibility in reviewing the sports wagering applications was to ensure the integrity of the gaming industry in Massachusetts. She stated that the Commission would maintain strict oversight of gaming establishments and sports wagering operators. She stated that awarding a sports wagering license is a privilege and that operators would be held to the highest standards of compliance on a continuing basis. She stated that the Commission's mission permits the creation of a fair, transparent process that engenders the confidence of the public and maximizes the benefits to the Commonwealth.

#### 2. [Legal Framework relative to the award of a Category 3 sports wagering operator license](#) (08:02)

General Counsel Todd Grossman stated that this meeting was the Commission's opportunity to evaluate the application for a category one sports wagering license submitted by Penn Sports Interactive d/b/a Barstool Sportsbook ("PSI"). He explained that PSI was seeking a category

three sports wagering license tethered to Plainridge Park Casino's ("PPC") category one temporary sports wagering license.

General Counsel Grossman stated that 205 CMR 218 set out the application requirements, standards, and procedures. He stated that the regulation sets out factors and considerations for the Commission to analyze in the evaluation process, but that the regulations did not set out a particular order to review factors in or assign particular weight to the factors. He stated that the Commission may require that the applicant provide additional information or documents the Commission deems appropriate.

General Counsel Grossman noted that the evaluation of this application was being conducted in public and that all deliberations made by the Commission must take place in public. He stated that G.L. Chapter 30A, § 21(a)(7) allowed the Commission to move into executive session to comply with or act under the authority of any general law, such as G.L. Chapter 23N, § 6 (i) regarding competitively sensitive information in the course of the application process. He stated that if the Commission requests competitively sensitive information the applicant could request to move the meeting to executive session.

General Counsel Grossman stated that any finding the Commission makes must be backed by substantial evidence, and that the heightened standard of clear and convincing evidence applied to suitability pursuant to 205 CMR 215.

General Counsel Grossman stated that the factors the Commission would evaluate would be: the applicant's experience and expertise related to sports wagering; the economic impact and benefits to the Commonwealth; the applicant's proposed measures related to responsible gaming; the description of the applicant's willingness to foster racial, ethnic, and gender diversity, equity, and inclusion ("DEI"); the technology the applicant intends to use in operation; the suitability of the applicant and qualifiers; and any other appropriate factor in the Commission's discretion.

General Counsel Grossman stated that the Commission could determine preliminary suitability which would allow for a temporary sports wagering license. He noted that the Commission could use any information received pursuant to G.L. Chapter 23K, G.L. Chapter 128A, G.L. Chapter 128C, or information from other jurisdictions where the operator was authorized to operate. He stated that conditions could be placed on a license pursuant to 205 CMR 220. General Counsel Grossman noted that the operator would require an operations certificate before they could begin sports wagering operations.

### [3. Presentation of Application for Category 3 sports wagering operator license submitted by Penn Sports Interactive, LLC including demonstration of technology and user experience in accordance with 205 CMR 218.06\(3\) \(24:21\)](#)

PPC's General Manager North Grounsell stated that PPC was excited about the opportunity to offer online sports wagering in the Commonwealth through the tethered category three sports wagering operator in addition to PPC's retail operations.

Head of Penn Interactive (“PI”) Benjie Levy introduced Penn Entertainment’s (“Penn”) Senior Vice President of Regional Operations Erin Chamberlain, Penn’s Senior Vice President of Regional Operations Justin Carter, Penn’s Chief of Compliance Chris Soriano, Penn’s Deputy Chief Compliance Officer and Regulatory Affairs Counsel Sam Haggerty, Penn’s Vice President for Legal Strategy and Business Affairs Michael West, PI’s Senior Director of New Markets and Strategic Initiatives Josh Pearl, PI’s Director of Operations Trey Atkinson.

Mr. Levy stated that PI oversaw the operations of the Barstool Sportsbook and The Score. He noted that PI was a wholly owned subsidiary of Penn. He stated that since he began his current role in June 2022, he had overseen launches of sports wagering in Kansas, Maryland, and Ohio. He stated that if the Commission awarded PI the privilege of a license it would build upon PPC’s strong foundation in Massachusetts. He noted that some information in the application was redacted, and that PI and Penn would be willing to answer questions related to that information in executive session.

Mr. Levy explained that Penn was a publicly traded company with forty-three properties across twenty states, twenty-nine retail sportsbooks, and sixteen jurisdictions with online operations. He stated that Penn and its subsidiaries had extensive experience and expertise as a sports wagering operator. He stated that Penn engaged millions of customers daily. He stated that PI employed twenty-seven team members in Massachusetts. He stated that Massachusetts was also home to PI’s iCasino content studio Penn Games Studios. He explained that PI was a wholly owned subsidiary of Penn, and that PSI was a wholly owned subsidiary of PI.

Mr. Levy stated that PPC, another wholly owned subsidiary of Penn, would control the day-to-day operations of retail sports wagering. He explained that PSI would provide PPC with a turn-key solution including equipment, systems, services, and training. He stated that the equipment and systems provided to PPC would be manufactured and provided by licensed vendors. He stated that the sports wagering system and necessary equipment was currently being certified by Gaming Laboratories International (“GLI”).

Mr. Levy stated that PSI’s estimates of wagering volume, market share, and gross gaming revenue were included in the unredacted application provided to the Commission. He stated that PSI was backed by Penn, which maintained a healthy balance sheet and a liquidity position of \$2.7 billion in total liquidity. He stated that \$1.7 billion of the liquidity was in cash and cash-equivalents.

Mr. Soriano stated that responsible gaming committees were incorporated at Penn, PI, and each property. He stated that each team member undergoes ongoing responsible gaming training. He explained that those who are voluntarily excluded from one Penn property are excluded from all Penn properties. He stated that Penn partnered with the National Council on Problem Gambling, the International Center for Responsible Gaming, the American Gaming Association (“AGA”), and the Responsible Gaming Council.

Mr. Soriano stated that Penn used independent third parties to assess its responsible gaming program and efforts to reach an audience who are not as responsive to traditional responsible

gaming messaging. He stated that PI had stringent responsible gaming policies and practices which were regularly evaluated. He stated that PI reached 10.9 million social media users in July 2022, and that the messaging increased limit usage by 50%.

Mr. Soriano stated that the Barstool Sportsbook utilized limits, time outs, reality checks based upon time spend on the platform, and automated alerts. He stated that the single wager limit and withdrawal controls were each developed for the requirements of a single jurisdiction but then implemented in each jurisdiction. He stated that Barstool Sportsbook was the first U.S. operator to voluntarily undergo the Responsible Gaming Council's RG Check accreditation.

Ms. Haggerty stated that before launching in a new market the compliance team reviewed all statutory and regulatory guidance regarding advertising. She stated that the compliance team develops specific training for each state. She stated that PI ensured compliance with the AGA code of conduct and responsible marketing code. She stated that there was a dedicated marketing compliance team with social media and advertising controls. She stated that marketing vendors employed geofencing and controls that limited the visibility of advertising to those over the age of twenty-one.

Mr. West stated that Penn's compliance team developed a responsible gaming training program for the media company Barstool Sports ("Barstool"). He stated that every Barstool employee was required to undergo gambling guardrail training with annual refreshers. He stated that Penn had dedicated resources to monitor Barstool's gambling content and social media presence. He stated that Penn had allotted time in every Barstool company-wide meeting to discuss responsible gaming and compliance with gaming laws. He stated that Barstool gave Penn an authentic voice that helped to reach patrons. He noted that Barstool personalities were transparent about their picks, success, and losses related to sports wagering.

Mr. Carter stated that Penn had a commitment to diversity, equity, and inclusion ("DEI"). He stated that Penn had pledged \$4 million to fund STEM scholarships over a period of five years to historically black colleges and universities ("HBCUs"). He noted that Penn was partnered with thirty-five HBCUs. He stated that Penn also had the Leadership Excellence at Penn Program ("LEAP") which provided internships, training, and mentorships for recent college graduates who planned to build long-term careers in the gaming industry. He noted that Penn provided \$1 million annually through Penn's Diversity Scholarship Program to children of team members. He stated that 58% of the 2022 recipients were first-generation college bound students.

Mr. Carter stated that Penn had launched the My Heroes program honoring active-duty veterans. He stated that Penn had donated \$100,000 to veterans' organizations and first-responder groups. He noted that Penn created a scholarship program for veterans pursuing law degrees at the University of Pennsylvania and created a military partnership at Penn State Berks.

Ms. Chamberlain explained that Penn also developed the Emerging Leaders Program to train frontline team members in leadership skills. She stated that Penn had created the Women Leading at Penn Program to encourage women to pursue leadership roles. She stated that 35% of

Penn's Executive Senior Management team are women. She stated that Forbes had ranked Penn one of America's best employers for diversity.

Ms. Chamberlain stated that Penn and PI team members all received robust DEI training with a curriculum including inclusion, unconscious bias, and allyship. She stated that Penn's partnership with 35 HBCU helped to create technology-based internship opportunities for those in the STEM field. She stated that Penn had an initiative established in 2021 that any time there is an open executive role, then at least one woman and/or ethnically diverse candidate is interviewed for that position. She stated that PI teamed with Hopeworks, an entity that helped disadvantaged young adults find fulfilling careers in the industry.

Mr. Levy stated that women and diverse candidates had been historically underrepresented in the sports and technology industries. He stated that PI was committed to fostering a diverse workforce. He stated that 27% of PI employees were women, 27% of employees were diverse, and 30% of those in managerial roles were women. He stated that in order to increase the representation of diverse team members PI had implemented enhanced employee benefits, the opportunity for hybrid or remote work, wellness programs, parental leave benefits, tuition reimbursement, and a yearly stipend for professional development. He stated that PI was focusing on mentorship in the workplace and facilitating networking opportunities. He stated that PI was further optimizing its campus recruitment strategy through a DEI lens.

Mr. Carter stated that Penn was committed to increasing diverse vendor spend each year. He stated that Penn had recently expanded their team to source more diverse suppliers. He stated that Penn had doubled its spending with minority-owned businesses, women-owned businesses, veteran-owned businesses, and businesses owned by those with disabilities.

Mr. Pearl stated that PI's system integrated and connected services from various licensed vendors. He stated that the platform was available on the web, Android, and iOS. He stated that the platform hosted wagering on 5000 markets across forty-five sports.

Mr. Pearl stated that Kambi provided the sports wagering platform. He stated that Kambi was licensed in thirty-five U.S. and international jurisdictions. He stated that Kambi applied as a sports wagering vendor for Massachusetts. He stated that Whitehat Gaming Provided the player account management system. He noted that Whitehat Gaming was licensed in fifteen U.S. and international jurisdictions. He explained that PSI also had its own engineering and product team that worked with the vendors.

Mr. Pearl stated that the Barstool Sportsbook meets GLI-33 standards and complied with all additional state regulations or statutory requirements in jurisdictions where PSI operates. He stated that the platform undergoes audits through Bulletproof Solutions, and that the platform used the geolocation vendor GeoComply to ensure compliance with the federal Wire Act. He stated that PSI was partnered with Aristotle for know-your-customer services to confirm patron identification information. He stated that all ancillary service providers required for online wagering were licensed or registered in jurisdictions that required it. He stated that many vendors were in the process of becoming licensed in Massachusetts.

Mr. Atkinson provided a product demonstration of PSI's Barstool Sportsbook online sports wagering platform. Chair Judd-Stein asked if the cool-off period options were limited on the platform. She stated that other applicants had the ability to be less restrictive in setting a date. Commissioner O'Brien asked if there was a notification prior to the cool-off period ending, as the Commission had recently discussed that topic.

Mr. Levy stated that PSI did not provide an email notification notifying patrons to the end of a cool-off period. He stated that this policy was part of PSI's responsible gaming measures. He stated that PI could work with Whitehat Gaming to allow for additional cool-off periods on the platform. Chair Judd-Stein stated that the Commission may need to revisit the regulation related to cool-off periods. Commissioner O'Brien stated that the responsible gaming regulation was open for comment through February 3, 2023. Mr. Pearl stated that another applicant had indicated they do not provide notification to the patron prior to the end of a cool-off period. He stated that PI would work with the vendor to ensure the cool-off periods comply with the regulations. Mr. Atkinson noted that the demo being shown was specific to Pennsylvania's regulations.

Commissioner Hill sought clarification whether live support by phone was available 24/7. Mr. Atkinson stated that callback times would vary depending on ongoing issues and the queue. He stated that the fastest approach was to use the live chat, but that patrons could request a callback. He stated that the live chat was typically responded to in ten seconds or less.

Commissioner O'Brien asked if there was a direct number available, or if a callback had to be requested. Mr. Atkinson stated that there was no inbound number, and that a call could be requested via live chat. Commissioner O'Brien asked what languages were available for customer support. Mr. Atkinson stated that customer support was only offered in English, but that PI could expand the chat to different languages if the Commission required it. Commissioner O'Brien asked where the call center was based. Mr. Atkinson stated that the call center was based in Cherry Hill, New Jersey. Chair Judd-Stein asked if patrons were required to log in to access the live chat function. Mr. Atkinson stated that the live chat was available on the platform and website homepage whether or not the patron was logged in.

Chair Judd-Stein asked if the same chat was used for patrons in distress related to gambling. Mr. Atkinson stated that it would be the same access point, and that all live agents received extensive responsible gaming training. He stated that the agents were trained in guiding patrons through the use of responsible gaming tools.

#### [4. Presentations and Analysis Relevant to review and evaluation of Application for Category 3 sports wagering operator license submitted by Penn Sports Interactive, LLC: \(2:21:22\)](#)

Chair Judd-Stein noted that GLI had not yet joined the call. Executive Director Karen Wells recommended that the Commission move on to the IEB's report on the applicant's suitability, then return to GLI's presentation.

a. [Report on suitability of the Applicant](#) (2:22:22)

Director of the Investigation and Enforcement Bureau (“IEB”) Loretta Lillios stated that the IEB submitted a report on the preliminary suitability of the applicant to the Commission. She stated that PSI was seeking a category three sports wagering license tethered to the category one sports wagering license granted to PPC on December 20, 2022. She stated that the IEB performed a review for preliminary suitability according to the standards set forth in 205 CMR 2.15.01(2). She noted that a full suitability investigation had not been conducted at this time.

Director Lillios stated that the licensing division did a scoping review of the applicant pursuant to G.L. Chapter 23N, § 5(b). She stated that the IEB identified one entity and one individual to be designated as qualifiers in connection with this application. She stated that the entity qualifier was PI and that the individual qualifier was Mr. Levy. She noted that Penn was the parent company of the applicant. She explained that Penn was a qualifier under a category two gaming license pursuant to G.L. Chapter 23K.

Director Lillios noted that the online sports wagering license would be for the Barstool Sportsbook which is operated by PI. She stated that Penn had entered a strategic partnership with the digital media company Barstool in 2020. She stated that Penn owned 36% of Barstool and intended to purchase Barstool in its entirety in February 2023. She stated that Barstool had a branding and marketing partnership with Penn. She reiterated that the Barstool Sportsbook would be fully operated by PSI employees.

Director Lillios stated that Barstool was a registered non-gaming vendor due to their branding arrangement with PPC. She stated that for gaming and sports wagering vendors there were regulatory schemes that offered a higher level of vendor licensing and lower level of vendor registration. She stated that the determination was based upon what type of risk the different kinds of vendor categories posed. She stated that Barstool was a registrant under G.L. Chapter 23K, and that the IEB performed the investigation on registrants after the registration occurs. She noted that this approach balanced the risk posed by the vendor with the operational requirements of the industry. She stated that the IEB was authorized to suspend or revoke registration. She stated that the IEB reported on Barstool’s registration to the Commission in February of 2022.

Director Lillios stated that the applicant’s submission had no substantial deficiencies. She stated that the IEB was still awaiting tax transcripts, but that it was not uncommon to wait in due course for the IRS to provide the documents once requested.

Director Lillios stated that the team conducting the review was comprised of contract investigators. She stated that the review for preliminary suitability included a summary of PSI’s licensing status in other jurisdictions, compliance history in other jurisdictions, and pending litigation valued over \$100,000.

Director Lillios stated that the IEB received an updated list of disciplinary items submitted on December 20, 2022. She stated that the submission corrected a typo in the original submission related to a 2021 incident in Indiana. She stated that the IEB’s report also included a matter from

Ohio that was not yet finalized. She stated that the applicant submitted another compliance matter from Michigan three days after the IEB's report was finalized, and that the IEB had yet to conduct an independent review of that matter. She stated that the applicant submitted a civil complaint filed in Illinois where the applicant was not a party but alerted the IEB to the matter. She stated that there was an open-source review of the applicant and individual qualifiers, but not of the entity qualifiers.

Director Lillios stated that she was aware of the areas of concern previously identified by the Commission. She stated that the IEB had not verified information from news articles as part of this review. She noted that the Commission had placed a condition on PPC's temporary license that Penn would cooperate with the IEB's review of Barstool's marketing practices.

Director Lillios stated that RSM would provide a report on the applicant's financial suitability. She stated that RSM worked closely with the Commission's financial investigation team. She stated that RSM reviewed PSI's disclosed financial information and supplemental Securities and Exchange Commission ("SEC") filings from PSI's parent company Penn.

Commissioner O'Brien asked if the matters referenced by Director Lillios would be discussed in greater detail. Director Lillios stated that Penn's representatives had indicated some of the information was competitively sensitive and would require an executive session.

Commissioner O'Brien asked if the September 29, 2021 Indiana social media post could be discussed publicly. Mr. Soriano stated that the settlement with the Indiana regulator could be discussed in public, but that any questions regarding further details might be appropriate to discuss in executive session. Commissioner O'Brien stated that she wanted more specifics about how this event occurred. Mr. Soriano stated that he would be happy to respond in executive session.

Chair Judd-Stein asked if the Commission ever publicly discussed the arrangement between Penn and Barstool. Director Lillios stated that it was reported to the Commission in February 2022, and that the Commission had been notified of the partnership and Penn's purchase of 36% of Barstool before that.

Chair Judd-Stein asked if the IEB was aware of any other issues with Barstool as part of the registrant process in 2020. Director Lillios stated that the open-source review returned media articles that raised concerns. She stated that the review identified those articles, but no action was taken as the articles were not directly related to gaming.

b. [Technical Components](#) (2:42:00)

Chair Judd-Stein stated that Gaming Laboratories International ("GLI") was the first company to develop and set gaming technical standards which are now considered an industry benchmark. She stated that GLI continues to innovate standards and regulators rely upon these standards to preserve the integrity of the industry.



GLI's Director of Client Solutions Joe Bunevith stated that the Commission had approved 205 CMR 138, 205 CMR 238, 205 CMR 247, and 205 CMR 248. He stated that since those regulations were approved the operators could submit the code for their sports wagering system and hardware to GLI for testing.

Mr. Bunevith stated that PSI would submit their last submission for one or more U.S jurisdictions and then test any changes to the platform to comply with Massachusetts specific rules and regulations. He stated that if a potential operator's platform was new to GLI it would undergo an architectural review that identifies, and documents critical files related to compliance. He stated that after the initial review is complete the source code could be submitted for testing in a locked-down environment.

Mr. Bunevith stated that the lab would verify changes for Massachusetts specific deployments. And once those changes were validated a certificate would be issued to the operator. He stated that once the certificate was issued the Commission could approve the operator for operations. He stated that field verification would be finalized in the upcoming weeks and that verification of the production server and verification of critical file signatures would commence. He stated that GLI would also review internal controls and procedures.

c. [Financial and Economic Impact Analysis](#) (2:48:02)

RSM US LLP's ("RSM") Strategic Finance Practice Leader Jeff Katz stated that RSM had reviewed sections of the application related to finance. He stated that his presentation was based on the information received as of November 21, 2022. He stated that discussion based on preliminary research was subject to change if there was new information.

Mr. Katz stated that much of the information in RSM's report was likely confidential and that details would have to be discussed in executive session. He stated that the evolving nature of the industry made it difficult to predict the composition of the marketplace.

Mr. Katz stated that the applicant provided five years of financial information for its intermediate parent company PI and the ultimate parent company Penn. He stated that Penn was previously issued a determination of suitability under G.L. Chapter 23K, and that the applicant's category three sports wagering application was tethered to PPC's category one sports wagering application.

Mr. Katz stated that he compared the applicant's revenue projections to the Deutsche Bank Equity Research Report and Truist Securities Equity Research Reports issued in October 2022. He stated that revenue projections may warrant an executive session discussion as it included details related to Penn's market share estimates.

Mr. Katz stated that the applicant provided a five-year projected plan of sports wagering activity in Massachusetts including estimated handle, gross gaming revenue, hold percentage, and net gaming revenue. He stated that the applicant shared market share estimates. He stated that RSM independently calculated market share based upon independent research. He stated that the

applicant's projected market shares aligned with the current market share percentage achieved by the applicant in other jurisdictions.

Mr. Katz stated that Penn's expectation regarding hold percentages was aligned with hold percentages in a competitive state operation. He stated that the applicant's planned relationship with PPC was not reviewed as part of RSM's investigation. He stated that the relationship with PPC was expected to provide a positive impact to the operator from cross-branding and cross-marketing activities.

Mr. Katz stated that Penn was well capitalized as of the most recent quarterly SEC filings from September 30, 2022. He stated that Penn had \$2.7 billion in available liquidity with \$1.7 billion in cash on hand and \$977 million in available revolving credit. He stated that Penn had no major debt maturities in the next twelve months. He stated that Penn generated \$877 million in cashflow from operations during the twelve months leading up to September 30, 2022. He stated that Penn's long-term debt balance had remained steady during this period.

#### 5. [Executive Session](#) (2:56:20)

Chair Judd-Stein stated that the Commission would typically review the application, but that Commissioner Hill had a hard stop within an hour. She suggested that the Commission could enter into executive session to review appropriate topics that arose in this meeting.

Commissioner Hill expressed a preference for going over the application before entering an executive session. Commissioner O'Brien suggested compiling a list of the topics identified for executive session before adjourning the meeting. The Commission reached a consensus to compile a list of topics for executive session and review PSI's application at the next public meeting.

Commissioner O'Brien stated that she wanted more details relative to the September 29, 2021 settlement agreement from Indiana and more details regarding the Illinois lawsuit. General Counsel Grossman noted that the Indiana settlement agreement was publicly available information. Commissioner O'Brien asked for a summary of events relative to the Indiana matter. Mr. Soriano agreed to provide a summary of events but stated that further questions might require an executive session.

Director Lillios stated that Penn had notified the IEB of this matter when the discipline was initially issued. She stated that the IEB reviewed the initial disclosure but did not take any action because Massachusetts had not legalized sports wagering at that time.

Mr. Soriano stated that a new Barstool employee had posted gaming content on a Barstool account unaffiliated with Penn. He noted that the account the content was posted on was not controlled by Penn or PSI. He stated that the post violated the compliance guardrails and was promptly taken down once noticed. He stated that the post was made overnight, and that Penn's compliance team saw it in the morning. He stated that Penn contacted regulators in each jurisdiction Penn does business in to inform them the post was made, that it was not consistent with Penn's guardrails, and that it was subsequently removed.

Mr. Soriano stated that the Barstool employee was suspended, and that Penn conducted a refresher training on responsible gaming. He stated that Penn conducted a review of posting privileges and that he would prefer to discuss the specific changes in executive session.

Mr. Soriano stated that Penn entered into a consent agreement with the Indiana regulator on September 28, 2021, in which Penn was fined \$7,500 and Barstool was fined \$10,000. He stated that this incident should not have happened, and that Penn promptly notified regulators and took remedial actions.

Commissioner O'Brien stated that she had follow up questions regarding changes to controls. She asked if the account was associated with PSI or Barstool. Mr. Soriano stated that it was a Barstool affiliated account. He stated that the responsible gaming guardrails were competitively sensitive and that he could explain the changes in executive session.

Commissioner Skinner asked where she could access the content of the post. Commissioner O'Brien noted that the post was public at one point, and it might be something that could be discussed in public. Mr. Soriano stated that he did not have access to the TikTok post as it was taken down. He stated that Penn could provide the text of what was said to the Commission.

Commissioner O'Brien stated that she wanted more details regarding any consequences including personnel consequences, and what controls were put into place as a result. General Counsel Grossman stated that both of those questions were appropriate for executive session.

General Counsel Grossman asked if the Illinois matter was public information as he was not familiar with Illinois' confidentiality and privacy laws. Penn's Chief Legal Officer Harper Ko stated that the Illinois matter would be withheld entirely under Illinois' freedom of information laws and requested that the Commission discuss that topic in executive session.

Commissioner Skinner asked for a more legible copy of the settlement agreement for the Indiana matter. Ms. Ko stated that Penn did not have a better copy, but that Penn had made inquiries to get a new copy. Commissioner Skinner asked for the text of the video from the Indiana matter. Director Lillios stated that she would provide that text to the Commission.

Commissioner O'Brien requested a more detailed conversation related to projected revenue based on RSM's report. Chair Judd-Stein stated that the conversation regarding this application would be continued at the public meeting on the following day.

## 6. [Other Business \(3:13:31\)](#)

Chair Judd-Stein proposed that the Commission should begin to stream agenda-setting meetings to be more consistent with how it streams public meetings. Commissioner O'Brien asked to have a more fulsome conversation before streaming this week's agenda-setting meeting. Chair Judd-Stein stated that streaming agenda-setting was a matter of transparency and ease for the public.

Commissioner O'Brien stated that there were agenda items that needed to be discussed and that she was unsure of whether streaming would be helpful to discussing those matters. She stated that she was not raising a strong objection but wanted to know if any other Commissioner agreed.

Commissioner Skinner agreed with Commissioner O'Brien that the topic could be discussed further at the agenda-setting meeting. Commissioner Hill and Commissioner Maynard expressed support for streaming agenda-setting meetings.

Commissioner Skinner sought clarification regarding the 9:00 a.m. adjudicatory hearing the next morning. Chair Judd-Stein stated that it was part of an appeal. General Counsel Grossman stated that it was an adjudicatory deliberation but not a public hearing. Commissioner Skinner thanked General Counsel Grossman for the clarification.

Chair Judd-Stein stated that the agenda-setting meeting on Thursday would not be streamed. She recommended that the Commission come to a consensus during that meeting's discussion to promote transparency.

Executive Director Wells stated that RSM asked for feedback in advance of the meeting related to the untethered category three sports wagering applicants. She stated that the Commission had decided to look at the applications individually and then review the applications collectively at the end. She asked if it would be helpful to present their information in a PowerPoint so that the Commission would have information to reference back to. She asked if a side-by-side comparison of each item RSM reviewed would be helpful when looking at the applicants collectively.

The Commission reached a consensus to receive power point presentations from RSM and a side-by-side comparison of each item RSM reviewed when looking at the applications collectively.

Hearing no other business, Chair Judd-Stein requested a motion to adjourn.

Commissioner Maynard moved to adjourn. The motion was seconded by Commissioner Hill.

*Roll call vote:*

*Commissioner O'Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Aye.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 5-0.*

### **List of Documents and Other Items Used**

1. [Notice of Meeting and Agenda dated January 3, 2023](#)