



Massachusetts Gaming Commission Meeting Minutes

Date/Time: February 14, 2023, 10:00 a.m.
Place: Massachusetts Gaming Commission
VIA CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 616 2093

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](#) (00:00)

Chair Judd-Stein called to order the 435th Public Meeting of the Massachusetts Gaming Commission ("Commission"). Roll call attendance was conducted, and all five commissioners were present for the meeting.

2. [Administrative Update](#) (00:49)

Executive Director Karen Wells announced that there were two personnel updates she wanted to share with the Commissioners. Compliance Manager, Sterl Carpenter would become the Sports Wagering Operations Manager, and Special Projects Manager, Crystal Beauchemin would become the Sports Wagering Business Manager for the Sports Wagering Division.

3. [Investigations and Enforcement Bureau](#) (03:05)

a. Reports On Plainridge Park Casino's and Encore Boston Harbor's Noncompliance with Approved Massachusetts Sports Wagering Catalog

Chief Enforcement Counsel Heather Hall stated that the Investigations and Enforcement Bureau (“IEB”) had conducted a review of sports wagering noncompliance at Plainridge Park Casino (“PPC”). She explained that PPC had offered wagering on a non-approved event on February 2, 2023, where they offered wagering on Merrimack College men’s basketball. She noted that wagering was open for seven hours, that total stakes wagered were approximately \$6,848, and that there was a total winnings of \$4,270 on thirty-three bets placed across twenty-seven tickets. Chief Enforcement Counsel Hall stated that four bets were placed at cashier’s counters and that the remaining were placed at kiosks. She explained that Ryan Blake, PPC’s Sportsbook Manager, attributed the error to their vendor, Kambi, mistakenly assigning Merrimack College as a Florida school which bypassed the compliance filter prohibiting wagers on Massachusetts college teams. She noted that Kambi corrected the error within ten minutes once they were notified and had since reviewed that all other schools were labeled correctly.

Chief Enforcement Counsel Hall stated that PPC had reported that Kambi added an additional filter to block Massachusetts collegiate teams. She stated that the line manager was going to follow up with the staff member responsible for the error, and that PPC had informed its employees that there could be consequences if non-approved wagers were offered or accepted. She noted that PPC had provided a list of prohibited teams to all personnel and had rewarded the team member who identified this compliance issue.

Chair Judd-Stein inquired as to how other jurisdictions handled similar noncompliance. Chief Enforcement Counsel Hall stated that some information was available but that she would continue to review that matter. Commissioner O’Brien expressed she was satisfied that PPC lauded the teller who found the issue, and asked if a teller could override the systemic protection measures. Chief Enforcement Counsel Hall stated that tellers were required to notify a manager if there was an event that should not be offered. Director of Sports Wagering Bruce Band stated that tellers cannot override offerings in the system.

Chair Judd-Stein asked if it was typical for the teller to have the burden of compliance. Director Band stated that requiring each teller to know the schools in Massachusetts, where wagering was prohibited, could be difficult, especially if the sportsbook was busy. Director of the IEB Loretta Lillios stated that she had heard from PPC that tellers could not force a wager unavailable in the system.

Chair Judd-Stein asked if line level employees could have consequences if they fail to identify a wager as prohibited. General Manager of PPC North Grounsell stated that tellers do not have the ability to make a wager unavailable and that PPC needs to work with Kambi to do that. He stated that the discipline discussion was a reminder that the operator and its employees have responsibilities to not knowingly violate the regulations. He stated that PPC wants to ensure the employees have the tools required to remain in compliance with the regulations.

Commissioner Hill asked how the issue would be identified if all the wagers were placed through the kiosks rather than the tellers. Mr. Grounsell stated that managers look for wagers that should

not be accepted on a daily basis, and that hopefully one of them would be able to identify any issue of noncompliance.

Commissioner Maynard asked about the process for allowing wagers on Massachusetts collegiate teams for non-regular season tournaments. He expressed concern that the switch might not be turned off properly once the tournaments were over. Director Band stated that features would be controlled by the IT vendors, such as Kambi, and that he would research whether it was done automatically or manually. Chair Judd-Stein stated that it may be a combination.

Chief Enforcement Counsel Hall explained that on February 2, 2023, General Counsel for Encore Boston Harbor (“EBH”) had reported that EBH mistakenly offered wagering on an unauthorized event, the Boston College women’s basketball game. She explained that wagering was allowed for five hours, and that only one bet of \$70 was placed as part of a parlay wager. She noted that the Boston College game was removed from the parlay wager.

Chief Enforcement Counsel Hall stated that EBH and WynnBet were doing twice daily audits of Massachusetts collegiate sports, offering so that no regular season games were offered for wagering. She stated that the vendor GAN was providing system access to WynnBet so that they can do final approval of all offerings. She stated that EBH was coordinating with Director Band to ensure their list of Massachusetts schools was accurate.

Chair Judd-Stein asked for a quick recap of what other jurisdictions’ regulators had done for similar noncompliance. Chief Enforcement Counsel Hall stated that other jurisdictions levied fines in the range of \$5,000 to \$50,000; with the average fines being between \$5,000 and \$10,000. She stated that Iowa levied a \$5000 fine to an operator who had accepted twenty-five prohibited wagers. She continued that Indiana had levied a \$5,000 settlement for improper wagering on Australian football games. She noted that Mississippi had a case of impermissible wagering on collegiate football where no action was taken. She noted that New Jersey had fined \$5,000 for allowing wagering on two prohibited NCAA basketball games. She added that Indiana had fined \$13,000 for allowing wagering on eleven unapproved MMA events and that Washington D.C. had fined \$50,000 for prohibited wagers accepted on collegiate sports.

Deputy General Counsel Caitlin Monahan stated that should the Commission consider a civil administrative penalty, there were three methods to consider: (1) a full adjudicatory hearing pursuant to statutes and regulations; (2) a notice and opportunity for an adjudicatory hearing pursuant to General Law Chapter 23N § 16; or (3) have the IEB conduct an investigation and issue a recommendation pursuant to 205 CMR 232.00. She noted that the Commission could accept or reject the penalty amount recommended by the IEB, and that if it was rejected, there would be an adjudicatory hearing.

Commissioner Hill asked how penalties were handled under General Law Chapter 23K. Deputy General Counsel Monahan stated that 23K had adjudicatory hearing and IEB recommendations as options. Director Lillios stated that the Commission had conducted an adjudicatory hearing for

noncompliance with G.L. Chapter 23K in the past, and that the IEB allowed for a Gaming Licensee to present mitigating information that would influence the recommended administrative penalty.

Chair Judd-Stein sought clarification regarding the noncompliance notice process. Director Lillios specified that G.L. Chapter 23K was strict about the first violation requiring written notice, and that only subsequent violations could have fines levied. However, under G.L. Chapter 23N, there was more latitude to assess fines for serious violations without written notice. She stated that assessing a fine would be lawful here under G.L. Chapter 23N.

Commissioner Hill asked if these issues were typically worked out between the licensees and the IEB. Director Lillios stated that there had been few fines with gaming licensees, and that all fines were agreed upon amounts with the licensees waiving their right to a hearing. Commissioner O'Brien reasoned that G.L. Chapter 23K regulated a long-standing industry, and that the Commission retained more flexibility under G. L. 23N.

Commissioner Maynard stated that he wanted the Commission to have as much input as possible early in the process of regulating sports wagering and that he was opposed to deferring to an IEB recommendation without the Commission initially setting the parameters. Commissioner Skinner expressed that the Commission should gather as much information as possible prior to making any determination as to administrative penalties. She stated her preference that the IEB continue their work to ascertain more facts and provide a recommendation, as it would be beneficial to the Commission's decision-making process. She requested that more information be researched regarding administrative penalties assessed in other jurisdictions.

Chair Judd-Stein noted that the IEB's investigation would continue as part of the adjudicatory hearing process, and that their findings could be presented in the evidence. Commissioner Skinner asked if the report would be available to the Commission in advance of the adjudicatory hearing. Deputy General Counsel Monahan stated that an adjudicatory proceeding would follow the rules of 205 CMR 101, and that the IEB report would be among the exhibits.

Commissioner Skinner asked if the Commission had to affirmatively invite the IEB to be involved in the adjudicatory hearing process. Commissioner O'Brien stated her preference that the Commission be more involved due to sports wagering being a new industry and stated that there should be an open-ended request for the IEB to come forward with their report in an adjudicatory hearing setting. Chair Judd-Stein noted that the Commission could request that the IEB be included in preparing the exhibits and providing witnesses to assist in their understanding.

Commissioner Skinner reiterated her preference of the Commission receiving a recommendation from the IEB as it was unclear how many violations of this kind would occur, and it may not be an efficient use of the Commissioner's time to review each instance.

Chair Judd-Stein noted that the IEB was also busy, and that she wanted to be mindful of their resources. She suggested that the Commission could establish a policy as to which noncompliance issues would go to the IEB for recommendation. She added that she wanted to preserve the Commission's opportunity to have a hearing as well. Commissioner Skinner noted that she did not like the formal notice and public meeting option as having the information provided to operators in the public realm seemed unbalanced.

Commissioner Hill stated that his initial response was to have IEB perform the recommendation, but that the Commission should be helpful in establishing a structure at the beginning of this industry. He expressed his desire that the IEB could provide recommendations in future instances once a fine structure had been developed. Director Lillios agreed and stated that the IEB had the resources for important matters such as this.

Commissioner Skinner inquired if there was a difference in the level of commitment or resources the IEB would expend between the different methods. Director Lillios stated that any discipline matters would have resources dedicated from the IEB, but that adjudicatory hearing adds another layer where the IEB needed to provide available internal experts as witnesses.

Commissioner O'Brien stated that after the Commission decided on the scope, scale, and prioritization of enforcement, the IEB could provide recommendations, but stated that the Commission should take a more active role in deciding what should be prioritized and the range of the amount ultimately fined.

Commissioner Maynard noted that he agreed with Commissioner O'Brien and Commissioner Hill's perspectives. He also posed that the parameters should be preliminarily set by the Commission, so that the Commission could later rely upon IEB's recommendations in future settings.

Chair Judd-Stein asked if the agreement between the IEB and the operators would be presented to the Commission in a public meeting. Deputy General Counsel Monahan stated that if the operator agreed to the fine, the Commission could vote on whether they accept the recommendation. She noted that if the Commission did not accept the recommendation, there would be an adjudicatory hearing scheduled.

Chair Judd-Stein stated that with certain factual situations, the Commission could be required to discuss issues within executive sessions. Chair Judd-Stein inquired what the timeline for a hearing would be. General Counsel Todd Grossman replied that it would be between two weeks or a couple of months if further investigation was required.

Chair Judd-Stein asked if anything further was required from IEB at this juncture. Commissioner Skinner requested the IEB provide additional information from other jurisdictions. Deputy General Counsel Monahan stated that adjudicatory hearings typically required that the information be about the specific violation, and that evidence about other situations would not be

evidence. She clarified that the Commission could request that information as part of its general business. Commissioner Skinner agreed with this explanation; and stated that she would defer to the Legal Division as to how the information would be distributed to the Commission.

The Commissioners reached a consensus to handle administrative penalties with an adjudicatory hearing. Commissioner Maynard sought clarification as to whether the Commission would receive a recommendation from the IEB. Commissioner O'Brien stated that the information regarding the ranges from other jurisdictions would be helpful but stated that she was not looking for a recommendation from the IEB. Commissioner Hill agreed. Commissioner Maynard stated that he would want to reserve the final decision for the Commission. Commissioner Skinner stated she would want a recommendation from the IEB.

Commissioner Skinner expressed an interest in getting a recommendation regarding the number of penalties as it would be valuable information. Chair Judd-Stein stated that having no recommendation would allow for the Commission to reach its own conclusion after a full discussion and that having a recommendation may limit the discussion. Commissioner O'Brien stated that the Commission should set the tone, parameter, and range of any administrative penalties and that she did not like the idea of IEB giving a recommendation at this time.

Chair Judd-Stein stated that this process would be to establish policy, and that it may evolve as the Commission establishes how the industry operates. Director Lillios stated that for gaming fines, the IEB invites the licensee to present mitigating information, which protects the process on further review. She noted that the purpose of a hearing was to hear both sides and review the evidence; and that IEB would not be able to provide a recommendation before a hearing.

Chair Judd-Stein asked if the IEB could give a recommendation at the conclusion of a hearing. Deputy General Counsel Monahan stated that it was not directly included in the statute or regulation, but that it may be possible to request input from the IEB after the hearing. She stated that she would review the Commission's options, and provide additional context later.

Chair Judd-Stein expressed an interest in holding the adjudicatory hearing promptly. She noted that the Commission had received a third report of noncompliance from MGM Springfield ("MGM") which would be addressed when the Commission had more information. Director Band confirmed that MGM had reported an incident of betting on a Massachusetts collegiate basketball game and that it was currently being investigated.

4. [Sports Wagering Implementation](#) (1:36:40)

a. Determination of Massachusetts Boundaries for Category 3 Sports Wagering Geolocation Purposes

Executive Director Wells explained that 205 CMR 243.01 required that all wagers be placed within the Commonwealth. She noted that the geolocation vendors had requested the

Commissioner's definition of the "boundaries of the Commonwealth," and added that the state's border defined the permissible location of wagering. She further reported that the border extended three miles into the ocean; off the shores of the Commonwealth. She added that the sovereign tribal lands of the Mashpee and Aquinnah would be geofenced off, for the purpose of mobile sports wagering. She noted that lines of communication were open with the tribe.

Commissioner Skinner asked if there were any materials relative to this issue. General Counsel Grossman explained that the Supreme Court case, *United States v. Maine*, 420 U.S. 515, (1975), found that the boundary of the Commonwealth extended three miles into the water. Commissioner Skinner requested that the case citation be sent to the Commission.

b. [Review by the Commission of scope of authorized wagers in accordance G.L. 23N \(1:54:06\)](#)

Director of Sports Wagering Bruce Band presented inquiries the Sports Wagering Division received related to what wagers could be offered pursuant to General Law Chapter 23N and the approved Sports Wagering Catalog. The list of questions and proposed answers were included in the Commissioner's Packet on pages 3 through 6.

Deputy General Counsel Monahan stated that the statute was clear that sports wagering operators could not offer wagers on Massachusetts collegiate teams not involved in a tournament. She elaborated that sports wagering operators could not offer wagers on Massachusetts collegiate teams, if the outcome was based solely on regular season results. She stated that the team must be involved in a collegiate tournament, consisting of four or more teams. She stated that sports wagering operators could offer wagers on collegiate teams from outside of Massachusetts, based upon their regular season results.

Deputy General Counsel Monahan stated that until a Massachusetts collegiate team qualified for a tournament, bets could not be placed on that team. She noted that if a Massachusetts team was automatically qualified for a tournament, such as *The Beanpot*, future wagers were allowed.

Commissioner Hill asked if this would be the same with the Atlantic Coast Conference where every team qualified. Deputy General Counsel Monahan stated that was correct, and that the distinction was for tournaments where there was a chance the team may not qualify.

Commissioner Maynard asked if the bets would be placed once the team was announced as a participant. Sports Wagering Operations Manager Carpenter stated that the operator would need to correct their input to allow for wagering to take place, following the announcement. Commissioner Hill sought clarification as to whether bets could be placed immediately, once the operator flipped the switch. Deputy General Counsel Monahan stated that his categorization was correct.

Deputy General Counsel Monahan stated that wagering was permitted on collegiate tournaments that occurred in Massachusetts and explained that the prohibition was based on where the teams were from and not on the location of the tournament. She stated that it was proposed that operators should not offer wagers on awards given to individual college athletes as they were based on the performance of an individual athlete in a collegiate sport which was prohibited by G.L. Chapter 23N, § 3. She stated that it could be interpreted differently, but this was the recommendation.

Commissioner Skinner sought clarification regarding the definitions of collegiate sport or athlete event. Deputy General Counsel Monahan stated that the awarding of a trophy was an outcome dependent upon an individual athlete's performance in college sports, which was not permitted under G.L. Chapter 23N.

Chair Judd-Stein asked if specific awards could be added to the sports wagering catalogue, and if there was room for interpretation. Deputy General Counsel Monahan stated that the provision on wagering on high school and youth used the same language as the provision being discussed, and that wagering on those events was expressly prohibited.

Commissioner O'Brien expressed hesitancy in expanding the Sports Wagering Catalogue, as the prohibition being discussed was to protect collegiate athletes from pressure and repercussions. She stated that she did not want to subvert the intent of that ban. Chair Judd-Stein agreed. The Chair stated that she wanted to have discretion when there was room for interpretation of the statute. Commissioner Skinner noted that the advertising regulations prohibited the endorsement of college athletes to protect the athletes, and that the proposed answer was consistent with the objectives.

Commissioner Maynard explained to his fellow Commissioners that the Heisman Trophy had six sections, and that a wager could be based on the selection process, and external factors rather than performance. He noted his dissent on the proposed answer. Commissioner Hill stated that he agreed with Commissioner Skinner and Commissioner O'Brien. He noted, however, that this issue could be revisited later by the Commission.

Chair Judd-Stein asked if memorializing these questions in a FAQ was sufficient. Deputy General Counsel Monahan stated that the document would be posted on the Commission website and sent to the operators. Chair Judd-Stein asked if the FAQ should be included in the Sports Wagering Catalog. Director Band stated that he did not see a need to include it in the catalog.

Deputy General Counsel Monahan clarified for the final question that per regulation, sports wagering employees, subcontractors, directors, owners, officers, and qualifiers, and those within the same household cannot place wagers through their operator or any other operator tethered to their operator. Commissioner Hill asked if they could wager through another operator. Deputy General Counsel Monahan stated that was correct.

Deputy General Counsel Monahan concluded her presentation and noted that the FAQ would be finalized and posted on the Commission website, so that the Commission staff did not continue to receive the same questions.

5. [Executive Session](#) (2:27:57)

General Counsel Grossman explained that the Commission had received written correspondence from the Department of Labor Relations stating that the Gaming Agents Division had sought to organize with a union, SEIU Local 888. He stated that in strategic preparation for collective bargaining discussions, it would be beneficial for the Commission to be briefed on the status of the situation and be presented with some decision points for how to move forward. He noted that the Legal Division was working with outside counsel on this issue, and that executive sessions were permitted under G.L. Chapter 30A to discuss this subject matter.

Chair Judd Stein read the following statement into the record, “the Commission anticipates that it will meet in executive session in accordance with G.L. c. 30A, §21(a)(3), to discuss strategy with respect to collective bargaining considering the January 20, 2023, Department of Labor Relations decisions in case WMAS-22-9563, where discussion of this subject at an open meeting could have a detrimental effect on the Commission’s bargaining position.

Commissioner O’Brien moved that the Commission enter executive session for the reasons stated by General Counsel Grossman and Chair Judd-Stein on the record. 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.

Chair Judd-Stein stated that the public session of the Commission meeting would not reconvene at the conclusion of the executive session.

List of Documents and Other Items Used

1. Revised Notice of Meeting and Agenda dated February 13, 2023
2. [Commissioner’s Packet](#) from the February 14, 2023, meeting (posted on massgaming.com)