



## NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 107 of the Session Acts of 2022, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

**Thursday | February 23, 2023 | 10:00 a.m.**  
**VIA REMOTE ACCESS: 1-646-741-5292**  
**MEETING ID/ PARTICIPANT CODE: 111 1431 1966**  
**All meetings are streamed live at [www.massgaming.com](http://www.massgaming.com).**

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on [www.massgaming.com](http://www.massgaming.com).

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

### **PUBLIC MEETING - #436**

1. Call to Order – Cathy Judd-Stein, Chair
2. Meeting Minutes
  - a. October 13, 2022 - **VOTE**
3. Administrative Update – Karen Wells, Executive Director
4. Racing Division - Dr. Alex Lightbown, Director of Racing
  - a. 2021 Plainridge Racecourse Unpaid Winnings – Dr. Alex Lightbown **VOTE**
  - b. 2021 Suffolk Downs Unpaid Winnings – Dr. Alex Lightbown **VOTE**
  - c. 2021 Wonderland Park Unpaid Winnings – Dr. Alex Lightbown **VOTE**
  - d. 2021 Raynham Park Unpaid Winnings – Dr. Alex Lightbown **VOTE**
  - e. Authorization for CFAO to Pay Out Funds Once Approved by Commission – Dr. Alex Lightbown **VOTE**
  - f. Quarterly Local Aid Payments - Chad Bourque, Financial Analyst- **VOTE**
5. Sports Wagering – Bruce Band, Director of Sports Wagering
  - a. Finalization of Temporary Licensing Process for Category 3 Operators  
**VOTE**



Massachusetts Gaming Commission

- b. Discussion on scheduling of Massasoit Greyhound Association (Raynham Park) Category 2 application review
- 6. Investigations and Enforcement Bureau- Loretta Lillios, Director; Heather Hall, Chief Enforcement Counsel, Caitlin
  - a. Marketing Affiliates Discussion
  - b. 205 CMR 234: *Sports Wagering Vendors* Amended Regulation and Small Business Impact Statement for review and approval to commence the promulgation process and/or adoption via emergency. **VOTE**
  - c. MGM Springfield non-compliance issue regarding events catalog
- 7. Licensing – Karalyn O’Brien, Division Chief, Licensing, David MacKay, Supervisor, Licensing Division
  - a. MGM SER Exemption request **VOTE**
- 8. GameSense Quarterly Update – Mark Vander Linden, Director of Research and Responsible Gaming, Long Banh, Program Manager, Chelsea Turner and Marlene Warner, MA Council on Gaming and Health
- 9. Commissioner Updates
- 10. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at [www.massgaming.com](http://www.massgaming.com) and emailed to [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us). Posted to Website: February 17, 2023 | 2 p.m. EST

February 17, 2023

*Cathy Judd-Stein*

*Cathy Judd-Stein, Chair*

*If there are any questions pertaining to accessibility and/or further assistance is needed, please email Gertrude.Lartey@massgaming.gov.*



Massachusetts Gaming Commission



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## Massachusetts Gaming Commission Meeting Minutes

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**Date/Time:** October 13, 2022, 10:00 a.m.  
**Place:** Massachusetts Gaming Commission  
VIA CONFERENCE CALL NUMBER: 1-646-741-5292  
PARTICIPANT CODE: 111 706 4284

The Commission conducted this public meeting remotely utilizing collaboration technology. 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](#) (00:10)

Chair Judd-Stein called to order the 397<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 provided opening remarks and noted that the Commission had posted the scoping survey for prospective applicants to complete on the Commission's website. She explained that the scoping survey was a required portion of the sports wagering application for Category One, Two, and Three sports wagering operators' licenses. She continued that all prospective operators must file the scoping survey, and that it was due by Monday October 17, 2022, by 5:00 P.M. EST. She affirmed that prospective operators must meet that posted deadline. She added the application for sports wagering operator's licenses had been posted for public comment and recommended that interested applicants review the application and begin to gather materials required.

#### 2. [Approval of the Meeting Minutes](#) (4:32)

a. April 14, 2022

Commissioner Hill moved that the Commission approve the minutes from the April 14, 2022, public meeting that were included in the Commissioner’s Packet subject to any necessary corrections for typographical errors or other non-material matters. Commissioner O’Brien seconded the motion.

The *April 14, 2022, Public Meeting Minutes* were included in the Commissioner’s Packet on pages 4 through 14.

*Roll call vote:*

*Commissioner O’Brien: Aye.*

*Commissioner Hill: Aye.*

*Commissioner Skinner: Aye.*

*Commissioner Maynard: Abstain.*

*Chair Judd-Stein: Aye.*

*The motion passed unanimously, 4-0, with one abstention.*

### 3. [Research and Responsible Gaming](#) (7:27)

#### a. Massachusetts Council on Gaming and Health GameSense Q1 Report

Chair Judd-Stein introduced Director of Research and Responsible Gaming, Mark Vander Linden. Director Vander Linden introduced: GameSense Advisor from Encore Boston Harbor (“EBH”) Winnie Li; GameSense Senior Advisor from Plainridge Park Casino (“PPC”) Ken Averill; and the Executive Director of the Massachusetts Council on Gaming and Health Marlene Warner to present the GameSense Quarterly report.

The presentation included topics including interaction data from each casino; Responsible Gaming Month and Recovery month; an update on the PlayMyWay (“PMW”) launch at EBH; the GameSense excellence awards; highlights from the National Council on Responsible Gaming (“NCPG”) conference; preparations for sports wagering; and GameSense family engagement. The *GameSense Quarterly Presentation* was included in the Commissioner’s Packet on pages 15 through 28.

Commissioner Hill asked if the statistic that 30,000 users signed up for the PMW program at PPC was accurate. Mr. Averill confirmed and explained that PPC had utilized PMW longer than the other casinos, and that the number of users was accurate. Director Vander Linden noted that PMW was initially launched at PPC in 2015, and that the success of PMW there informed the approach in implementing PMW at MGM Springfield (“MGM”), and eventually EBH.

Commissioner Hill noted that GameSense may have an opportunity for further work with the Commission with sports wagering. Commissioner O’Brien expressed an interest in hearing any suggestions from GameSense related to this process. Commissioners agreed. Executive Director Warner added that she wished to thank Commissioner Skinner and Commissioner Maynard for attending recent strategy meetings.

Chair Judd-Stein suggested that PMW as a program could be featured more prominently in the press, and stated that she was glad to hear about the collaboration with the Department of Public Health, concerning recovery centers. Ms. Warner agreed, and confirmed that the number of recovery centers had expanded; noting that there were now more than twenty recovery centers.

Chair Judd-Stein expressed her interest and support in the family intervention work being performed by the Addiction Service Subcommittee. She stated that for each person struggling with a gambling problem, multiple other friends or family members also feel that pain. Commissioners agreed that added their support for the program.

The presentation then moved to the GameSense awards, a program that rewards casino employees with gifts and tokens of gratitude from GameSense for their support and commitment to Responsible Gaming and assisting patrons with access to, and information on GameSense. Commissioners thanked Ms. Warner, Director Vander Linden and the GameSense team for their hard work and the presentation.

#### 4. [Investigations and Enforcement Bureau](#) (42:21)

##### a. EBH/Realty Income REIT Transaction – Description of Transaction, Trust, & Institutional Investor Issue

Chair Judd-Stein introduced Director of the Investigations and Enforcement Bureau (“IEB”) Loretta Lillios, and IEB Chief Enforcement Counsel Heather Hall to present on the EBH and Realty Income Corporation (“Realty”) Real Estate Investment Trust transaction (“REIT”). The *Description of the REIT Transaction* from the IEB was included in the Commissioner’s Packet on pages 36 through 44.

Before continuing the presentation, General Counsel Grossman explained that in accordance with section 9(d) of the Enhanced Code of Ethics, three Commissioners had filed section 23(b)(3) disclosures on this matter due to holdings of Vanguard related funds. He stated that Chair Judd-Stein, Commissioner O’Brien, and Commissioner Maynard had filed their disclosures with their appointing authorities. He explained that while the disclosures were to avoid appearances of potential conflicts of interest, the Commission was not expected to take action or engage in votes. This meant that the matter would remain a 23(b)(3) appearance matter and not a section 6 financial conflict of interest matter. He then paused for additional comments from Commissioners. Commissioner O’Brien and Commissioner Maynard stated that General Counsel Grossman summarized the disclosures accurately.

Jed M. Nosal, counsel from Womble Bond Dickinson, LLP and representing the Petitioners, Wynn MA, LLC (“Wynn”) and Realty were requesting interim authorization to close a contractual transfer to all title rights and interests in the Encore Boston Harbor, including real property and improvements that comprise the EBH gaming establishment from Wynn to Realty. He confirmed to Commissioners that the transfer of ownership of the property would not equate to a change in control or possession of the license; meaning Wynn MA, LLC would remain responsible for the operation of EBH, and all regulatory responsibilities and duties to the Commission.

Mr. Nosal continued his presentation, adding that should the transaction be approved by the Commission, Wynn would continue the day-to-day operations of the casino, but would lease the gaming establishment from Realty. Given this arrangement, he stated that Realty would need to be evaluated as a potential qualifier for Wynn.

With that, Mr. Nosal introduced: Sumit Roy, Chief Executive Officer and President for Realty; Michelle Bushore, Executive Vice President, Chief Legal Officer, General Counsel and Secretary for Realty; Shannon Jensen, Senior Vice President and Associate General Counsel for Realty and Vice President; and Jacqui Krum, Senior Vice President and General Counsel for EBH. Mr. Nosal added that representatives for Vanguard were also present including attorneys Ali Bartlett and Phil Sicuso from the firm Bose, McKinney and Evans, LLP ; as well as Vanguard's Associate General Counsel, Brian Murphy.

Chief Executive Officer Roy stated that Realty was founded in 1969, was listed on the New York Stock Exchange in 1994, and became listed on the S&P 500 in 2015. He explained that Realty specialized in acquiring casino assets and entering long term leases with operators.

Ms. Bushore provided Commissioners with an overview of the transaction between EBH and Realty. The agreement, if approved, would create a long-term lease for 30 years; with the option to renew for another 30 years. She explained that the initial total rent paid by Wynn would be \$100 million with an annual growth of 1.75% for the first ten years, and the greater option of 1.75% or consumer price index capped at 2.5% for the remainder of the lease term. She stated that Realty intended to close the transaction in the fourth quarter of 2022.

Ms. Jensen confirmed that the transaction was structured as an "entity level" transaction, and that Wynn will continue to operate the casino throughout the lease. She explained that the lease was a triple net lease, that would require Wynn to be responsible for all taxes, insurance, maintenance, and obligations of the property. She stated that Wynn would also be required to comply with all existing gaming regulations, and fully maintain the property in compliance with their capital expenditure agreement with the Commission.

Chair Judd-Stein asked if the current structure of the transaction was final or subject to further review or adjustment by parties. Mr. Nosal answered that the current structure of the transaction was final, but still would subject to approval by the Commission, which was noted in a footnote of their report.

Mr. Nosal explained to Commissioners that part of the transaction involved the inclusion of new qualifiers in the petition for Commission approval of the contractual transfer; which must be accompanied by an executed agreement in the form of a trust, in this case called the "Mystic Nominee Trust." He stated that this process was required and consistent with the regulations related to interim authorization. The *Request for Trust Approval for the Mystic Nominee Trust* was included in the Commissioner's Packet on pages 45 through 56.

Mr. Nosal explained that the purpose of the trust was to allow the casino ownership and operation during the Commission's determination of suitability related to the transfer, pursuant

to 205 CMR 116.10(6). He added that the trustee for this transaction was Jacqui Krum, who had already been licensed, and reviewed by the Commission.

Mr. Nosal noted that a provision in the trust allowed for the option that the interested subject of the transaction could be transferred back to Wynn, should an issue arise due to suitability. He stated that even if Wynn utilized the option for the property to transfer back to them, they would still be required to place rent in escrow during the process. Mr. Nosal noted two corrections in the Trust Instrument to increase clarity, and asked that the Commission approve the trust subject to those corrections.

General Counsel Grossman explained that the trust process was set out in 205 CMR 116.10. He noted that the option of the transferred interest returning to Wynn, should an issue arise, was similar language to trust agreements previously reviewed by the Commission in the past, and that it increased levels of protection. He detailed that the trust was a regulatory requirement, and not set out by G.L. c. 23K. He stated that he and Chief Enforcement Counsel Hall had each reviewed the trust, and that the trust met the requirements detailed in the regulation.

Chair Judd-Stein noted that the transaction would occur at the end of the year, and added that suitability reviews would continue, however. She then inquired whether IEB had identified additional qualifiers. Counselor Hall stated that qualifiers had been identified, and that IEB's interim authorization investigation was underway. She confirmed that IEB would present on the interim authorization in mid-November, and if interim authorization is granted by the Commission, the IEB would report on a full suitability investigation before the Commission within six to nine months.

Chair Judd-Stein asked what the Commission would learn about the qualifiers in the November stage. Counselor Hall replied that the IEB would have performed a truncated review of individual and entity qualifiers. She stated the individuals were in leadership roles at Realty and that two entity qualifiers had been identified. She stated that Ms. Krum was a qualifier as well, but she already had license, so a suitability review would not be required for her.

Commissioner Maynard inquired whether the truncated review process would include attestations for qualifiers. Director Lillios explained that the review for interim authorizations for a REIT transaction aligned with the review IEB performs for temporary licensure of vendors and key employees for sports wagering. She stated that they did not require separate attestation forms as discussed in this context, but that the standard forms are attested to and signed under the pains and penalties of perjury.

After no further discussion, Commissioner Hill moved that the Commission find that the Mystic Nominee Trust as discussed and in the Commissioner's Packet would, upon execution, comply with the requirements set out in 205 CMR 116.10(6). The motion was seconded by Commissioner Skinner.

*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.*

Counselor Hall stated that Vanguard Group Inc. (“VGI”) had been identified as a possible qualifier in this transaction. She stated that VGI doesn’t directly or indirectly own any stock in Realty, but that individual Vanguard Funds owned stock in Realty. She stated that VGI provided advisory and administrative ownership of those funds, and that while the total of the funds is greater than 15%, each individual fund percentage was below 5%. The *IEB Memorandum Related to VGI* was included in the Commissioner’s Packet on pages 30 through 35.

Counselor Hall noted that neither VGI nor Vanguard Funds exercised control or direction over Realty or Wynn, and for that reason VGI was not a qualifier to the transaction. She stated that the IEB would require status updates from VGI related to individual fund ownership status on a bi-annual basis. She noted that if any fund ownership exceeded five percent ownership, they would be required to file an institutional investor waiver with the IEB.

#### 5. [Racing Division](#) (1:29:43)

##### a. Plainridge Request for Promotional Fund Reimbursement for the Summer Handicapping Series

Chair Judd-Stein introduced Dr. Alex Lightbown, Director of Racing and Chief Veterinarian, and Chad Bourque, Senior Financial Analyst. Mr. Bourque stated that PPC had three requests for funds from the Harness Horse Promotional Trust Fund. He explained that licensees could use these funds to engage customers, and that distributions were paid upon the Commission’s approval of the licensee’s requests for consideration, and/or request for reimbursement. The *request for reimbursement* was included in the Commissioner’s Packet on pages 57 through 59.

Mr. Bourque stated that the first request was for reimbursement for \$26,000 for payouts to the winners of the summer handicapping series. He noted that the licensees request for consideration was approved by the Commission in a public meeting on July 12, 2022. He stated that he reviewed the request and supporting documentation, and that each prize was paid in the manner stated in the consideration. He stated that the Harness Horse Promotional Trust Fund had a balance of more than \$270,000 and that he recommended approval for the request for reimbursement.

Mr. Bourque then introduced Steve O’Toole, Plainridge Park Casino’s Director of Racing. Mr. O’Toole stated that the contest had excellent participation, and that PPC was interested in doing more events like this in the future.

Commissioner O’Brien moved that the Commission approve the amount of \$26,000 for reimbursement as described in the memorandum in the Commissioner’s Packet and discussed today, and further that the Chief Financial and Accounting Officer be authorized to deposit such



funds from the Harness Horse Promotional Trust Fund to the licensee Plainridge Park in accordance with G.L. c. 128A, § 5(g). 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.*

b. [Plainridge Requests for Promotional Fund Consideration](#) (1:36:11)

i. Penultimate Handicapping Contest

Mr. Bourque stated that PPC's next two requests for consideration from the Harness Horse Promotional Trust Fund were for two additional handicapping events. He stated that the first request was for \$25,000 for the Penultimate Handicapping Contest and the second request was for \$2,500 for a survivor contest. Mr. Bourque stated that the documents submitted met the statutory requirements and that he would recommend approval of both requests. The *Requests for Consideration* were included in the Commissioner's Packet on pages 60 through 65.

Mr. O'Toole noted that the survivor contest distinguished itself from the prior handicapping series as everyone picked the whole card, and the last patron standing gets the prize. He stated PPC had done survivor contests in the past, and that this one was co-sponsored with the Standardbred Owners of Massachusetts to bring attention to Sire Stakes Day. He noted that the expenses will be shared for a \$5,000 prize, and that the race would be held on Monday October 24, 2022. Chair Judd-Stein stated that as the races were different it made sense to do two separate votes.

Commissioner Hill moved that the Commission approve the expenditure of \$25,000 from the Harness Horse Promotional Trust Fund in accordance with G.L. c. 128A, § 5(g) for the purposes described in the materials in the Commissioner's Packet and as discussed today. The motion was seconded by Commissioner Maynard.

Chair Judd-Stein suggested an amendment to clarify the funds were for the Penultimate Handicapping Contest. Commissioner Hill accepted the amendment.

*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.*

ii. [Survivor Handicapping Contest](#) (1:40:32)

Commissioner O'Brien moved that in conjunction with the survivor contest the Commission approve the expenditure of \$2,500 from the Harness Horse Promotional Trust Fund in accordance with G.L. c. 128A, § 5(g) for the purposes described in the materials in the Commissioner's Packet and as discussed today. 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.*

c. [Plainridge Request for Capital Improvement Funds Considerations](#) (1:41:16)

i. Capital Improvement Fund Consideration for Tractor

Mr. Bourque stated that the next two requests were submitted by PPC for the Harness Horse Capital Improvement Trust Fund. He explained that these funds could be used to repair, maintain, or improve the property where racing activities are conducted. He stated that distributions would be made upon the Commission approval of a request for consideration followed by approval of a request for reimbursement.

Mr. Bourque stated that the first request for consideration was in the amount of \$76,900 for the purchase of a new tractor, and that the second request for consideration was in the amount of \$99,350 for the purchase and installation of a new digital tote display. Mr. Bourque stated he had reviewed the documentation, including an opinion letter from Dixon Salo Architects Inc. Confirming the need for the two items, and he recommended approval for both requests. The *Requests for Consideration* were included in the Commissioner's Packet on pages 66 through 79.

Mr. O'Toole stated that the tote display was old technology from 1999, that had been repaired multiple times due to interference from lightning. He stated that irreparable damage had occurred in the last storm. He stated that tractors run non-stop at PPC, and that he would like to have them replaced and brought up to par for grooming the racetrack. Commissioner Hill asked how much money was in the Harness Horse Capital Improvement Trust Fund. Mr. Bourque replied that there was a little more than \$750,000. Chair Judd-Stein sought clarification if both requests qualified as capital improvements. Mr. Bourque stated they did, as equipment.

Commissioner O'Brien moved that the Commission approve the expenditure of \$76,900 from the Harness Horse Capital Improvement Trust Fund in accordance with G.L. c. 128A, § 5(g) for

the purchase of a tractor described in the materials in the Commissioner's Packet and as discussed here today. 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.*

ii. [Capital Improvement Fund Consideration for Tote Board](#) (1:46:05)

Chair Judd-Stein expressed her concern that lightning had such an adverse effect on the equipment at PPC. Mr. O'Toole agreed; stating that lightning had affected the tote board and timing devices, and that PPC had switched to radio signal for timing devices to limit the lightning's impact. He expressed hope the new system's fiberoptics would not have interruptions.

Commissioner O'Brien moved that the Commission approve the expenditure of \$99,347 from the Harness Horse Capital Improvement Trust Fund for the purchase of a tote board in accordance with G.L. c. 128A, § 5(g) for the purpose described in the Commissioner's Packet and discussed today. 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.*

d. [Quarterly Aid Local Payment](#) (1:47:57)

Mr. Bourque Explained that local aid was payable to each city and town where racing activities were conducted, and that the amount of aid was equal to .35% of the handle from the quarter that ended six months prior to the payable date. The *Memorandum regarding Quarterly Aid Local Payment* was included in the Commissioner's Packet on pages 80 through 82.

With that, Mr. Bourque stated that the City of Boston would receive \$107,717.53; the Town of Plainville would receive \$18,179.72; the Town of Raynham would receive \$16,623.88; and that the City of Revere would receive \$53,874.92; totaling \$214,000. Commissioner O'Brien questioned if the total aid payment reported by Mr. Bourque was incorrect; stating that the Commissioner's Packet showed the total of \$196,396.05. Mr. Bourque agreed; offering his apology that he had read the number from the previous quarter.

Commissioner Maynard then moved that the Commission authorize the quarterly local aid payments for the final quarter of 2022 to the City of Boston, Town of Plainville, Town of Raynham, and City of Revere in the specific amounts outlined in the memorandum in the Commissioner’s Packet and discussed here today totaling \$196,396.05. The motion was seconded by Commissioner Skinner.

*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.*

## 6. [Legal Division](#) (1:53:29)

Associate General Counsel Judith Young presented four regulation amendments in 205 CMR 138.00 as a part of the Commission’s Regulatory Review project. She stated that the regulations began the promulgation process in June after the Commission’s approval, and that this was the final step required to approve through the regulatory changes before filing them with the Secretary of State’s Office. She noted that a public hearing for the regulations was held on September 29, 2022; and presided over by Commissioner Maynard. She reported that the changes had received no public comments at or in advance of the hearing.

Walking Commissioners through the regulations, Associate General Counsel Young explained that the edit to 205 CMR 138.02: *Licensee’s System of Internal Controls*, added a thirty-day implementation requirement for any new internal controls submitted to and approved by Executive Director Wells. She stated that the change was to ensure protocols approved by the Commission were implemented by the licensees in a timely manner.

Next, Associate General Counsel Young explained that 205 CMR 138.05: *System for Ensuring Employees are Properly Licensed or Registered* was changed to remedy a Scribner’s error. Section (j) would be re-added, where it was previously cut off in previous publications. She then moved on to explaining that 205 CMR 138.07: *Floor Plans* was changed to add a timing requirement for licensees re-filing or resubmitting approved floorplans with the IEB. She noted there had not previously been a time requirement for submission of floorplans, and that the regulation was changed to insert the phrase “every three months or at the request of the IEB.”

Commissioner O’Brien inquired why the changes to 205 CMR 138.07 did not have the header that was shown on the other regulations sections. Associate General Counsel Young apologized, and clarified that the regulation did have a section header as well, but given its length, only the bottom portion of the regulation, where the change was made, was included in the Commissioner’s Packet.

Associate General Counsel Young explained that 205 CMR 138.62: *Payment of Table Game Progressive Payout Wagers; Supplemental Wagers Not Paid from the Table Inventory* was changed to modify the existing protocol for how licensees pay out progressive jackpots. She stated that the change would create a more equitable split when two patrons won a progressive jackpot at the exact same time. Regulatory Compliance Manager Sterl Carpenter stated that the rule was changed for progressive jackpots at the same table, as winners at different tables could be determined through use of surveillance system time stamps. He stated that this process was already used at EBH and MGM, but would codify the practice in regulation.

Moving on to the Amended Small Business Impact Statement, Associate General Counsel Young stated that the changes to the regulations affected gaming licensees and would have little to no impact on small businesses. The *Regulations and Amended Small Business Impact Statement* were included in the Commissioner’s Packet on pages 83 through 92.

Commissioner Skinner moved that the Commission approve the amended small business impact statement relative to 205 CMR 138.02, 205 CMR 138.05, 205 CMR 138.07, and 205 CMR 138.62 as included in the Commissioner’s Packet; and further that the Commission approve the amendments to 205 CMR 138.02, 205 CMR 138.05, 205 CMR 138.07, and 205 CMR 138.62 as reflected in the Commissioner’s Packet and discussed here today, and that staff be authorized to take the steps necessary to file the required documentation with the Secretary of the Commonwealth and finalize the regulation promulgation process. 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.*

## 7. [Finance Divisions](#) (2:09:11)

### a. FY22 Budget Close-Out

Chair Judd-Stein introduced Chief Financial and Accounting Officer (“CFAO”) Derek Lennon, CFAO Lennon presented the Fiscal Year 2022 Gaming Control Fund Close-Out Report 22. He stated that after adjustments, the Commission’s revised budget was \$33.25 million and required a \$27.6 million assessment on licensees. He explained that the actual spending for Fiscal Year 2022 was \$32.47 million, and revenue was \$33.9 million. He noted that \$401,000 of reimbursements had not been received until the start of fiscal year 2023.

CFAO Lennon stated that 205 CMR 121.00 described how the Commission shall assess operational costs on licensees, including paying overages back as a credit in the next fiscal year. CFAO Lennon stated that final spending was \$1.437 million less than revenue, and after adding \$401,000 from the independent monitor reimbursement, the Commission would credit \$1.83

million to the licensees' FY23 assessment. The FY22 Budget Close-Out Report was included in the Commissioner's Packet on pages 93 through 99.

Commissioner O'Brien noted that the Gaming Enforcement Unit ("GEU") had challenges with staffing, and that it was impressive that the GEU had managed their overtime so well, given the staffing limitations. Chair Judd-Stein asked how much was sent back as credit the previous year. CFAO Lennon stated that it was \$2.2 million.

#### 8. [Sports Wagering Process Updates](#) (2:18:51)

##### a. Review of Public Comments regarding Sports Wagering Application

Executive Director Wells provided a brief update to the Commission on the roll-out of sports wagering and the application process. She stated that the Commission had not received any public comments on the sports wagering application that had been posted publicly, but Commission staff was aware of one entity who indicated they would send comments shortly.

##### b. [Update on Contractual Services for Sports Wagering Implementation](#) (2:19:31)

Executive Director Wells stated that the IEB, with assistance from the Finance Division selected RSM to provide consulting services to assist with the background review process for sports wagering applications. She stated that RSM was a leading provider of audit, tax, and consulting services both in the United States and internationally. She added that RSM had significant experience in the gaming environment and had provided consulting services to tribal and state gaming regulatory agencies in other jurisdictions as well.

Executive Director Wells stated that in addition to their engagement with RSM, the IEB also contracted with private investigators, including former members of the State Police and GEU for services. She explained that these investigators would assist with the suitability review of applicants at the operator, vendor, and employee level, as required by statute. She stated that the scoping survey was due Monday October 17, and was the trigger point where investigators could begin to identify qualifiers.

Executive Director Wells stated that the Commission had contracted with Gaming Laboratories International ("GLI") which was an important step for the implementation timeline. She stated that GLI was uniquely qualified for assistance in sports wagering implementation, noting that they had worked with many regulatory bodies in other jurisdictions. She explained that GLI would assist with drafting technical standards, internal controls, responsible gaming initiatives, testing standards, and drafting regulations. She stated that once sports wagering licenses were granted, GLI could provide services to review internal controls submissions from licensees.

Executive Director Wells stated that the Commission was also looking at contracts to provide project management assistance to manage the increased workload in the upcoming months.

##### c. [Finance - Daily Fantasy Sports Registration and Tax Filing Forms](#) (3:05:26)

CFAO Lennon stated that at the public meeting on October 6, 2022, the Commission voted to promulgate 205 CMR 240 by emergency, so that it would immediately be in effect in advance of sports wagering. He explained that the regulation addressed the taxation of sports wagering operators and fantasy sports wagering operators, and that part of the regulation required fantasy contest entities or individuals to register with the Commission, and then complete a form that the Commission would approve. A draft of the *Registration Form and Gross Fantasy Wagering Receipts Monthly Tax Form* were included in the Commissioner’s Packet on pages 100 through 102.

Commissioner O’Brien inquired whether the “contact name” section was designed to identify whom could accept service of process if the entity was not a Massachusetts corporation. CFAO Lennon stated that he would want to work with the Attorney General’s office on that matter, and he would address Commissioner O’Brien’s concerns in a follow-up.

Chair Judd-Stein asked what the next steps would be if the form was confirmed by the Commission today. CFAO Lennon reported he would work with Communications Division Chief, Thomas Mills to distribute the forms as wide as possible, and begin partnerships with those entities or individuals hosting fantasy sports wagering. CFAO Lennon stated that an issue that may arise would be identifying all operators, but he hoped that the competitive side of these entities would help to identify those who hadn’t yet registered.

Commissioner O’Brien suggested a placeholder be added on the website that lists all known fantasy sports wagering entities. CFAO Lennon stated that he would work with Mr. Mills on developing that list. General Counsel Grossman noted that the obligation to pay taxes would accrue from August 10, 2022, and that funds would still be owed even if a fantasy sports wagering entity did not register immediately.

Chair Judd-Stein asked if language related to the retroactivity of the tax obligations would be included in publications. CFAO Lennon answered that tax language could be included in all distributed notifications, and that registrants could also be directed to the public meeting recording where taxation was thoroughly discussed.

Commissioner Skinner moved that the Commission adopt the daily fantasy sports registration and taxation forms as included in the Commissioner’s Packet and discussed today. The motion was seconded by Commissioner O’Brien

*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.*

d. [Divisional Updates](#) (3:13:26)

## I. Investigations and Enforcement Bureau

Executive Director Wells stated that the biggest update for the IEB was the contractual services update with respect to RSM and private investigators. She added that the Commission had a new Chief of Licensing, Kara O'Brien. Commissioners expressed their enthusiasm for Ms. O'Brien to join the Commission.

Executive Director Wells also added that a critical first step for the IEB's review of sports wagering applicants was their scoping survey. She stated that the deadline for the scoping survey was Monday October 17, 2022, and that the IEB had received several surveys already.

## II. [IT](#) (3:15:50)

Executive Director Wells stated that technology was a crucial aspect to sports wagering and online sports wagering; and that the IT Division had been researching industry standards in other jurisdictions. She reported that the IT Division would require assistance for technical testing standards and would collaborate with GLI to develop and draft the technical regulations. She stated that operators were required to contract to have their platforms tested to Massachusetts specifications, and that operators should be aware of whom they need to engage to get that testing completed.

Commissioner Hill inquired how many scoping survey forms had been received by the Commission. Mr. Mills stated that approximately five operators, and some vendors had submitted scoping surveys. He stated that the Communications Division was working with the Licensing Division to compile all documents in one place.

Chair Judd-Stein inquired whether the Commission should be aware of the applicants at this stage. General Counsel Grossman stated that the Commission may know who is in the applicant pool, but not the content of the submissions.

Commissioner O'Brien queried whether the scoping surveys and other application components should be reviewed on a rolling basis, or if the Commission should look at them at the same time. Chair Judd-Stein stated she was hesitant to have the Commission look at the scoping surveys until they were affirmatively told they could.

Commissioner O'Brien inquired about how the Commission would keep track of launch costs related to this process. CFAO Lennon stated that a regulation was being reviewed by the Legal Division detailed the cost of investigations, and included an overhead rate for anything that was not a direct cost into background suitability and investigation. He reported that the statutory language allowed for direct, or ancillary costs. He added that the recommended rate and explanation of how the rate was reached would be posted on the Commission website.

## III. [Legal](#) (3:24:44)

General Counselor Grossman stated that the Legal Division was focusing on the development of regulations that would establish a framework for sports wagering. He stated that licensees would



be required to comply with regulations upon licensure, and that draft regulations would be presented in the coming weeks that would help clarify issues discussed by the Commission. He stated that he anticipated some regulations being presented at the next meeting, and that GLI would offer guidance and assistance with the regulations as well.

e. [Preliminary Discussion of Licensing Evaluation Process](#) (3:26:55)

General Counsel Grossman presented a potential sports wagering license evaluation process based upon the Commission discussion during the October 6, 2022, open meeting. He noted that the language in the draft was modeled after the RFA2 process used for casino licensing set out in 205 CMR 118 and 205 CMR 119.03. He stated that the casino language was intentionally left in the draft so the Commission could view a whole picture of the process, but that some areas did not directly apply to sports wagering.

General Counsel Grossman presented the licensing evaluation process with topics including preapplication consultations; application submission timing; Commission review of applications deemed administratively complete; host and surrounding community approval; types of licenses; evaluation of the application; evaluation criteria; and supplemental suitability decisions. The draft sports wagering license evaluation process was included in the Commissioner's Packet on pages 103 through 109.

Executive Director Wells suggested that questions submitted in writing and answers should be posted to the Commission website as another option to implement pre-application consultations and ensure every applicant receives the same answers.

Commissioner Skinner asked if pre-application consultations used in the RFA2 process were for the benefit of the applicant, or benefit of the Commission. General Counsel Grossman stated that the meeting was at the staff level and not with the Commission, and were intended for the benefit of applicants to clarify answers to their questions.

Chair Judd-Stein asked if the regulation regarding the scoping survey passed in the prior open meeting was consistent with the timing language. General Counsel Grossman explained that the scoping piece was a prerequisite and applicants could not move forward with the application if scoping was not completed. Commissioner Skinner noted that the regulation gave flexibility for extraordinary circumstances, but extraordinary circumstances was not defined. General Counsel Grossman stated that during the RFA2 process applicants who submitted late appeared before the Commission to offer explanations, but the Commission denied their request.

Commissioner Skinner asked if the Licensing Division was involved in the RFA2 completeness review. General Counsel Grossman explained that the licensing division did not exist at the time the RFA2 was used. Commissioner Skinner stated that the Commission should not receive any incomplete applications if the licensing division reviews them for administrative completeness. General Counsel Grossman stated that there was a difference between not submitting a response and submitting a deficient response, and that a procedure to cure deficiency was included in the RFA2 application.

Chair Judd-Stein asked if an application could be cured past the application submission date. Commissioner O'Brien stated that if sections were missing, the application would not be sent to the IEB for investigations until it was deemed complete, and that the burden was on the applicant to complete the application. Commissioner Skinner noted that the administrative completeness review process was to ensure each part of the application was answered and required attachments were referenced but did not include a review for substantive comment.

Executive Director Wells stated that if substantial things were missing from the application, and the applicant required time to cure, the timeline would have to be changed to accommodate that time. CFAO Lennon stated that during the RFA2 licensing process, consultants were allowed to clarify points of their application to the Commission, but were not allowed to add supplemental information; as extending the timeline would be unfair to competitors, and that the timeline would have to be extended to other applicants. General Counsel Grossman stated that deficiencies could be cured prior to the deadline, but after the deadline, the applicant would have to appear before the Commission to request an extension.

General Counsel Grossman noted that the court ruled in favor of the process the Commission used in the RFA2 process when there was an allegation the Commission was unfair. He stated that it would be beneficial to include language that the applicants could supplement information to clarify points during the review section, but not after the administrative completeness stage.

Chair Judd-Stein asked if the process to retain professional consultants would happen in public. General Counsel Grossman stated that the provision authorized Executive Director Wells to directly retain consultants, but it was likely to be discussed in a public meeting as well. Chair Judd-Stein asked if the consultants included were the consultants for the applicant scoring process discussed in the previous open meeting. General Counsel Grossman confirmed that it was the same consultant, and that the language could also be adjusted to allow the Commission to direct the hiring, rather than the Executive Director.

Commissioner O'Brien stated that she did not foresee the consultant being as involved in the decision-making process. Chair Judd-Stein confirmed that the consultant would be neutral, but would assist in keeping track of the scoring process utilized by the Commission. Commissioner O'Brien agreed with that assessment; and noted that keeping track of the information didn't seem too complex. She then inquired if a consultant was ultimately required. CFAO Lennon stated that it could be harder to track, depending upon the number of applicants, and that it might be useful to have a consultant.

Commissioner O'Brien asked if licensing decisions would need to be drafted in terms of rationale to prevent potential litigation. General Counsel Grossman stated that was correct. General Counsel Grossman stated that the Commission may permit applicants to provide additional documents during the Commission's review process. Commissioner Maynard asked what other jurisdictions had done for sports wagering regarding supplemental documents. General Counsel Grossman explained that the Legal Division reviewed processes in other states and used some principles from other jurisdictions, when considering supplemental materials.

Commissioner Maynard asked if Illinois, Virginia, or any other jurisdiction allowed supplemental information, and stated it would be helpful in forming an opinion. General Counsel Grossman stated that he could gather information from those jurisdictions to present to the Commissioners. Chair Judd-Stein recalled that the Commission had been challenged on this issue related to Casinos. General Counsel Grossman explained that the previous challenge was dissimilar, as it challenged amendments made during a public hearing.

General Counsel Grossman noted that public sentiment was not as important as it was during the RFA2 process, as mobile sports wagering operators would not have physical locations like casinos. Commissioner O'Brien stated she would still want public feedback about customer experience, vendor experience, and other more general public feedback, however. Chair Judd-Stein agreed; stating that a series of public hearings could be held to receive that input.

Commissioner Hill asked if other jurisdictions who had undergone a competitive process had information related to their licensing structures on their website. General Counsel Grossman stated he could get that information to the Commission.

General Counsel Grossman stated that any of the methods included in the process could be used for evaluation, and that the Commission had discretion in the process. He noted that in the RFA2 process the applicant was given time to present their application, and that the Commission could request best and final proposals.

Attorney Lon Povich, from Anderson and Krieger, stated that the Commission had great discretion in devising the methods they will use to review applications. He stated that the Commission should avoid firm metrics and discouraged numerical processes. He stated that the statute and jurisprudence supported a wholistic review process, and stated broadness and flexibility was best in devising methods of evaluation.

General Counsel Grossman stated that specifics could be added to the criteria and sub-criteria to make the evaluation easier. Chair Judd-Stein noted that some sub-criteria were included in the application. Chair Judd-Stein inquired about the distinction between threshold suitability and overall suitability. Executive Director Wells stated that threshold suitability was whether the applicant could receive a license, and overall suitability was to identify the applicant best suited to hold the license.

General Counsel Grossman stated that he also wanted to capture the sentiments expressed by the Commission when developing conditions on the licenses. Chair Judd-Stein stated that maximizing benefits and mitigating potential harms to the Commonwealth should be top concerns. General Counsel Grossman suggested additional language to clarify what is meant by promoting Responsible Gaming as well. He noted the General Law Chapter 23N did not set out criteria for conditions on licenses, and that the Commission had discretion to implement the criteria they choose.

Chair Judd-Stein stated that the Commission had considered a multi-stage review process for the selection of final applicants. General Counsel Grossman explained that a scoring process could occur to reduce the number of potential applicants, followed by a wholistic review of the

remaining applications by the Commission. He stated that the right to a multi-tiered process could be preserved in the regulations.

Commissioner O'Brien noted that the Commission had been cautioned against using numerical scoring, however. General Counsel Grossman stated that he was not suggesting scoring every application, but that a wholistic review might be an overwhelming task depending upon the number of applications received. Commissioner O'Brien suggested that each Commissioner could have their own score, as the Commissioners have different values on certain criteria. Commissioner Maynard expressed an interest in the tiered review, but stated he did not think numerical scores were required to get to the next tier. General Counsel Grossman advised that the Commission wanted to avoid a situation where their decision could be considered arbitrary or capricious, and that some metric should be applied.

Attorney Povich emphasized that flexibility was important for the evaluation process. He stated that tiering the review of applicants should be a separate and longer discussion. Chair Judd-Stein stated for transparency that the Commission was considering using two tiers. Attorney Povich stated that having multiple rounds could provide flexibility, and that using a numbered scoring was easier to dispute.

General Counsel Grossman stated that he would take the comments and observations from this discussion to incorporate into the regulations, and that he hoped to present an updated draft to the Commission the following week. He stated that he would post the process for public comment after making those edits. Commissioner Skinner stated she would likely need more time with the regulations to offer her impressions and address additional questions. Chair Judd-Stein stated that there would be further review of the process in the next week.

#### 9. [Commissioner Updates](#) (5:01:13)

Chair Judd-Stein stated that she wanted to give permission to CFAO Lennon to begin the procurement process for a consultant. Commissioner O'Brien inquired if the consultant was an administrative aid to the Commission's process. Chair Judd-Stein stated she believed the position would be more than administrative. CFAO Lennon confirmed; stating that this consultant would assist with scoring and project management within the Commission.

Commissioner Maynard stated he would like to keep the consultant team small; and that he did not want to abrogate the Commission's decision-making authority. Commissioner O'Brien expressed an interest that the Commission design the scoring process. Chair Judd-Stein asked if a consultant was ultimately required. Commissioner O'Brien stated that with the expected number of applicants and the accelerated timeline, the Commission would likely need outside help, but that she was unsure how expansive the consultant's role should be. CFAO Lennon stated he could put together bullet points for the Commission to consider, and that they could ultimately be placed into the management consultant contract.

Chair Judd-Stein asked if CFAO Lennon could that list ready to present by the October 27, 2022, public meeting. CFAO Lennon confirmed that he would have the requested materials prepared for the next meeting.

10. [Other Business](#) (5:11:05)

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

Commissioner Hill moved to adjourn. The motion was seconded by Commissioner O'Brien.

*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 October 11, 2022, revised on October 11, 2022
2. [Commissioner's Packet](#) from the October 13, 2022, meeting (posted on massgaming.com)



*Division of Racing*

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

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director  
Todd Grossman, General Counsel

DATE: February 23, 2023

RE: Recovery of 2021 Unclaimed Winnings from  
Plainridge Racecourse

---

Dear Commissioners:

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2021 at Plainridge Racecourse and determined that \$124,370.56 is payable to the Commonwealth of Massachusetts.

**Recommendation: That the Commission approve the payment of \$124,370.56 from Plainridge Racecourse to the Commonwealth of Massachusetts for 2021 unclaimed winnings ("Outs").**



Massachusetts Gaming Commission



*Division of Racing*

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

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director  
Todd Grossman, General Counsel

DATE: February 23, 2023

RE: Recovery of 2021 Unclaimed Winnings from  
Sterling Suffolk Racecourse

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Dear Commissioners:

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2021 at Sterling Suffolk Racecourse and determined that \$134,019.51 is payable to the Commonwealth of Massachusetts.

**Recommendation: That the Commission approve the payment of \$134,019.51 from Sterling Suffolk Racecourse to the Commonwealth of Massachusetts for 2021 unclaimed winnings ("Outs").**



Massachusetts Gaming Commission



*Division of Racing*

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

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director  
Todd Grossman, General Counsel

DATE: February 23, 2023

RE: Recovery of 2021 Unclaimed Winnings from  
Wonderland Greyhound Park

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Dear Commissioners:

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2021 for Wonderland Greyhound Park and determined that \$1,742.00 is payable to the Commonwealth of Massachusetts.

**Recommendation: That the Commission approve the payment of \$1,742.00 from Wonderland Greyhound Park to the Commonwealth of Massachusetts for 2021 unclaimed winnings ("Outs").**



Massachusetts Gaming Commission





*Division of Racing*

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

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director  
Todd Grossman, General Counsel

DATE: February 23, 2023

RE: Recovery of 2021 Unclaimed Winnings from  
Raynham/Taunton/Massasoit Greyhound  
Associations

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Dear Commissioners:

In accordance with Massachusetts General Law Chapter 128A Section 5, Senior Financial Analyst Chad Bourque has reviewed the unclaimed winnings from calendar year 2021 at Raynham/Taunton/Massasoit Greyhound Associations and determined that \$146,413.47 is payable to the Commonwealth of Massachusetts.

**Recommendation: That the Commission approve the payment of \$146,413.47 from Raynham/Taunton/Massasoit Greyhound Associations to the Commonwealth of Massachusetts for 2021 unclaimed winnings ("Outs").**



Massachusetts Gaming Commission



*Division of Racing*

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

FROM: Alexandra Lightbown, Director of Racing

CC: Karen Wells, Executive Director  
Todd Grossman, General Counsel

DATE: February 23, 2023

RE: Distribution of 2021 Unclaimed Winnings from  
Plainridge Racecourse, Sterling Suffolk Racecourse,  
Raynham/Taunton/Massasoit Greyhound  
Association and Wonderland Greyhound Park

---

Dear Commissioners:

In Accordance with M.G.L. 128A (live racing) Section 5A and M.G.L. 128C (simulcasting) Section 3A, amounts from unclaimed tickets by a racing meeting licensee shall be distributed to the purse account of the licensee that generated those unclaimed tickets.

Plainridge Racecourse	\$124,370.56
Sterling Suffolk Racecourse	\$134,019.51

In accordance with Chapter 86 of the Acts of 2010, Section 14, subsection 18, amounts from unclaimed tickets by a greyhound meeting licensee shall be distributed to the Racing Stabilization Fund.

Raynham/Taunton/Massasoit Greyhound Association	\$146,413.47
Wonderland Greyhound Park	\$1,740.00

Procedurally, we are requesting that once these funds have been submitted by the licensees and cleared MGC bank accounts, with your authorization, the Massachusetts Gaming Commission finance office will distribute these funds back to the licensees so that the appropriate accounts may be credited the funds.



Massachusetts Gaming Commission



*Division of Racing*

## **MEMORANDUM**

<b>TO:</b>	Massachusetts Gaming Commission
<b>FROM:</b>	Chad Bourque, Financial Analyst
<b>SUBJECT:</b>	Local Aid Quarterly Distribution for Q4 CY22   Q2 FY23
<b>DATE:</b>	January 03, 2023

In accordance with the Commonwealth of Massachusetts Budget and appropriation 1050-0140, local aid is payable to each city and town within which racing activities are conducted. Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.

- |                      |              |
|----------------------|--------------|
| • City of Boston     | \$138,354.84 |
| • Town of Plainville | \$43,452.23  |
| • Town of Raynham    | \$19,825.30  |
| • City of Revere     | \$69,198.28  |

Total local aid quarterly payment   December 31, 2022	\$270,830.65
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With the Commission's authorization payments will be made to the appropriate cities and towns.

Encl. localaid\_q4\_ cy22

Cdb



Massachusetts Gaming Commission

Computation of Local Aid Distributions Quarter End 12/31/2022

	<u>Apr, May, June</u>	<u>Local Aid .0035</u>	<u>Payable to City / Town</u>
Plainridge	5,428,187		
Exports	6,091,425		
Hollywood Bets	895,339		
Total	<u>12,414,951</u>	\$43,452.33	Plainville
Raynham	5,664,370	\$19,825.30	Raynham
Suffolk Downs	5,691,305		
TVG   FanDuel	27,448,658		
Twin Spires	13,620,792		
1/ST Bet	6,031,470		
NYRA Bets	6,467,580		
Total	<u>59,259,805</u>	\$207,409.32	Boston 2/3   Revere 1/3
Wonderland	41,056	\$143.70	Boston 2/3   Revere 1/3
Grand Total	<u><u>77,380,182</u></u>	<u>\$270,830.65</u>	

Distributions:		
Town of Plainville	On Plainridge	\$43,452.33
Town of Raynham	On Raynham	\$19,825.30
City of Boston (line 1)	On Suffolk	\$138,259.05
City of Revere (line 1)	On Suffolk	\$69,150.27
City of Boston (line 2)	On Wonderland	\$95.79
City of Revere (line 2)	On Wonderland	\$47.91
Total		<u>\$270,830.65</u>
Payments should be made to the above communities for the amounts indicated.		



Massachusetts Gaming Commission

<b>Q2 CY22 HANDLES</b>	<b>APR</b>	<b>MAY</b>	<b>JUNE</b>	<b>TOTALS</b>
PLAINRIDGE	1,690,695	2,052,395	1,685,097	5,428,187
EXPORTS	1,521,857	2,394,850	2,174,718	6,091,425
WINLINE	308,754	349,984	236,601	895,339
<b>TOTALS</b>	<b>3,521,306</b>	<b>4,797,229</b>	<b>4,096,416</b>	<b>12,414,951</b>
RAYNHAM	1,951,321	2,010,101	1,702,948	5,664,370
SUFFOLK	2,109,459	2,467,931	1,113,915	5,691,305
TVG   FANDUEL	8,522,246	10,746,555	8,179,857	27,448,658
TWS	3,375,667	6,252,305	3,992,820	13,620,792
1/ST Bet	1,824,654	2,369,326	1,837,490	6,031,470
NYRA	1,729,062	2,794,563	1,943,955	6,467,580
<b>TOTALS</b>	<b>17,561,088</b>	<b>24,630,680</b>	<b>17,068,037</b>	<b>59,259,805</b>
WONDERLAND	15,129	17,792	8,135	41,056
<b>TOTALS</b>	<b>23,048,844</b>	<b>31,455,802</b>	<b>22,875,536</b>	<b>77,380,182</b>

Amounts are computed at .35 percent times amounts wagered during the quarter ended six months prior to the payment.



Massachusetts Gaming Commission



TO: Chair Cathy Judd-Stein  
Commissioner Brad Hill  
Commissioner Jordan Maynard  
Commissioner Eileen O'Brien  
Commissioner Nakisha Skinner

FROM: Karen Wells, Executive Director

CC: Todd Grossman, General Counsel

DATE: January 23, 2023

RE: Category 3 Requests for a Temporary Licensure to Conduct Sports Wagering

---

Pursuant to G.L. c. 23N, §6(c)(2) and 205 CMR 219, I have reviewed the following applicants' Requests for a Temporary Licensure to Conduct Sports Wagering.

American Wagering (Caesar's Sportsbook)  
Bally's interactive  
BetMGM  
Betr  
Crown MA Gaming (DraftKings)  
FBG Enterprises (Fanatics)  
Betfair Interactive (FanDuel)  
Penn Sports Interactive  
WynnBet

After review of the above Requests, I have determined that all are qualified gaming entities pursuant to c. 23N, §3 and have confirmed with our finance division that each has paid the sports wagering initial licensing fee of \$1,000,000 pursuant to c. 23N, §6(c)(1).

Based on the aforementioned findings, it is my recommendation that the Commission issue the above-listed entities the requested temporary licenses and authorize them to conduct sports wagering for a period of one year or until a final determination on its operator license application is made.



Massachusetts Gaming Commission



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY:

D/B/A:

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST:

DATE FOUND PRELIMINARILY SUITABLE BY MGC:

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- IS A GREYHOUND MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

### TEMPORARY LICENSE FEE

A REQUEST FOR A TEMPORARY LICENSE SHALL INCLUDE AN INITIAL LICENSING FEE OF **\$1 MILLION** PAYABLE TO THE *MASSACHUSETTS GAMING COMMISSION*. FOR ELECTRONIC WIRING INSTRUCTIONS, PLEASE CONTACT DOUG O'DONNELL AT [douglas.odonnell@massgaming.gov](mailto:douglas.odonnell@massgaming.gov).

HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (*please check one*): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

\_\_\_\_\_  
Signature of authorized agent of entity

\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: **Bally's Interactive, LLC**

D/B/A: **Bally Bet**

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: **Rob Smith, Director of Licensing-North America**

DATE FOUND PRELIMINARILY SUITABLE BY MGC: **01/19/2023**

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- IS A GREYHOUND MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

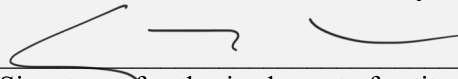
### TEMPORARY LICENSE FEE

A REQUEST FOR A TEMPORARY LICENSE SHALL INCLUDE AN INITIAL LICENSING FEE OF **\$1 MILLION** PAYABLE TO THE *MASSACHUSETTS GAMING COMMISSION*. FOR ELECTRONIC WIRING INSTRUCTIONS, PLEASE CONTACT DOUG O'DONNELL AT [douglas.odonnell@massgaming.gov](mailto:douglas.odonnell@massgaming.gov).

HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

  
\_\_\_\_\_  
Signature of authorized agent of entity

**2/14/23**  
\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.





# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: **BetMGM, LLC**

D/B/A: **Roar Digital**

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: **Joshua Wyseman, Senior Manager of Licensing**

DATE FOUND PRELIMINARILY SUITABLE BY MGC: **12/19/2022**

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
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- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

### TEMPORARY LICENSE FEE

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (*please check one*): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

DocuSigned by:  
  
 Signature of authorized agent of entity \_\_\_\_\_ 1/19/2023 \_\_\_\_\_  
 Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g. - /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: **Betr Holdings, Inc.**

D/B/A: **Betr**

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: **Ashwin Krishnan, Head of Legal & Business Affairs**

DATE FOUND PRELIMINARILY SUITABLE BY MGC: **January 19, 2023**

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
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- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

### TEMPORARY LICENSE FEE

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

**Ashwin Krishnan** Digitally signed by Ashwin  
Krishnan  
Date: 2023.02.02 18:44:18 -05'00' 2/2/23  
Signature of authorized agent of entity Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: Crown MA Gaming LLC

D/B/A: DraftKings

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: William Curtis, Director Global Licensing

DATE FOUND PRELIMINARILY SUITABLE BY MGC: January 19, 2023

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- IS A GREYHOUND MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM


### TEMPORARY LICENSE FEE

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

  
\_\_\_\_\_  
Signature of authorized agent of entity

1/30/23  
\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: *FBG Enterprises OPCO, LLC*

D/B/A: *Fantasies Betting and Gaming*

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: *Alex Smith, VP Regulatory Affairs*

DATE FOUND PRELIMINARILY SUITABLE BY MGC: *January 12, 2023*

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
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- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

### TEMPORARY LICENSE FEE

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

*[Handwritten Signature]*  
\_\_\_\_\_  
Signature of authorized agent of entity

*1/16/23*  
\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g. - /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

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Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: Betfair Interactive, US LLC

D/B/A: FanDuel Sportsbook

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: Cory Fox, VP Product & New Market Compliance

DATE FOUND PRELIMINARILY SUITABLE BY MGC: January 19, 2023

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
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- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (*please check one*): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

/s/ Cory Fox

2/6/2023

Signature of authorized agent of entity

Date

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# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: Penn Sports Interactive, LLC.

D/B/A: N/A

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: Harper Ko, Secretary

DATE FOUND PRELIMINARILY SUITABLE BY MGC: January 4, 2023

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
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### TEMPORARY LICENSE FEE

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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (please check one): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

  
\_\_\_\_\_  
Signature of authorized agent of entity

1/5/2023  
\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENS TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY: WSI US, LLC

D/B/A: WynnBET

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST: Jennifer Roberts, VP/General Counsel

DATE FOUND PRELIMINARILY SUITABLE BY MGC: December 13, 2022

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
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HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (*please check one*): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

[Jan Williams \(Jan 19, 2023 13:43 EST\)](#)

Signature of authorized agent of entity

1-19-23

Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g. - /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

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## 205 CMR 256: SPORTS WAGERING ADVERTISING

### Section

256.01:	Third Parties
256.02:	Application
256.03:	Internal Controls
256.04:	False or Misleading Advertising
256.05:	Advertising to Youth
256.06:	Advertising to Other Vulnerable Persons
256.07:	Self-Excluded Persons
256.08:	Disruption
256.09:	Endorsement
256.10:	Records
256.11:	Enforcement

### 256.01: Third Parties

- (1) Each Sports Wagering Operator shall be responsible for the content and conduct of any and all advertising, marketing, or branding done on its behalf or to its benefit whether conducted by the Sports Wagering Operator, an employee or agent of the Sports Wagering Operator, or an affiliated entity or a third party pursuant to contract, regardless of whether such party is also required to be licensed or registered as a Sports Wagering Vendor or Non-Sports Wagering Vendor.
- (2) Each Sports Wagering Operator shall provide a copy of the regulations contained herein to all advertising, marketing, branding and promotions personnel, contractors, agents, and agencies retained by the Sports Wagering Operator or its agents and shall ensure and require compliance herewith.
- (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.
- (4) Any advertisement for Sports Wagering shall disclose the identity of the Sports Wagering Operator.

### 256.02: Application

- (1) The provisions of this section shall apply to all advertising, marketing, and branding for Sports Wagering aimed at, published, aired, displayed, disseminated, or distributed in the Commonwealth.
- (2) Sports Wagering advertisements may only be published, aired, displayed, disseminated, or distributed in the Commonwealth by or on behalf of Sports Wagering Operators licensed to offer Sports Wagering in the Commonwealth, unless the advertisement clearly states that the offerings are not available in the



Commonwealth or otherwise makes clear that the offerings are not intended for use in the Commonwealth. Sports Wagering Operators and their agents, employees, or any third party conducting advertising or marketing on their behalf shall not advertise forms of illegal gambling in the Commonwealth.

- (3) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering on any billboard, or other public signage, which fails to comply with any federal, state or local law.

256.03:        Internal Controls

Each Sports Wagering Operator shall include in its internal controls submitted pursuant to 205 CMR 138 and 238 provisions to ensure compliance with the requirements of 205 CMR 256.00.

256.04:        False or Misleading Advertising

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any unfair or deceptive advertising, marketing, or branding for Sports Wagering. Advertising, marketing, or branding that is unfair or deceptive includes, but is not limited to, advertising, marketing, or branding that would reasonably be expected to confuse and mislead patrons in order to induce them to engage in Sports Wagering.
- (2) No Sports Wagering Operator shall obscure or fail to disclose any material fact in its advertising, marketing, or branding for sports wagering or use any type, size, location lighting, illustration, graphic, depiction or color resulting in the obscuring of or failure to disclose any material fact in any advertising, marketing, or branding.
- (3) All Sports Wagering advertisements must clearly convey the conditions under which Sports Wagering is being offered, including information about the cost to participate and the nature of any promotions or information to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified in the advertisement.
- (4) No employee or vendor of any Sports Wagering Operator shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities.
- (5) A Sports Wagering Operator that engages in any promotion related to Sports Wagering shall clearly and concisely explain the terms of the promotion and adhere to such terms. If a Sports Wagering Operator offers complimentary items or promotional credit that are subject to terms, conditions or limitations in order to claim the item or redeem the item or credit, the Operator shall fully disclose all such terms, conditions or limitations through the following methods:
  - (a) In all advertisements or inducements where the complimentary item or promotion are advertised;

- (b) If being added to a Sports Wagering Account, through the use of a pop-up message either while the complimentary item or promotional credit is being added or when the patron next logs in to the Account, whichever is earlier; and
  - (c) If the offer requires the patron to Wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to Wager of the patron's own funds shall be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complimentary item or promotional credit shall not be described as free.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall:
- (a) Promote irresponsible or excessive participation in Sports Wagering;
  - (b) Suggest that social, financial, or personal success is guaranteed by engaging in event wagering;
  - (c) Imply or promote Sports Wagering as free of risk in general or in connection with a particular promotion or Sports Wagering offer;
  - (d) Describe Sports Wagering as "free", "cost free" or "free of risk" if the player needs to incur any loss or risk their own money to use or withdraw winnings from the Wager;
  - (e) Encourage players to "chase" losses or re-invest winnings;
  - (f) Suggest that betting is a means of solving or escaping from financial, personal, or professional problems;
  - (g) Portray, suggest, condone or encourage Sports Wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;
  - (h) Portray, suggest, condone or encourage Sports Wagering behavior that is socially irresponsible or could lead to financial, social or emotional harm;
  - (i) Imply that the chances of winning increase with increased time spent on Sports Wagering or increased money wagered;
  - (j) Be placed on any website or printed page or medium devoted primarily to responsible gaming;
  - (k) Offer a line of credit to any consumer.

256.05: Advertising to Youth

- (1) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall state that patrons must be twenty-one years of age or older to participate.
- (2) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed at individuals under twenty-one years of age.
- (3) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal primarily to individuals younger than twenty-one years of age.
- (4) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall be published, aired, displayed, disseminated, or distributed:
  - (a) in media outlets, including social media platforms, that are used primarily by individuals under twenty-one years of age;
  - (b) at events aimed at minors or where 25% or more of the audience is reasonably expected to be under twenty-one years of age;
  - (c) at any elementary, middle, and high school, or at any sports venue exclusively used for such schools;
  - (d) on any college or university campus, or in college or university news outlets such as school newspapers and college or university radio or television broadcasts; or
  - (e) to any other audience where 25% or more of the audience is presumed to be under twenty-one years of age.
- (5) No sports Wagering advertisements, including logos, trademarks, or brands, shall be used, or licensed for use, on products, clothing, toys, games, or game equipment designed or intended for persons under twenty-one years of age.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict an individual who is, or appears to be, under twenty-one years of age, except live footage or images of professional athletes during sporting events on which sports wagering is permitted. Any individual

under the age of twenty-one may not be depicted in any way that may be construed as the underage individual participating in or endorsing sports gaming.

- (7) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict students, schools or colleges, or school or college settings.

256.06: Advertising to Other Vulnerable Persons

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed exclusively or primarily at groups of people that are at moderate or high risk of gambling addiction. A Sports Wagering Operator shall not intentionally use characteristics of at-risk or problem bettors to target potentially at-risk or problem bettors with advertisements.
- (2) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall include a link to and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health and such other information regarding responsible gaming as required by the Commission (“Responsible Gaming Messaging”).
- (3) Such advertising, marketing, branding and other promotional materials shall not use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement of such Problem Gambling Helpline Information. font
- (4) Information regarding the Problem Gaming Helpline and any other required responsible gaming information (“Responsible Gaming Messaging”) must also meet the following requirements:
  - (a) For signs, direct mail marketing materials, posters and other print advertisements, the height of the font used to advertise Responsible Gaming Messaging must be the greater of:
    - i. The same size as the majority of the text used in the sign, direct mail marketing material, poster or other print advertisement; or
    - ii. 2% of the height or width, whichever is greater, of the sign, direct mail marketing material, poster or other print advertisement.
  - (b) For billboards, the height of the font used for Responsible Gaming Messaging must be at least 5% of the height or width, whichever is greater, of the face of the billboard.

(c) For digital billboards, Responsible Gaming Messaging must be visible for the entire time the rest of the advertisement is displayed.

(d) For video and television, Responsible Gaming Messaging must be visible for either:

i. The entire time the video or television advertisement is displayed, in which case the height of the font used for Responsible Gaming Messaging must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

ii. From the first time Sports Wagering Equipment, a Sports Wagering Facility, a Sports Wagering Area or Sports Wagering is displayed or verbally referenced, and on a dedicated screen shot visible for at least the last three (3) seconds of the video or television advertisement. If the Operator elects to utilize this option, the height of the font used for Responsible Gaming Messaging:

1. During the advertisement must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

2. On the dedicated screen shot must be at least 8% of the height or width, whichever is greater, of the image that will be displayed.

(e) For web sites, including social media sites:

i. Responsible Gaming Messaging must be posted in a conspicuous location on each webpage or profile page and on a gaming related advertisement posted on the webpage or profile page.

ii. The height of the font used for Responsible Gaming Messaging must be at least the same size as the majority of the text used in the webpage or profile page.

iii. For advertisements posted on the webpage or profile page, the height of the font used for Responsible Gaming Messaging must comply with the height required for signs, direct mail marketing materials, posters and other print advertisements,

256.07: Self-Excluded Persons

(1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for sports wagering that is aimed at persons who have enrolled in a Self-Exclusion Program pursuant to 205 CMR 233.

(2) No Sports Wagering Operator shall direct text messages or unsolicited pop-up advertisements on the internet to an individual in the Self-Exclusion Program or

shall allow any employee or agent of the Sports Wagering Operator, or affiliated entity or a third party pursuant to contract, to take such actions.

- (3) All direct advertising, marketing, or promotional materials shall include a clear and conspicuous method allowing patrons to unsubscribe from future advertising, marketing, or promotional communications.

256.08:      Disruption to Viewers

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that obscures the game play area of a sporting event or obstructs a game in progress.
- (2) Advertisements for Sports Wagering may not be placed at a sports event with such intensity and frequency that they represent saturation of that medium or become excessive.

256.09:      Endorsements

- (1) An advertisement for Sports Wagering shall not state or imply endorsement by minors, persons aged 18 to 20 (other than professional athletes), collegiate athletes, schools or colleges, or school or college athletic associations.
- (2) An individual who participates in Sports Wagering in the Commonwealth under an agreement with a Sports Wagering Operator for advertising, branding or promotional purposes may not be compensated in promotional credits for additional wagers.

256.10:      Records

- (1) Each Sports Wagering Operator shall retain a copy of all advertising, marketing, branding and other promotional materials intended to promote any Sports Wagering within the Commonwealth, including a log of when, how, and with whom, those materials have been published, aired, displayed, or disseminated, for six (6) years. A Sports Wagering Operator shall also grant the Commission access to all social media platforms utilized by the licensee.
- (2) All advertising, marketing, branding, and other promotional materials related to Sports Wagering and the log described in subsection (1) shall be made available to the Commission or its agents upon request.

256.11:      Enforcement

- (1) A Sports Wagering Operator shall discontinue or modify as expeditiously as possible the use of a particular advertisement, marketing, or branding material in the Commonwealth or directed to residents in this state upon receipt of written notice that the Commission has determined that the advertisement, marketing, or branding material in question does not conform to the requirements of 205 CMR

256.00 or the discontinuance or modification of which is necessary for the immediate preservation of the public peace, health safety, and welfare of the Commonwealth.

- (2) A failure to adhere to the rules of 205 CMR 256.00 may be grounds for disciplinary action under any enforcement method available to the Commission, including emergency enforcement orders to immediately cease and desist such advertising pursuant to 205 CMR 109.
- (3) The Commission may, in addition to, or in lieu of, any other discipline, require an Operator that violates this section 205 CR 256 to provide electronic copies of all advertising, marketing and promotional materials developed by or on behalf of the Operator to the Commission at least ten (10) business days prior to publication, distribution or airing to the public.

#### REGULATORY AUTHORITY

G.L. c. 23N, §4



TO: Chair Cathy Judd-Stein  
Commissioner Brad Hill  
Commissioner Jordan Maynard  
Commissioner Eileen O'Brien  
Commissioner Nakisha Skinner

FROM: Caitlin Monahan, Deputy General Counsel  
Paul Kominers, Esq., Anderson & Kreiger

CC: Loretta Lillios, Director of the IEB  
Karalyn O'Brien, Chief of the Licensing Division

DATE: February 21, 2023

RE: Proposed Amendments to 205 CMR 234: Sports Wagering Vendors

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Enclosed for the Commission's review is a proposed amended 205 CMR 234, which governs the licensing and registration of sports wagering vendors. There are two major categories of substantive changes.

First: the definition and treatment of third-party marketing entities has changed. Based on conversations with the IEB and Licensing, and their consultation with other jurisdictions, licensing of marketing affiliates typically focuses on marketing affiliates who direct players to mobile or digital wagering, and a typical affiliate would be licensed at a level comparable to our "Sports Wagering Registrant" licensing status. Accordingly, the regulation defines third-party marketing entities as those promoting mobile or digital wagering, and by default requires such entities to be registered. 205 CMR 234.01(d)(i)-(ii). The IEB may require particular entities, such as those receiving large amounts of advertising funds over a long time, or those whose advertising work has distinct responsible-gaming or public-integrity implications, to be licensed. 205 CMR 234.01(d)(iii)-(iv). Others may petition to be classified as Non-Sports-Wagering Vendors, and the IEB and Licensing may grant those requests in the same circumstances in which the IEB and Licensing could grant a request for a Sports Wagering Vendor to be classified as a Registrant or a Non-Sports-Wagering Vendor. 205 CMR 234.01(d)(v). As before, any other company that carries advertising (i.e., newspapers, television, radio, online parallels, or social media) or provides other advertising-related services by default need not be registered, but the IEB and Licensing can require them to be registered depending on the nature of their relationship with the Operator. The IEB and Licensing plan to continue monitoring the volume and nature of registrations received, and to seek revisions to the coverage of the regulations as needed.



Massachusetts Gaming Commission



Second: the licensing regulation was initially enacted before any discipline regulations were in place, and so it contained specialized disciplinary procedures at 205 CMR 234.11. Now that the Commission has adopted 205 CMR 232.00, *Discipline of Sports Wagering Operators and Other Licensees and Registrants*, which includes provisions for the discipline of Sports Wagering Vendors and Registrants, 205 CMR 234.11 has been replaced with a reference to the disciplinary procedures in 205 CMR 232.00.



Massachusetts Gaming Commission

## 205 CMR 234: SPORTS WAGERING VENDORS

234.01	Vendors
234.02	Forms; Fingerprinting
234.03	Submission by Applicants; Fees
234.04	Investigation, Determination, and Appeals for Sports Wagering Vendors
234.05	Affirmative License Standards for Sports Wagering Vendors
234.06	Affirmative Registration Standards for Sports Wagering Registrants
234.07	Temporary Licenses for Sports Wagering Vendors
234.08	Administrative Closure of Applications for Sports Wagering Vendor Licensure
234.09	Term of Sports Wagering Vendor License; Renewal
234.10	Duties of Applicants and Licensees
234.11	Disciplinary Action
234.12	Application following Denial or Revocation

### 234.01 Vendors

#### (1) Requirement for Licensure or Registration.

(a) Unless otherwise licensed as a gaming vendor pursuant to 205 CMR 134.00, no Person shall conduct business with a Sports Wagering Operator as a Sports Wagering Vendor unless such Person has been licensed as a Sports Wagering Vendor. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

(+)(b) Except as provided in 205 CMR 234.01(2), a Non-Sports Wagering Vendor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under this 205 CMR 234. As part of its license application process, a prospective Operator shall be required to identify all of its known or anticipated vendors providing goods or services to whom the prospective Operator reasonably expects to pay an amount of \$10,000 or more within a 12-month period, including Non-Sports Wagering Vendors, and if licensed the Operator shall have a continuing duty to update the Bureau relative to the identification of any new vendors. The Bureau may, at its discretion, require the submission of additional information and documents from an Operator, prospective Operator, or a Non-Sports Wagering Vendor.

(c) Except as provided in 205 CMR 234.01(2), a Sports Wagering Subcontractor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under this 205 CMR 234. As part of its application process, a prospective Sports Wagering Vendor shall be required to identify all of its known or anticipated Sports Wagering Subcontractors providing goods or services to whom the vendor reasonably expects to pay an amount of \$10,000 or more within a 12-month period, and if licensed the vendor shall have a continuing duty to

update the Bureau relative to the identification of any new Subcontractors. The Bureau may, at its discretion, require the submission of additional information and documents from a Sports Wagering Subcontractor or a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License including, but not limited to, the Sports Wagering Subcontractor Information Form as provided in 205 CMR 234.02(3).

(d) Third-party marketing entities.

- (i) For purposes of this 205 CMR 234.00, a “third-party marketing or advertising entity” is any Person who is not a Sports Wagering Subcontractor; who regularly promotes or directs patrons to sports wagering on mobile applications or other digital platforms, or who regularly hires or recruits persons to do the same, in exchange for a fee paid by the Operator; who does not otherwise provide goods, software, or services which directly relate to Sports Wagering operations; and who is not an entity described in 205 CMR 234.01(3)(a)(ii) as “television, radio, newspaper, internet or other similar media used for advertising purposes.”
- (ii) Notwithstanding 205 CMR 234.01(1)(a) and 205 CMR 234.01(1)(c), no Person shall conduct business with a Sports Wagering Operator as a third-party marketing or advertising entity unless such Person has been registered as a Sports Wagering Registrant under this 205 CMR 234.00. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.
- (iii) Notwithstanding any other provision of this Section 205 CMR 234, the Division of Licensing may, after consultation with the Bureau, require a third-party marketing or advertising entity to be licensed as a Sports Wagering Vendor. In making the determination whether to require a third-party marketing or advertising entity to be licensed as a Sports Wagering Vendor, the Bureau may consider, without limitation, any factor listed in 205 CMR 231.01(2)(b)(i)-(x).
- (iv) If the Division of Licensing, after consultation with the Bureau, determines that the third-party marketing or advertising entity should instead be licensed as a Sports Wagering Vendor, it shall notify the entity of that decision and of the vendor’s obligation to register. Within 45 days of service of the notice, the entity shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(1) for licensure or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for licensure. The Bureau may order any Person that

fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.

~~(2)~~—Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a third-party marketing or advertising entity they need not be registered, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.

(v)

~~(3)~~(2) Designation for Registration.

- (a) Notwithstanding any other provision of this Section 205 CMR 234, the Division of Licensing may, after consultation with the Bureau, designate a Non-Sports Wagering Vendor or a Sports Wagering Subcontractor a Sports Wagering Registrant, regardless of the types of goods or services being provided by that vendor.
- (b) In making the determination whether to designate a vendor or a Subcontractor a Sports Wagering Registrant, the Bureau may consider the following factors, without limitation:
  - (i) whether the total dollar amount by which the vendor's or Subcontractor's business with an Operator exceeds \$250,000 in gross sales within a 12 month period, or \$100,000 in gross sales within a three month period; or
  - (ii) the relative value of the vendor or Subcontractor's business with the Operator compared to the Operator's overall disbursements to vendors;
  - (iii) whether the goods or services are limited to the pre-operating phase of the Operator's business in the Commonwealth;
  - (iv) the duration of the contract;
  - (v) whether the vendor will be providing goods or services at an on-site facility of the Operator;
  - (vi) the number of Sports Wagering Subcontractors involved in the performance of the vendor's contract with the Operator;
  - (vii) the number of employees employed by the vendor;

- (viii) whether the vendor is licensed, registered or certified and regulated by another Governmental Authority;
  - (ix) the nature of the goods or services; and
  - (x) public safety considerations.
- (c) If the Division of Licensing, after consultation with the Bureau, determines that the Non-Sports Wagering vendor or subcontractor should instead be registered as a Sports Wagering Registrant, it shall notify the vendor of that decision and of the vendor's obligation to register. Within 45 days of service of the notice, the vendor shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(2+) for registration or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for registration. The Bureau may order any Person that fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.
- (d) Nothing herein shall be construed to limit the Commission's or the Bureau's ability to require a Person designated as a Non-Sports Wagering Vendor or Subcontractor by an Operator to be licensed as a Sports Wagering Vendor.

(4)(3) Exceptions.

- (a) For purposes of 205 CMR 234.01, Persons engaged in the following fields of commerce who provide goods or services to an Operator or an Applicant for a Sports Wagering Operator license and who are not otherwise required to be licensed or registered by the Commission as a Sports Wagering Vendor or Sports Wagering Registrant, shall not be required to obtain licensure or registration as a vendor:
- (i) insurance companies and insurance agencies, other than Sports Wagering risk management vendors;
  - (ii) television, radio, newspaper, internet or other similar media used for advertising purposes, not including third-party marketing or advertising entities;
  - (iii) Governmental Authorities or other governmental entities;
  - (iv) legal, accounting, lobbying and financial services entities;
  - (v) labor organizations, unions, or Affiliates registered in accordance with 205 CMR 134.00;
  - (vi) utility companies;

- (vii) telecommunications companies;
  - (viii) providers of training seminars, publications, subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
  - (ix) nonprofit charitable corporations or organizations, provided that no consideration is received for the contribution;
  - (x) court order or stipulation of settlement or for settlement of consumer losses or consumer refunds;
  - (xi) payments for freight charges to freight transporters selected by the vendor for delivering goods;
  - (xii) professional entertainers and/or celebrity appearances;
  - (xiii) any Person that, by submission of a written petition, can demonstrate to the Division of Licensing after consultation with the Bureau that licensure as a Sports Wagering vendor is not necessary to protect the public interest;
  - (xiv) upon submission of a written certification by an Operator, any Person providing goods or services not directly related to Sports Wagering to whom the Operator reasonably expects to pay an amount less than \$10,000 within a 12-month period.
- (b) Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a Sports Wagering Vendor they need not be licensed or registered, or despite meeting the definition of a Sports Wagering Vendor should be a Sports Wagering Registrant and do not require a Sports Wagering License, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.

~~(5)~~(4) Sports Wagering Vendor Qualifiers.

- (a) Persons designated as Sports Wagering vendor qualifiers must establish their qualifications in accordance with 205 CMR 234.05.
- (b) ~~Sports Wagering Vendors~~. The following Persons shall be designated as Sports Wagering Vendor qualifiers:
  - (i) If the prospective Sports Wagering Vendor is a sole proprietor: The owner.

- (ii) If the prospective Sports Wagering Vendor is a corporation:
  - (a) Each officer;
  - (b) Each inside director;
  - (c) Any Person owning more than 10% of the common stock of a company applying for licensure as a Sports Wagering Vendor, or a holding, intermediary or subsidiary company of such company and who has the ability to control the activities of the prospective vendor; and
  - (d) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.
- (iii) If the prospective Sports Wagering Vendor is a limited liability corporation:
  - (a) Each Member;
  - (b) Each transferee of a Member's interest;
  - (c) Each Manager; and
  - (d) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.
- (iv) If the prospective Sports Wagering Vendor is a limited partnership:
  - (a) Each General Partner;
  - (b) Each Limited Partner; and
  - (c) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions

concerning the prospective vendor's operations in the Commonwealth.

(v) If the Sports Wagering Vendor is a partnership:

(a) Each Partner; and

(b) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Sports Wagering Vendor's operations in the Commonwealth.

(c) Other Qualifiers. The Division of Licensing, after consultation with the Bureau, may, at its discretion, require other Persons that have a business association of any kind with the Applicant for a Sports Wagering Vendor License to be subject to the qualification requirements as a qualifier. These Persons include, but are not limited to, an Affiliate or holding, intermediary or subsidiary company of the Applicant for a Sports Wagering Vendor License.

(d) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau, in accordance with 205 CMR 234.01(4), to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

~~(6)~~(5) Waiver. In addition to any other exception or exemption under 205 CMR 234.00, upon written petition, the Commission may waive the requirement to be qualified as a Sports Wagering Vendor qualifier for:

(a) Institutional investors holding up to 15% of the stock of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or holding, intermediary or subsidiary company thereof, upon a showing by the Person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof; provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject



to the licensing requirements of 205 CMR 234.00 before taking any action that may influence or affect the affairs of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company. Any Person holding over 15% of a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof, shall be required to apply for a license before doing business in the Commonwealth; or

- (b) Any Person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof.

(7)(6) Qualification of New Qualifiers for Sports Wagering Vendors.

- (a) No Person requiring qualification pursuant to 205 CMR 234.01(4) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a Sports Wagering Vendor unless the Person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by the applicable business entity or personal disclosure form specified by the Bureau. Following such notification and submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (b) A Person with reason to believe that his or her new position with a Sports Wagering Vendor may require qualification pursuant to 205 CMR 234.01(4) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the Person shall be designated a qualifier pursuant to 205 CMR 234.01(4)(b) and shall notify the Person of such designation in writing. Within 30 days of designation as a qualifier, the Person shall submit a completed personal disclosure form pursuant to 205 CMR 234.02(2). Following submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (c) The Bureau shall review the forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a determination and inform the Commission in accordance with 205 CMR 234.00 whether the new qualifier meets the standards for suitability.
- (d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a

Sports Wagering Vendor shall promptly remove the qualifier from his or her position until such time as the Commission makes its final determination on suitability.

~~(8)~~(7) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau in accordance with 205 CMR 234.01(4)-(6) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

#### 234.02 Forms; Fingerprinting

- (1) Sports Wagering Vendor License Application Form. Every Person applying for a Sports Wagering Vendor License shall be obligated to complete and submit a Sports Wagering Vendor Business Entity Disclosure Form to the Division of Licensing. Said forms shall be created by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the forms. The license application forms for Sports Wagering vendors shall require, at a minimum, the following information:
  - (a) The name of the Applicant;
  - (b) The post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;
  - (c) The Applicant's criminal and arrest record;
  - (d) Any civil judgments obtained against the Applicant pertaining to antitrust or security regulation;
  - (e) The identity of every Person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members;
  - (f) An independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans, loan forgiveness, or any other financial transactions to or from a gaming entity or Operator in the past three years; and
  - (g) Clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and

disbursement schedules, tax returns and other reports filed by governmental agencies, and business and personal accounting check records and ledgers.

- (2) Sports Wagering Registration Form. Every person seeking to register as a Sports Wagering Registrant shall be obligated to complete and submit a registration form to the Division of Licensing. The registration form shall be created by the Bureau and shall request the disclosure of any information deemed necessary by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the form.
- (3) Qualifiers. Every Person designated as a qualifier for a Sports Wagering Vendor under 205 CMR 234.01(4) shall be obligated to complete and submit a personal disclosure form to the Division of Licensing. Said forms for Sports Wagering Vendor qualifiers shall be created by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the forms.
- (4) Non-Sports Wagering Vendor and Sports Wagering Subcontractor Information Forms. A Non-Sports Wagering Vendor form to be completed by the Operator, and a Sports Wagering Subcontractor information form to be completed by Sports Wagering Vendors shall be created by the Bureau requesting any information as deemed necessary by the Bureau and submitted to the Division of Licensing. The Division of Licensing may make non-material changes to the form.
- (5) Fingerprinting. Each Sports Wagering Vendor License qualifier shall be fingerprinted under the supervision of the Commission in accordance with the procedures in 205 CMR 134.13.

#### 234.03 Submission by Applicants; Fees

- (1) An application, disclosure form or registration for the initial issuance of a Sports Wagering Vendor License shall include all of the following:
  - (a) A completed Business Entity Disclosure Form-Sports Wagering Vendor, as applicable, as set forth in 205 CMR 234.02(1) and (2); and
  - (b) Proof of the vendor's business relationship with one or more Operators in the manner prescribed by the Division of Licensing.
- (2) A Sports Wagering Vendor, Sports Wagering Registrant or qualifier (individual) shall file all the applicable Sports Wagering Business Entity Disclosure Forms or Sports Wagering employee disclosure forms, or a Sports Wagering Registration Form.
- (3) A qualifier for a Sports Wagering Vendor License may, if authorized by the Bureau, instead file disclosure information including, but not limited to, for

publicly traded companies, copies of securities filings and/or audited consolidated financial statements for a period as determined by the Bureau, in lieu of the form identified in 205 CMR 234.03(1)(a).

- (4) Except as otherwise provided for in 205 CMR 234.07, each Applicant shall file a complete application pursuant to 205 CMR 234.03(1) with the Division of Licensing in the manner prescribed by the Division of Licensing. The Division of Licensing shall not accept an incomplete application.
- (5) Fees.
  - (a) A non-refundable fee of \$15,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for licensure as a Sports Wagering Vendor.
  - (b) A non-refundable fee of \$5,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for registration as a Sports Wagering Registrant.
  - (c) Such fees shall be subject to the provisions of 205 CMR 134.15 regarding increases in application fees and manner of submittal of such fees.

234.04 Investigation, Determination, and Appeals for Sports Wagering Vendors and Sports Wagering Registrants

- (1) Upon receipt of an application for a Sports Wagering Vendor License or registration or a Sports Wagering vendor qualification, the Division of Licensing shall conduct a review of each for administrative completeness and then forward the application or submission to the Bureau which shall conduct an investigation of the Applicant. In the event an application or submission is deemed incomplete, the Division of Licensing may either request supplemental information from the Applicant or administratively close the application in accordance with 205 CMR 234.08. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the Applicant is suitable to be issued a license or registration in accordance with 205 CMR 234.05 and 205 CMR 234.06.
- (2) In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 234.05 or 205 CMR 234.06, the Division of Licensing, Bureau, or Commission, as applicable, shall consider: the relevance of the information to doing business with a Sports Wagering Operator in general, whether there is a pattern evident in the information, and whether the Applicant is likely to be involved in Sports Wagering related activity. Further, the information will be considered in the light most favorable to the Applicant,

unless the information cannot be so viewed pursuant to M.G.L. c. 23K or M.G.L. c. 23N, or the information obtained does not otherwise support such view. For purposes of 205 CMR 234.00, an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an Applicant. Sealed or expunged records of criminal or delinquency appearances, dispositions, and/or any information concerning such acts shall not be considered for purposes of making a suitability determination in accordance with 205 CMR 234.00, and M.G.L. c. 23N.

- (3) Sports Wagering Vendor License Decisions. Upon completion of the investigation, conducted in accordance with 205 CMR 234.04(1), the Bureau shall either approve or deny the application for a Sports Wagering Vendor License. If the Bureau approves the application for a Sports Wagering Vendor, the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the Applicant on behalf of the Commission. If the application is denied, the Bureau shall forward the determination of denial and reasons therefor to the Division of Licensing which shall issue a written decision to the Applicant explaining the reasons for the denial. The decision shall include an advisory to the Applicant that they may appeal the decision in accordance with 205 CMR 101.00. If the denial is based upon information contained in a Person's criminal record, the decision shall also include an advisory that the Person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served *via* first class mail or email to the addresses provided by the Applicant on the application.
- (4) Sports Wagering Registration Decisions. The Division of Licensing shall issue a registration to the Applicant for Sports Wagering Registration on behalf of the Commission in accordance with 205 CMR 234.06. In the event that the Bureau determines, upon completion of the investigation conducted in accordance with 205 CMR 234.04(1), that the Applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 234.06, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the Applicant denying or revoking the registration. The notice shall include an advisory to the Applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing in accordance with 205 CMR 101.00. If the denial is based upon the information contained in the person's criminal record, the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served *via* first class mail or *via* email to the addresses provided by the Applicant on the application.

234.05 Affirmative License Standards for Sports Wagering Vendors

- (1) An Applicant for a Sports Wagering Vendor License and any Sports Wagering Vendor qualifier shall establish individual qualifications by clear and convincing evidence.
- (2) In determining whether an Applicant for licensure is suitable for purposes of being issued a Sports Wagering Vendor License, being qualified as a Sports Wagering Vendor qualifier or for having a Sports Wagering Vendor License or qualification renewed, the Bureau shall evaluate and consider the overall reputation of the Applicant and qualifiers, if any, including, without limitation:
  - (a) the integrity, honesty, good character and reputation of the Applicant and qualifiers;
  - (b) the financial stability, integrity, and background of the Applicant and qualifiers;
  - (c) whether the Applicant and its qualifiers have a history of compliance with gaming and Sports Wagering licensing requirements in other jurisdictions;
  - (d) whether the Applicant or any qualifier, at the time of application, is a defendant in litigation;
  - (e) whether the Applicant is disqualified from receiving a license under 205 CMR 234.05(3);
  - (f) whether the Applicant or any qualifier has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the Applicant or any qualifier has associated with members of organized crime and other Persons of disreputable character;
  - (h) the extent to which the Applicant and qualifiers have cooperated with the Bureau in connection with the background investigation; and
  - (i) the integrity, honesty, and good character of any subcontractor.
- (3) The Bureau and Commission shall deny an application for a Sports Wagering Vendor License if the Applicant or a qualifier:
  - (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a Sports Wagering Vendor License to

an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);

- (b) submitted an application for a license under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
- (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for a license; or
- (d) has Affiliates or Close Associates that would not qualify for a license or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth.

(4) Rehabilitation.

- (a) An Applicant may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
- (b) In considering the rehabilitation of an Applicant the following shall be considered:
  - (i) the nature and duties of the position of the Applicant;
  - (ii) the nature and seriousness of the offense or conduct;
  - (iii) the circumstances under which the offense or conduct occurred;
  - (iv) the date of the offense or conduct;
  - (v) the age of the Applicant when the offense or conduct was committed;
  - (vi) whether the offense or conduct was an isolated or repeated incident;
  - (vii) any social conditions which may have contributed to the offense or conduct; and
  - (viii) any evidence of rehabilitation, including recommendations and references of persons supervising the Applicant since the offense or conduct was committed.
- (c) A Sports Wagering Vendor License qualifier shall be at least 18 years of age at the time of application.

234.06 Affirmative Registration Standards for Sports Wagering Registrants

- (1) Upon submission of an administratively complete registration form as a Sports Wagering Registrant, the Division of Licensing shall issue the registration on behalf of the Commission. A registration may be denied or subsequently revoked if it is determined that the Applicant is disqualified in accordance with 205 CMR 234.06(2) or unsuitable for any criteria identified in 205 CMR 234.06(3).
- (2) The Bureau and Commission shall deny or revoke a registration if the person:
  - (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a registration to an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);
  - (b) submitted a registration form under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
  - (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for registration; or
  - (d) has affiliates or close associates that would not qualify for a license or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth in approving a registration.
- (3) In determining whether an Applicant is suitable for purposes of being issued a registration or having a registration renewed, the Bureau may evaluate and consider the overall reputation of the Applicant including, without limitation:
  - (a) the integrity, honesty, good character and reputation of the Applicant;
  - (b) the financial stability, integrity, and background of the Applicant;
  - (c) whether the Applicant has a history of compliance with gaming licensing requirements in other jurisdictions;
  - (d) whether the Applicant, at the time of submission of the registration form, is a defendant in litigation;
  - (e) whether the Applicant is disqualified from receiving a registration under 205 CMR 234.06(2);



- (f) whether the Applicant has been convicted of a crime of moral turpitude;
- (g) whether, and to what extent, the Applicant has associated with members of organized crime and other persons of disreputable character;
- (h) the extent to which the individual has cooperated with the Bureau in connection with the background investigation; and
- (i) the integrity, honesty, and good character of any Subcontractor.

(4) ~~(5)~~ An Applicant for a registration shall be 18 years of age or older at the time of application.

(5) ~~(6)~~ The Bureau may deny an application for registration if it determines that the Applicant formed the Applicant entity for the sole purpose of circumventing the requirement to be licensed as a Sports Wagering Vendor.

#### 234.07 Temporary Licenses for Sports Wagering Vendors

- (1) Notwithstanding any other provision of 205 CMR 234.00, upon petition to the Commission by an Operator, the Commission may issue a temporary Sports Wagering Vendor License to an Applicant for a Sports Wagering Vendor License if:
  - (a) the Applicant for a Sports Wagering Vendor License has filed a completed application with the Commission and has submitted all of the disclosure forms as required by the Division of Licensing. The Bureau may waive the requirement to submit application information for some or all of the Applicant's individual and entity qualifiers prior to issuance of a Temporary License;
  - (b) the Operator certifies, and the Commission finds, that the issuance of a temporary Sports Wagering Vendor License is necessary for the operation of Sports Wagering and is not designed to circumvent the normal licensing procedures; and
  - (c) the Operator certifies that, to the best of its reasonable knowledge and belief, the proposed temporary Sports Wagering Vendor meets the qualifications for licensure pursuant to 205 CMR 234.05 and that the Operator understands that it may be denied an Operator License if it has willfully, knowingly or intentionally provided false or misleading information regarding the proposed vendor.
- (2) An Applicant applying for a Sports Wagering Vendor License on or before August 31, 2023 shall demonstrate its suitability for temporary licensure upon

certification by the Applicant under the pains and penalties of perjury that the Applicant entity:

- (a) is not disqualified under one or more of the criteria listed in 205 CMR 234.05(3);
  - (b) is properly licensed or registered, and in good standing, to conduct the same operations in every other jurisdiction where it operates as a Sports Wagering Vendor or the equivalent; and
  - (c) has disclosed any other information not previously disclosed of which it is aware or reasonably should be aware which would negatively impact a determination on the Applicant's suitability for a sports wagering vendor license.
- (3) On or after September 1, 2023, a temporary Sports Wagering Vendor License shall issue, unless:
- (a) A preliminary review of the Applicant shows that the Applicant is disqualified under one or more of the criteria listed in 205 CMR 234.05(3); or
  - (b) A preliminary review of the Applicant shows that the Applicant will be unable to establish his or her qualifications for licensure under the standards set forth in 205 CMR 234.05(1).
- (4) If an Applicant for a temporary Sports Wagering Vendor License is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements, as determined by the Bureau, and is in good standing in all jurisdictions in which it holds such a license or registration, the Commission may issue the vendor a temporary Sports Wagering Vendor License; provided, however, that the Commission shall reserve its rights to investigate the qualifications of an Applicant at any time.
- (5) Unless otherwise stated by the Commission, a temporary Sports Wagering Vendor License issued under this 205 CMR 234.07 shall expire upon issuance of a full Sports Wagering Vendor License or upon suspension or revocation of the temporary Sports Wagering Vendor License, and in any event no later than the term of the license as set forth in 205 CMR 234.09(1).

234.08 Administrative Closure of Applications for Sports Wagering Vendor Licensure or Registration

- (1) All Applicants for a Sports Wagering Vendor License or registration shall promptly respond to any request for information from the Division of Licensing

and/or the Bureau. This obligation is in addition to the continuing duty set forth in 205 CMR 234.10.

- (2) Failure of an Applicant for a Sports Wagering Vendor License or registration to respond to a request for information from the Division of Licensing and/or the Bureau within 21 days of the request may result in the administrative closure of the application for licensure or registration and the corresponding administrative revocation of a Sports Wagering Vendor license or registration, if applicable.
- (3) In the event that an application for licensure or a registration is administratively closed for failure to provide requested information or to comply with the obligations set forth in either 205 CMR 234.08(1) or 205 CMR 234.10, the Division of Licensing or the Bureau will notify the Applicant of the determination in writing and will identify the specific deficiencies in the application that served as the basis for the closure. Once an application for licensure or registration has been administratively closed, the Applicant is required to submit a new application in order to be considered for licensure or registration. In that event, the Applicant shall submit a complete application including all outstanding information as previously detailed by the Division of Licensing or the Bureau. The submission of outstanding information is not a guarantee of licensure or registration, but is a prerequisite for the application to be deemed administratively complete.

234.09 Term of Sports Wagering Vendor License or Registration; Renewal

- (1) Term. Sports Wagering Vendor licenses and registrations and Sports Wagering vendor qualifications shall be for an initial term of three years. The initial term of a Sports Wagering Vendor License or registration shall expire and be renewable on the last day of the month on the third anniversary of the issuance date.
- (2) Renewal.
  - (a) At a minimum of 150 days prior to expiration, each Sports Wagering Vendor shall submit a new and updated application or registration in accordance with 205 CMR 234.00.
  - (b) If a vendor or qualifier has made timely and sufficient application for a renewal, the Applicant's existing license or registration shall not expire and the Applicant shall remain in good standing until the Bureau has issued a decision on the application or registration. If a renewal application or registration is received after the renewal date and the license or registration expires before the Commission issues a new license or registration, the Person shall not conduct business with an Operator until a new license or registration is issued.
  - (c) It shall be the responsibility of the vendor to ensure that their license or registration is current.

#### 234.10 Duties of Applicants, Licensees, and Sports Wagering Registrants

All Sports Wagering Vendor Applicants, Sports Wagering Vendors, Sports Wagering Registrants and qualifiers, shall have the same duties and obligations required of gaming vendor Applicants, licensees, and registrants pursuant to 205 CMR 134.18.

#### 234.11 Disciplinary Action

~~(1) — Grounds for Disciplinary Action. Any Sports Wagering Vendor License or registration issued under 205 CMR 234.00 may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if the Commission finds that a vendor or qualifier has:~~

~~(a) — been charged with or convicted of a crime while employed by an Operator and failed to report the charges or the conviction to the Commission; or~~

~~(b) — failed to comply with any provision of M.G.L. c. 23N or 205 CMR pertaining to licensees or registrants, including failure to act in conformance with an applicable provision of the Operator's system of internal controls.~~

~~(2) — Finding and Decision. If the Commission finds that a Sports Wagering Vendor or Non-Sports Wagering Registrant has violated a provision of 205 CMR 234.11(1), it may issue a written notice of its intent to reprimand, suspend, or revoke said vendor's license or registration. Such notice shall be provided in writing and contain a factual basis and the reasoning in support the decision, including citation to the applicable statute(s) or regulation(s) that supports the action. It shall further advise the vendor of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 234.11(4), if they so choose, and that failure to do so may result in the decision automatically being imposed. Mailing of the notice to the address on record with the Commission, or emailing the notice to the address provided to the Commission by the licensee or registrant shall be deemed satisfactory service of the notice. The Commission may alternatively issue an order temporarily suspending a license or registration.~~

~~(3) — Civil Administrative Penalties. The Commission may assess a civil administrative penalty on a Person in accordance with M.G.L. c. 23N, § 21(a) for a violation of 205 CMR 234.11(1).~~

~~(4) — Review of Decision. Any Person aggrieved by a decision made by the Commission, in accordance with 205 CMR 234.11(2) or (3), may request review of said decision in accordance with 205 CMR 101.00. Failure to request such review may result in the decision automatically being imposed. Sports Wagering Vendor Licensees and Sports Wagering Registrants may be disciplined in accordance with 205 CMR 232.00 or any other applicable provision of 205 CMR or G.L. c. 23N.~~

#### 234.12 Application Following Denial or Revocation

No individual who has been denied a license or registration or has had their license or registration revoked pursuant to 205 CMR 234.11, 205 CMR 232.00, or any other provision of 205 CMR or G.L. c. 23N may reapply for the same license or registration prior to two years from the date of denial or revocation. If an individual has appealed the denial or revocation of their

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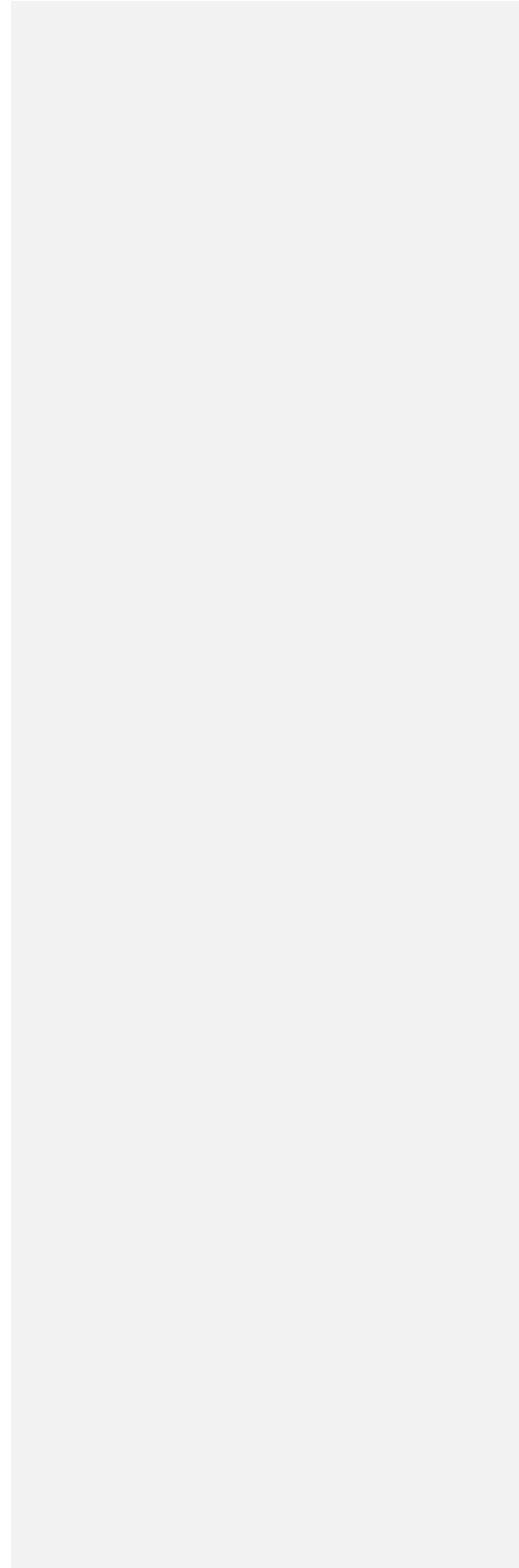
|

license or registration, the two year period shall begin to run from the date that the denial or revocation is affirmed pursuant to 205 CMR 101.00 or otherwise pursuant to M.G.L. c. 30A.

REGULATORY AUTHORITY

G.L. c. 23K, § 4(42); c. 23N, §§ 4(a)-(b), 5

DRAFT





## **SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 234: SPORTS WAGERING VENDORS**.

This regulation is being promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, § 4.

The proposed 205 CMR 234 applies to sports wagering vendors and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation. Small businesses serving as Sports Wagering Vendors may have to be licensed or register, but, unless further licensing is later required, would not need to undertake additional reporting or recordkeeping obligations.

3. State the appropriateness of performance standards versus design standards:

The standards set forth are licensing requirements, akin to performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

Sports wagering is a new industry in Massachusetts, and these regulations are intended to enable and encourage, not deter it.

Massachusetts Gaming Commission

By:

/s/ Caitlin Monahan  
Caitlin W. Monahan, Deputy General Counsel

Dated: February 21, 2023

DRAFT



Massachusetts Gaming Commission

<b>Job Profile #:</b>	16093	<b>Grade:</b>	Union
<b>Job Profile Title:</b>	Set Up Ld (Union)	<b>FLSA Status:</b>	Non-Exempt
<b>Position Title:</b>	Set Up Ld	<b>Uniform Requirement (Yes/No):</b>	Yes

Become one of the stars behind the show and become part of the world's most powerful entertainment brands. Our Company has one exciting mission: **To entertain the human race.**

**PRIMARY PURPOSE:**

As a Set Up Lead, you will set the stage for guest experience with your welcoming smile and service. By understanding their unique stories and needs, you will own their experience to create **WOW** memories they will carry with them far and beyond their stay with us.

**PRINCIPAL DUTIES AND RESPONSIBILITIES:**

- Supervise and assist in maintaining and cleaning of meeting rooms
- Inspect set rooms for cleanliness and agreement to group requirements
- Set up rooms and function areas with designated tables, chairs, staging, dance floor, flipcharts, easels, blackboards and other equipment as specified by group requirements and in accordance with departmental standards
- Breakdown function areas as scheduled in accordance to departmental procedures, storing all reusable goods and return equipment to specified storage areas
- Set up table linens, skirting and tabletop items (water pitchers, ashtrays, glasses, etc.) as specified by group and in accordance with departmental standards
- Refresh rooms as scheduled, following departmental standards
- Transport any food and beverage trays/items in public areas to service areas
- Report any damages, maintenance problems or safety hazards to the Supervisor
- Perform other job-related duties as requested

**SUPERVISION:**

None

**MINIMUM REQUIREMENTS:**

- High school diploma or equivalent
- One (1) year of experience with banquet set-ups
- Work varied shifts, to include weekends and holidays

**PREFERRED:**

- Two (2) years of experience as a convention porter
- Two (2) years of catering and banquet experience
- Bilingual
- Experience in a similar resort setting

**CERTIFICATIONS, LICENSES, REGISTRATIONS:****KNOWLEDGE, SKILLS, AND ABILITIES:**

- Knowledgeable of banquet set-up
- Ability to complete work in a timely and efficient manner
- Able to effectively communicate in English, in both written and verbal forms





## Standardized Job Description

- Ability to multi-task and work well in a fast paced, team-oriented environment
- Excellent organizational skills to function effectively under time constraints and within established deadlines, with particular attention to detail
- Excellent customer service skills and interpersonal skills to effectively communicate with all business contacts
- Maintain a professional, neat and well-groomed appearance adhering to company standards

### WORKING CONDITIONS:

\*This is not intended to include every duty or responsibility of the job nor is it intended to be an all-inclusive list of the skills and abilities required to do this job.

This position may require strenuous physical activities and exposure to pipe, cigar and/or cigarette smoking. An ability to work a flexible schedule, including extended hours, weekends and holidays may also be required.

If you are an individual with a disability and need a reasonable accommodation for any part of the application process, or to perform the essential functions of a position, please click the following link: <http://www.mgmresortscareers.com/careers/contact-us.aspx>

We are an Equal Opportunity Employer. We are also committed to protecting the privacy of visitors to our employment application site, including the protection of any personal information provided to us. For more information about MGM Resorts International, including our privacy policy and commitment to diversity and inclusion, please visit <http://www.mgmresortscareers.com/>.

### Physical/Sensory Requirements & Work Environment Form

This is a required checklist for attachment to Position Descriptions. It clarifies the smallest components of the mental and physical requirements of the job. Check all areas that are essential in performing the job, according to the essential functions section in the position description guidelines. Signatures are to be obtained at the time of interview for the position.

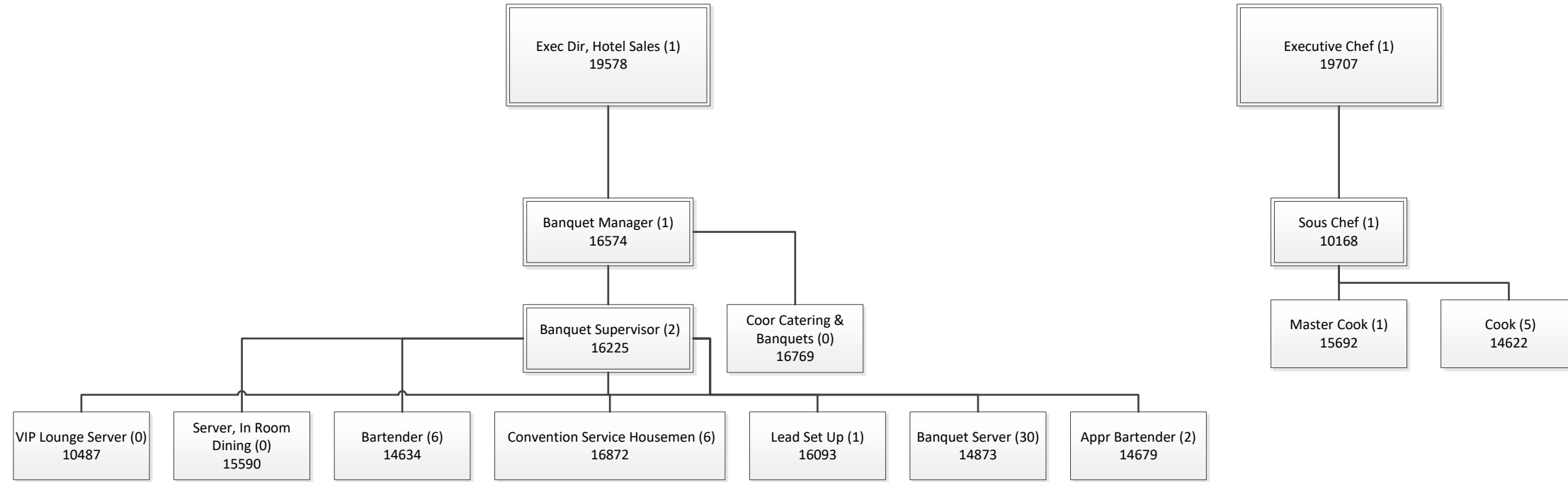
	Physical Requirements		Work Environment		Mental Requirements
	Balancing		Communication		Analytical
	Bending		<i>Verbal</i>		Clerical
	Carrying		<i>Written</i>		Comprehension
	<i>__pounds</i>		Confined area		Crisis incidents
	Clear speech		Contacts		Customer service
	<i>simple</i>		<i>works alone</i>		Decision making
	<i>complex</i>		<i>works around others</i>		Fatigue
	Climbing		<i>works with others</i>		High pressure



	Crawling		Exposure to dust / dirt		Judgment
	Crouching		Exposure to fumes / odors		Long hours
	Distant vision		Extreme cold		Math skills
	Driving		Extreme heat		<i>advance</i>
	<i>auto/van</i>		Fast pace		<i>basic</i>
	<i>limousine</i>		Hazardous conditions		Memorization
	Flexibility		<i>Chemicals</i>		Organization
	<i>upper body</i>		<i>high structures</i>		Perception
	<i>lower body</i>		<i>high voltage</i>		Reading
	Hearing/Listening		Indoors		<i>simple</i>
	Kneeling		Noise levels		<i>complex</i>
	Lifting		<i>low to moderate</i>		Repetition
	<i>__ pounds</i>		<i>high</i>		Safety hazards
	Near vision		Office conditions		Tight deadlines
	Normal vision		Outdoors		Working conditions
	Pushing/Pulling		Restricted area		Writing
	Reaching		Shifts		<i>simple</i>
	Sitting		Smoke		<i>complex</i>
	Standing		<i>____%</i> Travel		
	<i>5 hours minimum</i>				
	Stooping		Vibration		
	Typing		Wet/Humid		
	<i>__ w.p.m.</i>				
	Walking				



MGM Springfield  
Convention (Catering & Banquets) Department  
As of January 16, 2023





TO: Chair Judd-Stein and Commissioners Hill, Maynard, O'Brien and Skinner

FROM: David MacKay, Licensing Supervisor

CC: Loretta Lillios, IEB Director and Kara O'Brien, Licensing Division Chief

DATE: January XX, 2023

RE: Gaming Service Employee (SER) Exemption Request: MGM Springfield

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**Overview:** This request for exemption for one new position at MGM Springfield from service employee registration is presented by the Licensing Division to the Commission for consideration and approval. (Further detail is available in the attached Exemption Request Summary).

Pursuant to G.L. c. 6, § 172(o) and 205 CMR 134.03(4), the Commission may exempt a job position from categorization as a gaming service employee.

**Action Requested:** The Licensing Division is asking the Commission for a vote on the matter.

**Recommendation:** The Licensing Division recommends that the Commission support the exemption.



Massachusetts Gaming Commission



**MASSACHUSETTS GAMING COMMISSION**

**IDENTIFICATION OF POTENTIAL POSITIONS FOR EXEMPTION FROM THE REGISTRATION REQUIREMENT BY THE MGC**

The Massachusetts Gaming Commission may exempt a job position from categorization as a gaming service employee. See G.L. c. 6, § 172(o); 205 CMR 134.03(4).

**GAMING LICENSEE:** MGM Springfield

**JOB POSITON (AND UNIQUE JOB CODE):** Lead Set Up - 16093

<b>JOB DESCRIPTION</b>	<b>EFFECTIVE DATE OF JOB DESCRIPTION: 01/16/2023</b> <i>(The Licensee shall immediately notify the Bureau of changes to any job description for an exempted position.)</i>
See attached	

*(Continue to Page 2)*

## GAMING LICENSEE CERTIFICATION

The Commission considers the following non-exhaustive list of factors when determining whether or not to exempt a job position. Please indicate information about each factor for the position that has been identified as potentially eligible for exemption.

**JOB POSITON (AND UNIQUE JOB CODE):** Lead Set Up - 16093

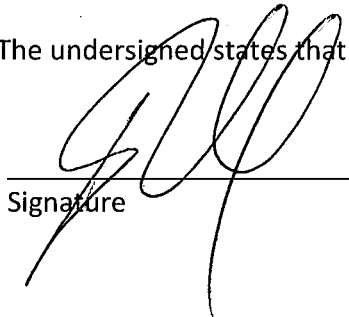
FACTOR	DESCRIPTION / EXPLANATION
<b>Work performed on gaming floor</b>	None
<b>Managerial responsibilities in any department</b>	None
<b>Supervisory responsibilities in Human Resources or Sales and Marketing</b>	None
<b>Responsibilities for alcohol sales, distribution, service, and/or storage</b>	None
<b>Access to secure casino back-of-the house areas (including executive offices) without security escort</b>	Access Level: N No access to secure casino BOH without security escort
<b>Responsibilities for accounting and/or finance relating to the gaming establishment</b>	None
<b>"Write" access to gaming-related casino databases</b>	None
<b>Responsibilities that potentially impact the integrity of gaming operations, including access to confidential or sensitive information</b>	None
<b>Other (please set forth other relevant information for exemption consideration)</b>	None

(Continue to Page 3)

JOB POSITON (AND UNIQUE JOB CODE):

Lead Set Up - 16093

The undersigned states that the information herein is true and accurate.



/ Jason Randall

01/18/2023

Signature

/ Printed Name

Date



TO: Chair Judd-Stein and Commissioners Hill, Maynard, O'Brien and Skinner  
FROM: David MacKay, Licensing Supervisor  
CC: Loretta Lillios, IEB Director and Kara O'Brien, Licensing Division Chief  
DATE: January XX, 2023  
RE: MGM Springfield Exemption Request Summary

---

**Summary:** The Convention (Catering & Banquets) Department at MGM Springfield would like to add a Lead Set Up position as follows:

- This position would inspect, set up and breakdown meeting rooms and function areas as specified by group requirements and in accordance with departmental standards.
- The position will report to the Banquet Supervisor, a Service Employee Registration (SER) approved position.
  - Lead Set Up - Position #: 16093, Department: Property Access Level: N<sup>1</sup>

The Licensing Division worked with Jason Randall, Executive Director of Human Resources, MGM Springfield, to obtain the necessary information to develop this request, including: the required Exemption Identification Forms complete job description, and complete the Gaming Licensee Certification.

**Background:** On November 2, 2017, Governor Baker signed a statutory amendment which granted the Massachusetts Gaming Commission the authority to exempt certain "Gaming Service Employee" level job positions from the mandatory registration process. At the January 18, 2018, meeting, the Massachusetts Gaming Commission provided staff with a process for considering any potential exemptions. Additionally, the Commission endorsed the following factors for consideration when making exemption determinations:

- Work performed on the gaming floor
- Managerial responsibilities in any department
- Supervisory responsibilities in Human Resources, Sales and Marketing
- Responsibilities for alcohol sales, distribution, service and/or storage

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<sup>1</sup> Access level "N" is described as: "No access to secure casino back-of-house without security escort."



Massachusetts Gaming Commission



- Access to secure casino back-of-the-house areas (including executive offices) without security escort
- Responsibilities for accounting and/or finance relating to the gaming establishment
- “Write” access to gaming-related casino databases
- Responsibilities that potentially impact the integrity of gaming operations, including access to confidential or sensitive information



TO: Chair Judd-Stein, Commissioners O'Brien, Hill, Skinner, and Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming;  
Long Banh, Responsible Gaming Program Manager

DATE: February 23, 2023

RE: MCGH FY 2023 Second Quarter Report

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The Expanded Gaming Act includes a number of key mandates to ensure the successful implementation of expanded gaming, including the prevention of and mitigation of social impacts and costs. Chapter 23k section 21(16) requires casino operators to provide an on-site space for an independent substance abuse, compulsive gambling and mental health counseling service and establish a program to train gaming employees in the identification of and intervention with customers exhibiting problem gaming behavior.

To fulfill this mandate, the Commission adopted GameSense, an innovative responsible gaming program that equips casino patrons who chose to gamble with information and tools to adopt positive play behaviors and offers resources to individuals in distress from gambling-related harm. The Commission has a contract with the Massachusetts Council on Gaming and Health (MCGH) to operate the GameSense Information Centers, located on-site at all Massachusetts casinos and staffed 16-24 hours daily by trained GameSense Advisors.

Today, Marlene Warner and Chelsea Turner of Massachusetts Council on Gaming and Health will share with you the GameSense activities and highlights from the second quarter of FY23.



Massachusetts Gaming Commission

# GameSense

## QUARTERLY PRESENTATION

Marlene Warner, CEO

Chelsea Turner, COO

**OCT - JAN, FY23**





**PROBLEM GAMBLING  
AWARENESS MONTH**

## **AGENDA**

- Numbers Snapshot
- Recent Highlights
- Personnel Update
- Champion Awards
- Sports Betting
  - Brick & Mortar Launch
  - Mobile Preparations
- PGAM
  - Heart of the House
  - Front of the House

# NUMBERS SNAPSHOT

Increase in:

- demonstrations and exchanges
- VSEs
- PMW (then levels off)

Shift in demographics and players

- electronic table game & slot play
- poker, parimutuel and sports players



# RECENT HIGHLIGHTS

- PMW
- Gift Responsibly Campaign
- New Holiday Activities
- Feed the Funnel
- Lunar New Year



MACGH 's GSA Josh Molyneaux, CEO Marlene Warner, COO Chelsea Turner & Director of Player Health Ray Fluette participating in EBH's Feed the Funnel Event

# PERSONNEL UPDATE

- John & Ellie
- 19 GSAs speak 15 different languages!



# CHAMPION AWARDS

## EBH

- Rachel Pasquariello, Credit
- Monica Veliz, Wynn Rewards
- Emmy Hanna, Table Games

## MGM

- Paul Chechile, Facilities
- Irma Borrero, Table Games
- Talisha Redford, Environmental Services

## PPC

- Ronald Danyluk, Security
- Andy Schell, Security
- Darryn Ladieu, Customer Service





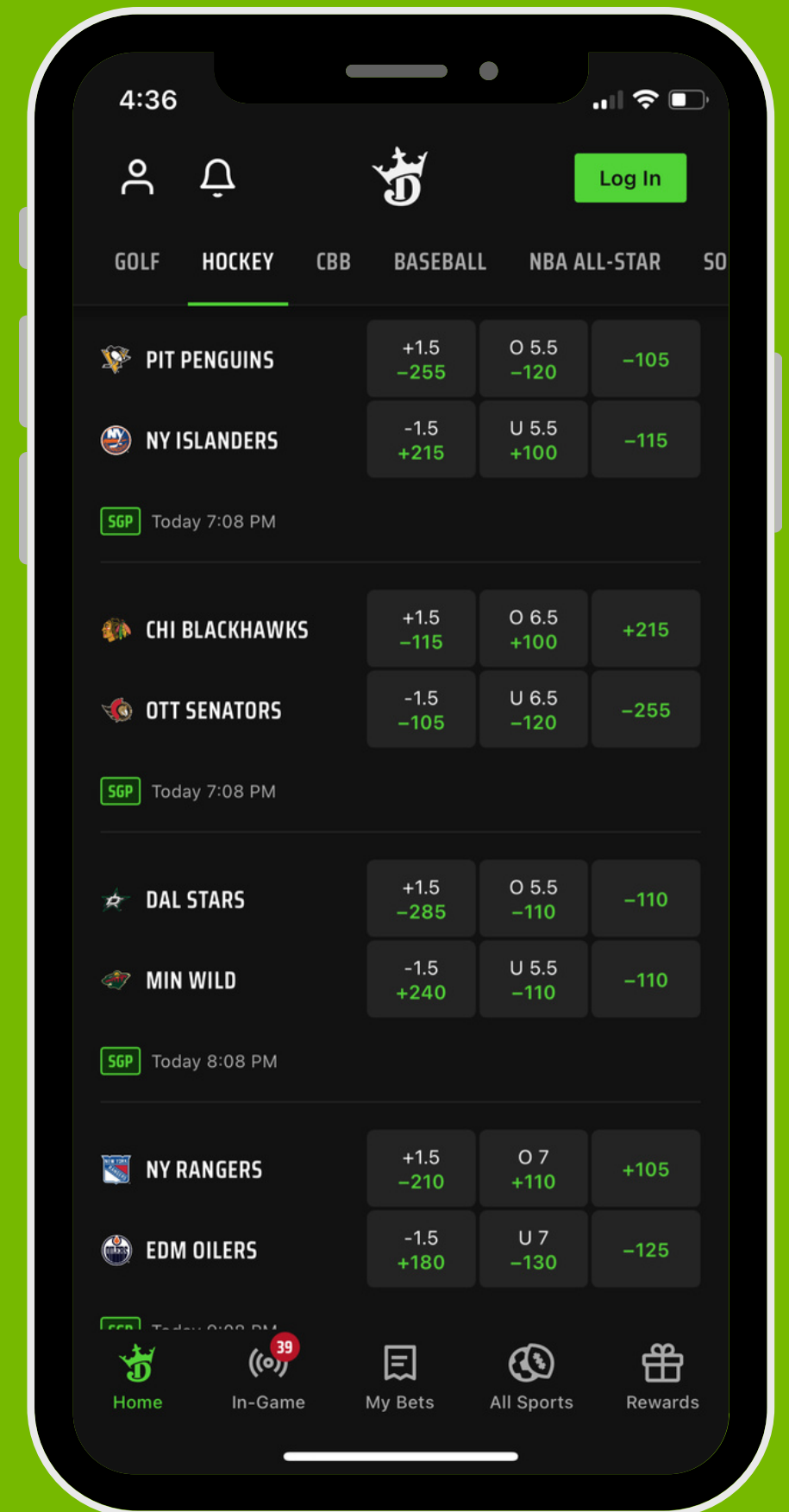
# SPORTS BETTING BRICK AND MORTAR LAUNCH

- New materials: brochures, swag, digital marketing
- VSE changes
- Uniforms
- Staffing hours shifts
- Frequently visiting sportsbook areas and kiosks
- Training: internal, onsite, Dr. Fong
- MGC meetings and operator presentations
- Tabling with casinos
- New activities
- Superbowl
- Lots of media activity



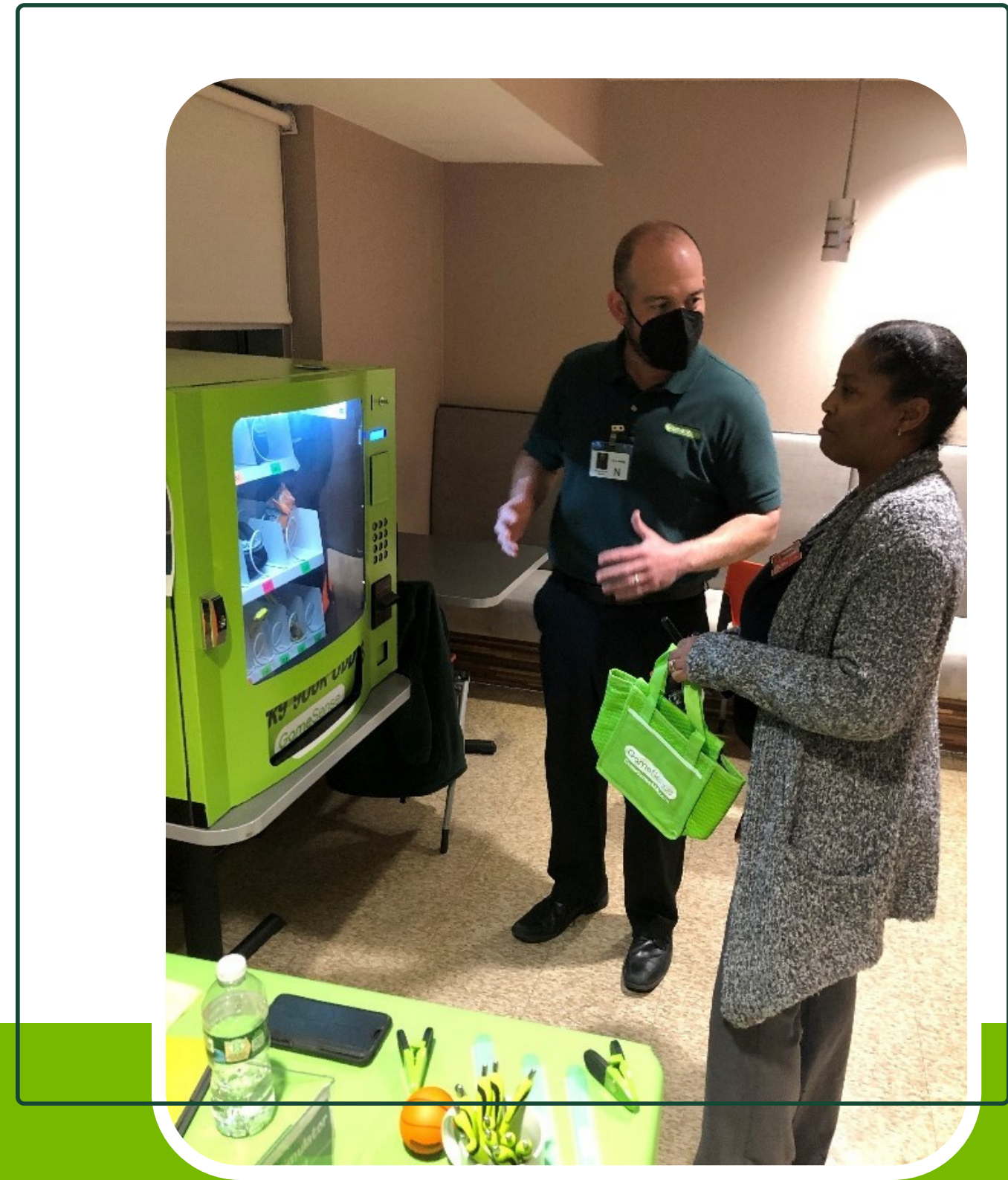
# SPORTS BETTING MOBILE LAUNCH PREPARATIONS

- Trainings w/ Operators
  - DK, FanDuel, Fanatics, Barstool, WynnBet, BetMGM
- Review app platforms via kiosks
- VSE enhancements
- Updating and creating new materials



# PGAM BACK OF THE HOUSE

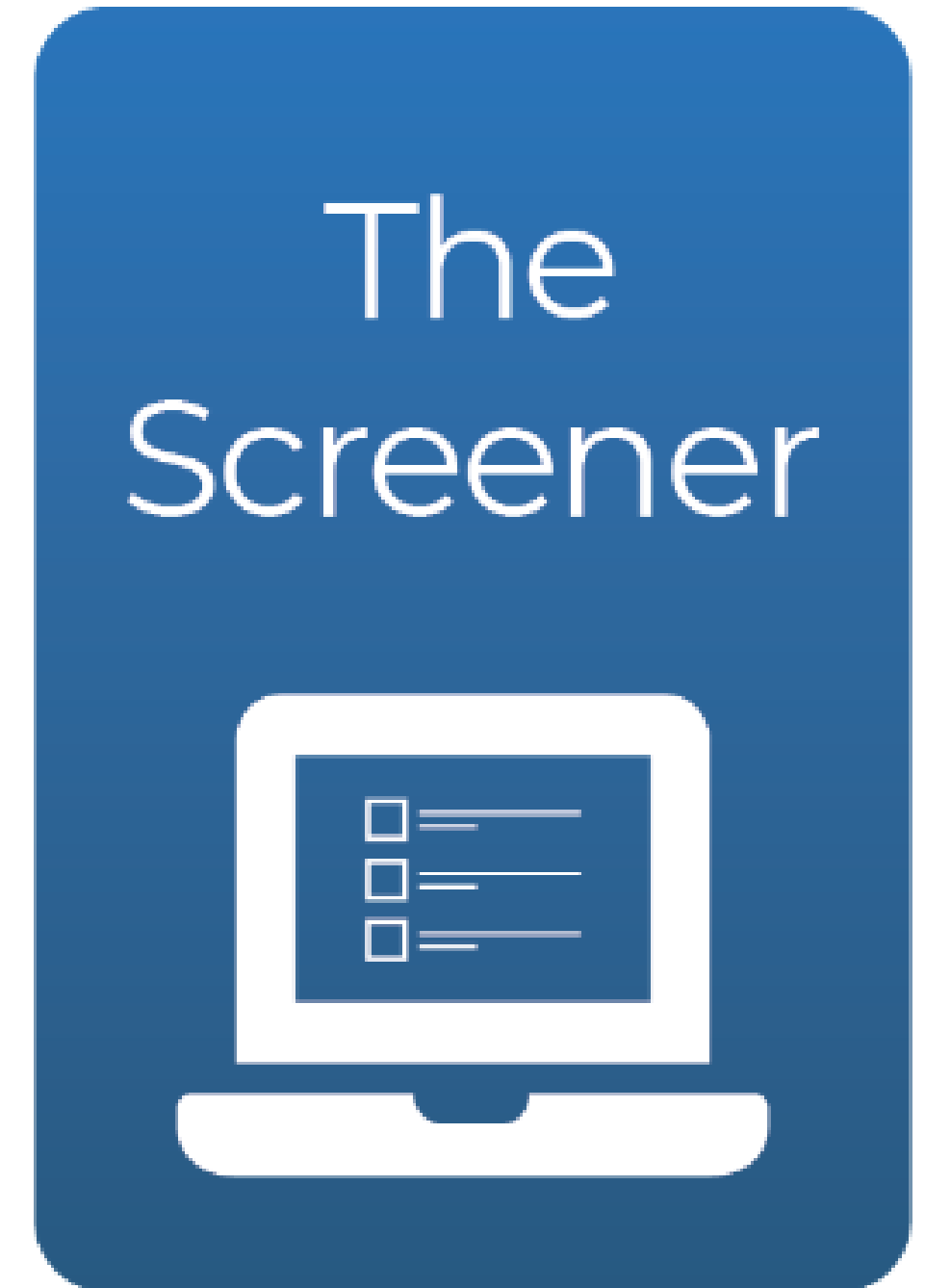
- Quizzes w/ weekly drawings
- Vending Machine
- Scavenger Hunt
- Tabling and Toolkit Basket (different shifts)
- Thank you to the operators for their donations & collaboration



GSA using the Vending Machine to teach randomness to PPC employee Back of House

# PGAM: HEART OF THE HOUSE

- Mystery boxes
- Sports-focused, integrating the research
- New incentives at PPC
- Gambling Disorder Screening Day
- Int'l Women's Month



# GS EVALUATION PHASE III

- Patron survey on demos & exchanges
- Business cards
- MGC Research Team and Dr. Wohl to report upon completion



USING

**THANK YOU &  
QUESTIONS?**

MILL & LUGOS  
NOT GOOD ON  
MAIN NORTH  
IF PUNCHED HERE