The Commonwealth of Massachusetts
Massachusetts Gaming Commission

NOTICE OF MEETING and AGENDA

July 26, 2012 Meeting

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

Thursday, July 26, 2012
1:00 p.m.
Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-B
Boston, Massachusetts

PUBLIC MEETING - #18

1. Call to order
2. Approval of minutes
   a. July 17, 2012 Meeting
3. Administration
   a. Executive Director search update
   b. Additional Hires
   c. Discussion of MGC Internal Policies
   d. Project Management Consultant
4. Racing Division
   a. Update
5. Project Work Plan
   a. Consultant status report
      i. Review of consultant schedule and scope
      ii. Regulation policy discussion
   b. Technical and other assistance to communities
      i. Ombudsman search update
      ii. Protocol for interactions with state agencies
      iii. Community advisory
6. Charitable gaming
   a. Status report
7. Finance / Budget
8. Public Education and Information
   a. Community outreach/responses to requests for information
   b. Report from Director of Communications and Outreach
   c. Discussion of Western Massachusetts Forum
9. Research Agenda

10. Other business – reserved for matters the Chair did not reasonably anticipate at the time of posting

I certify that on this date, this Notice was posted as "Gaming Commission Meeting" at www.mass.gov/gaming/meetings, and emailed to: regs@sec.state.ma.us, melissa.andrade@state.ma.us, brian.gosselin@state.ma.us.

7/20/2012
(date)

Stephen P. Crosby, Chairman

Date Posted to Website: July 20, 2012 at 1:00 p.m.

3a

Position: Executive Director
Massachusetts Gaming Commission (MGC)
(July 2012)

Scope

The Executive Director shall be appointed by and serve at the pleasure of the Commission. The Executive Director will be the executive, operational and administrative head of the MGC and shall be responsible for executing, administering and enforcing the provisions of law relative to the MGC and to each administrative unit thereof.

The MGC, and therefore the Executive Director shall oversee and be the responsible regulatory authority for all casino and slot related gaming activities as well as racing related gambling activities. This authority and responsibility shall also include licensing, compliance, investigatory and enforcement oversight.

The Executive Director assumes leadership of the MGC staff and is responsible for staffing, establishing, maintaining, and changing administrative units as may be appropriate, subject to the approval of the Commission. The Executive Director plans, directs, executes, and coordinates all administrative activities and assists the Commission in developing the policies and procedures related to the regulation of gaming in Massachusetts.

The Executive Director shall also be responsible for fostering the principles of the Mission Statement among the staff and all stakeholders. These principles include assisting with the creation of a fair, transparent and participatory process for implementing the expanded Commonwealth gaming law while seeking to provide the greatest possible economic development benefits and revenues to the people of the Commonwealth and reduce, to the maximum extent possible, the potentially negative or unintended consequences of the new legislation.

Near Term Duties and Responsibilities

Under the supervision of the Commission:

a. Manages the process of "standing up" the MGC and creating the MCG framework
b. Develops the protocol and timeline for the sequence of additional MGC executive level hires (CFO, GC, Director of IT, Director of Licensing, Deputy Director of Bureau of Enforcement, etc.) and the hiring of staff
c. Helps to design, implement and manage processes and infrastructure to evaluate casino bidders and award casino gaming licenses
d. Assumes responsibility and supervision for licensing procedures, including determining, with input from the Commission, requirements for final selection of licensees and the vetting the selected applicants
e. Manages and oversees a fair, transparent and participatory licensing process
f. Works with Commission and manages the process to assure that regulatory and licensing protocols are proceeding on an approved timeline toward completion and

implementation, while at the same time developing the organizational units critical to the regulatory and licensing processes

g. Maintains as a priority the Commission's commitment to a comprehensive research agenda and to the development of compulsive gambling mitigation programs

General Duties and Responsibilities

Under the supervision of the Commission:

a. Maintains efficient and effective day to day operations of the MGC, its employees and agents
b. Manages and employs a diverse group of employees, consultants, agents and advisors, including legal counsel, accounting and audit staff, and field agents
c. Oversees the development of extensive legal and regulatory policy
d. Appoints and employs, with the concurrence of the Commission, a chief financial and accounting officer and oversees the development of fiscal policy and procedures for the MGC, including responsibility for the Gaming Revenue Fund
e. Appoints and employs, with the concurrence of the Commission, a Chief Legal Counsel and subordinate legal staff as necessary and oversees and coordinates the development of an efficient system of review and referral of cases to the Massachusetts Attorney General's Office, Division of Gaming Enforcement
f. Prepares, maintains and executes, in an efficient manner, the Commission approved plan of organization including the creation of subordinate units so as to efficiently comply with the requirements of the Gaming Act as well as assisting in the development of all lines and definitions of internal interaction and relative authority among MGC sub-divisions and staff
g. Prepares, maintains and oversees a coordinated system of application, applicant, and case review for consideration of the Commission, inclusive of assisting in the establishment of a coordinated and efficient appeal process as required by the Gaming Act
h. Develops administrative procedures and internal controls for the MGC which assure the highest integrity and efficiency
i. Establishes relationships and credibility for the MGC, with local, state and federal agencies and all other stakeholders in the gaming industry in the Commonwealth of Massachusetts
j. Attends and participates in all Commission meetings and works with staff to manage correspondence and communication with gaming license applicants and licensees reflecting the official actions of the Commission and assists the Commissioners in all functions as needed
k. Develops and administers appropriate training for the MGC staff ensuring all are competent and knowledgeable of all regulations, laws and policies and procedures pertaining to their job responsibilities
l. Oversees the development and preparation of the MGC's budget
m. Reviews operations to assess performance against budget and legal requirements and implements corrective action as necessary

n. Attends trade shows, gaming seminars, and other events when necessary to maintain knowledge of current gaming issues
o. Ensures that gaming facilities are constructed, maintained and operated in a manner that protects the environment and public health and safety
p. Performs other such duties which may be deemed necessary to effectuate the plans of the MGC

Minimum Qualifications

a. At least ten years of relevant experience in management,
b. A bachelor's degree and a professional degree (J.D. or MBA preferred)
c. Regulatory experience in a gaming regulatory agency or other regulatory compliance experience
d. Excellent management and communication skills
e. Candidate will be subject to an extensive background investigation, including a pre-employment drug test

Candidate Knowledge and Preferred Abilities

a. Significant knowledge of gaming regulatory requirements
b. Demonstrated competence in management of a large and varied staff
c. Excellent track record of communication skills with elected officials, the press, private industry and public agencies including law enforcement, legal authorities and other diverse stakeholders
d. Knowledge and experience of internal control standards and requirements over wide-ranging fiscal and administrative responsibilities
e. Excellent judgment of the character and potential of employees and experience in recruiting, mentoring, promoting and retaining talented colleagues
f. The highest level of good character, honesty, and integrity
g. Capable of handling many tasks that are time sensitive in pressure situations
h. Demonstrated ability to work at a highly independent level
i. Political skills within the organization and when dealing with stakeholders and the public
j. Ability to tactfully navigate challenging political environments
k. Ability to adapt a flexible reporting style when required
l. Entrepreneurial enthusiasm and insight
m. Ability to maintain a steady state of operation as an entity's infrastructure evolves
n. A sophisticated understanding of performance management, lines of accountability, performance reviews, and the use of metrics to track and predict progress
o. Proven success at influencing and building consensus amongst competing interests
p. Ability to keep all stakeholders informed and engaged
q. Strong attention to detail AND ability to implement and execute complex plans efficiently and effectively
r. Ability to summarize and disseminate important details in a timely manner
s. Exceptional writing skills
t. Previous start up experience, including experience testifying at state or federal hearings

u. Ability to understand statistical information
v. Ability to solve complex problems and deal with a variety of concrete and abstract variables in situations where only limited standardization exists
w. Ability to read, analyze and interpret business and financial reports
x. Ability to attend and participate in gaming related seminars and workshops

It is the policy of the MGC and the Commonwealth of Massachusetts to afford equal employment opportunities to all qualified individuals, without regard to their race, color, ancestry, religion, sex, sexual orientation, national origin, age, physical or mental disability, citizenship status, veteran status, gender identity or expression, or any other characteristic or status that is protected by federal, state or local law.

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

MASSACHUSETTS GAMING COMMISSION
RACING DIVISION

In the Matter of Jacqueline A. Davis Licensed Jockey License No. 131333	Suffolk Steward Ruling No. 1011

TENTATIVE DECISION AND ORDER

Procedural History

The Massachusetts Gaming Commission ("Commission") conducted formal adjudicatory proceedings on July 19, 2012 pursuant to M.G.L. c. 30A, §§ 10, 11, and 801 CMR 1.01, *et. seq.* before Commissioner Gayle Cameron, Presiding Officer for the Commission. This matter was held pursuant to an appeal by Jacqueline A. Davis ("Appellant"), a licensed jockey. The Appellant was suspended for three calendar days and was ruled disqualified from her second place finish in a race held on June 23, 2012 based on a Suffolk Downs Board of Stewards ruling that she crowded other horses during the race in violation of Commission regulations. The Appellant was present at the hearing but was not represented by counsel.

The following witnesses presented evidence at the hearing:

A. Appellee:

1. Susan K. Walsh, Chief Steward

B. Appellant:

1. Jacqueline A. Davis

2. Max Hall

C. <u>The following evidence was entered on the record</u>:

1. Suffolk Downs Board of Stewards Ruling Form No. 1011 dated June 26, 2012;
2. Request for Appeal from Appellant dated June 25, 2012 with stay of suspension granted June 27, 2012;
3. Letter notifying the Appellant of the Hearing dated July 3, 2012; and
4. Video of the First Race on June 23, 2012.

Findings of Fact

The Commission finds as facts established by a preponderance of the evidence the following:

1. The Commission has issued the Appellant a license to practice as a jockey in the Commonwealth of Massachusetts.

2. The Appellant participated in the first race taking place on Saturday, June 23, 2012.

3. The Appellant's horse (No. 3) was in first place as of the first turn in the race.

4. As the Appellant's horse made the turn, it altered its course and came in towards the rail in order to shorten the distance around the track.

5. As a result of the Appellant's course change, two other horses (Nos. 1 and 2) were crowded by the Appellant's course and had to maneuver in order to avoid a collision.

Applicable Law and Regulations

1. "The commission shall have full discretion to refuse to grant a license to any applicant for a license or to suspend or revoke the license of any licensee." MGL c. 128A, §11.

2. "The Stewards shall have the power to interpret 205 CMR 4.00 and to decide all questions not specifically covered by them." 205 CMR 4.35(1).

3. "The Stewards shall have the power to punish for violation of 205 CMR 4.00 any person subject to their control and in their discretion to impose forfeitures or suspensions or both for infractions." 205 CMR 4.35(9).

4. "A final appeal in the case of any person penalized or disciplined by the racing officials of a meeting licensed by the Commission, may be taken to the Commission." 205 CMR 4.03.

5. "When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul." 205 CMR 4.11(6)(e)(3)(a).

6. "The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding." 205 CMR 4.11(6)(e)(3)(b).

7. "If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey." 205 CMR 4.11(6)(e)(3)(c)

Conclusions of Law

1. Based on Findings of Fact 1, the Commission has jurisdiction to hear this disciplinary matter.

2. Based on Findings of Fact 2-5, the Respondent's conduct constitutes a violation of 205 CMR 4.11(6)(e)(3) sections (a), (b), and (c).

Discussion

The Commission received evidence and testimony regarding the first race on Saturday, June 23, 2012. During the hearing, the evidence demonstrated that the Appellant's horse came towards the rail during the first turn, crowding two other horses, and forcing them to alter their paths. The Commission credits the testimony of Steward Walsh as being consistent with the evidence in the record, namely a video of the race at issue. The Appellant provided testimony that there were other factors which led to this problem, specifically alleging that one of the other jockey's may not understand the rules of racing due to not speaking English. Further, the Appellant testified that the other jockey did not make a claim of foul against her for her conduct in the race. The Commission is unable to credit this testimony as the violation at issue can be ascertained from the video of the race, which is a perspective that riders on the track would not have. The Commission notes that the Appellant's actions in the race in question may have been more of a miscalculation on the part of the Appellant rather than an intentional act of recklessness. However, the rules exist for the safety of all riders and the judgment of the Stewards is supported by the evidence on the record, thus their decision must be upheld.

Conclusion and Order

In keeping with its duty to promote the best interests of racing as well as the health, welfare and safety, of those involved, and based on the Findings of Fact and Conclusions of Law set forth above, the Commission finds that Appellant is subject to discipline and appropriate sanctions.

The Commission therefore **ORDERS** the following:

To uphold the decision of the Suffolk Downs Board of Stewards suspending the jockey license of the Appellant for three (3) calendar days. The days in which this suspension is to be served shall be determined by the Stewards. To the extent that the Appellant appeals the disqualification of her mount for the race in question, the Commission upholds the disqualification.

RIGHT TO RECONSIDERATION

This is a tentative decision of the Commission. The Appellant is hereby notified of the right to seek reconsideration of this Tentative Decision by filing written objections within thirty (30) days of the issuance of this decision (date below) with the Commission at the following address:

Massachusetts Gaming Commission
Racing Division
1000 Washington Street
Boston, MA 02118

The Commission will not hold additional hearings; the written submission is the sole opportunity of the parties to make any further arguments regarding this matter.[1] The

[1] 801 CMR 1.01(11)(c), the rule establishing the procedures as to Tentative Decisions, provides that where, as in this case, the full Commission did not preside at the reception of evidence, the presiding officer shall issue a Tentative Decision. The parties are entitled to an opportunity to "file written objections to the Tentative Decision... which may be accompanied by supporting briefs." 801 CMR 1.01(11)(c)(1). The Commission then considers the record, including the Tentative Decision and any objections and responses filed thereto and either modifies, reverses, or affirms and adopts the Tentative Decision, "making appropriate response to any objections filed..." 801 CMR 1.01(11)(d).

Commission will review this matter after the expiration of the thirty day period, receipt of objections from the Appellant, or after receiving a notice from the Appellant waiving the right to file objections, whichever comes first. Thereafter the Commission will issue a final decision which will outline any applicable appellate rights.

MASSACHUSETTS GAMING COMMISSION
RACING DIVISION

By: _____
Commissioner Gayle Cameron, Presiding Officer

Dated:

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Massachusetts Gaming Commission

MEMORANDUM

Date: July 26, 2012

To: Chairman Stephen Crosby, Commissioner Enrique Zuniga, Commissioner James McHugh, Commissioner Bruce Stebbins

From: Commissioner Gayle Cameron

Re: Racing Division Workgroup

On July 19, 2012, Ms. Anne Allman reported her findings and presented her recommendations to the full Commission. Ms. Allman, of Last Frontier Consulting ("LFC"), teamed with the Spectrum Gaming Group ("Spectrum") to provide a holistic overview of the Massachusetts racing industry in order to prepare for the transfer of duties and responsibilities held by the State Racing Commission ("SRC") to MGC. The MGC will thus regulate the Commonwealth's racing industry through a newly created Racing Division ("MGC-Racing Division").

LFC and Spectrum created a multi-faceted work plan including date analysis of public records, literature/article review, and interviews with key stakeholders and industry experts. This work plan allowed LFC and Spectrum to provide the MGC with the requested overview as well as develop strategic insights for consideration by the MGC as it seeks to bring best practices to Massachusetts racing regulation.

A synopsis of Ms. Allman's recommendations are as follows:

- Empower resources (internal or external) to:
    - Convene stakeholder reviews of gaps between current statutes and regulations and the ACRI Model Rules of Racing.
    - With legal counsel, determine any statutory barriers to regulatory reform and develop plans to address said barriers.
    - Develop RFP to outsource equine testing.
    - Develop plans for accreditation of Judges and Stewards.

- Work with MGC leadership and Human Resources professionals to develop organizational needs/job descriptions for 2013 racing regulatory staff and contract labor, and a transition plan for current staff/contract labor.
- Perform needs assessment for audit/finance and licensing software solutions.
- Arrange for an independent audit of the MGC-Racing Division.
- Build 2013 budget to support new regulatory landscape.

In order to drive these regulatory changes in a timely manner, a working group has been established to begin the process. Ms. Allman has agreed to facilitate the work of this group. She will provide her focused leadership to ensure that the best practices outlined above become a reality. This group is designed to enhance transparency, incorporate creative ideas and encourage "buy-in" from all stakeholders.

The following individuals have agreed to participate in this critical project:

Ms. Anne Allman – Facilitator

Dr. Alex Lightbown – Chief Veterinarian

Mr. Doug O'Donnell – Transition Coordinator

Mr. Chip Tuttle – Chief Operating Officer, Suffolk Downs

Mr. Steve O'Toole – General Manager, Plainridge Racecourse

Ms. Allman will report on the progress of the group to me and the full Commission as needed.

Additionally, I am recommending we post for an Executive Director of Racing immediately. That individual when hired will be incorporated into the working group immediately. Our Gaming Commission Staff Attorney, when hired, will also assist with regulations.

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY	STATE RACING COMMISSION
In the Matter of Ramon Antonio Acevedo Fuentes Formerly Licensed Groom	State Police Ejection and Suffolk Steward Ruling No. 1059

TENTATIVE DECISION AND ORDER

Procedural History

The Massachusetts Gaming Commission ("Commission") conducted formal adjudicatory proceedings on July 19, 2012 pursuant to M.G.L. c. 30A, §§ 10, 11, and 801 CMR 1.01, *et. seq.* before Commissioner Gayle Cameron, Presiding Officer for the Commission. This matter was held pursuant to an appeal by Ramon Antonio Acevedo Fuentes ("Appellant"), a formerly licensed groom. The Appellant was ejected from Suffolk Downs in 1995 due to filing a false application as well as having a criminal record and possibly engaging in other criminal behavior, this ejection is presently still in effect. Thereafter, in 2010, the applicant was issued a license which was subsequently suspended for falsification of a license application. The Appellant was present at the hearing but was not represented by counsel.

A. **Witnesses:** The following witnesses presented evidence at the hearing:

Appellee:

1. Sergeant Michael Scanlon, Massachusetts State Police
2. Susan K. Walsh, Chief Steward

Appellant:

1. Ramon Antonio Acevedo Fuentes

B. **The following evidence was entered on the record:**

1. Ejection Report Dated April 19, 1995;

2. Suffolk Downs Board of Stewards Ruling Form No. 1059 dated September 4, 2010;
3. Request for Appeal from Appellant dated May 23, 2012;
4. Letter notifying the Appellant of a Hearing dated June 15, 2012;
5. Handwritten request by Appellant for a new hearing dated July 11, 2012 (written on bottom of letter from Douglas O'Donnell dated June 26, 2012); and
6. Letter notifying the Appellant of Hearing dated July 16, 2012.

C. <u>The Commission accepted the following additional evidence</u>:

1. Appellee submissions:
   a) Association of Racing Commissioners International report dated 1983 showing denial of license in New Jersey.

Findings of Fact

The Commission finds as facts established by a preponderance of the evidence the following:

1. The Commission's predecessor, the State Racing Commission, has in the past issued the Appellant a license to practice as a groom in the Commonwealth of Massachusetts, most recently in 2010.

2. In 1983, the Appellant was licensed to provide racing related services in New Jersey, due to infractions in New Jersey that license was suspended/revoked.

3. In 1995, the Appellant was licensed as a groom in Massachusetts using the name "Ramon Fuentes".

4. The Appellant did not disclose his New Jersey discipline on his Massachusetts application causing him to be ejected in 1995. The Appellant did not contest that ejection.

5. To date the 1995 ejection has not been lifted.

6. In 2009, the Appellant was licensed as a groom in Massachusetts using the name "Ramon Acevedo" on his application. The Appellant was licensed in 2010 using the same information.

7. The Appellant did not disclose his past history on his 2009 or 2010 applications.

8. It was not until September of 2010 that the State Police and the Board of Stewards realized that "Ramon Acevedo" and "Ramon Fuentes" were the same person.

9. Based on his past history, the Appellant's license was suspended on September 4, 2010.

10. The Appellant has a criminal history including shoplifting, breaking and entering a motor vehicle, possession of a class A controlled substance, cocaine possession, resisting arrest, cocaine distribution, possession of weapon in commission of felony, and aggravated assault. There is no allegation that he failed to disclose these convictions.

Applicable Law and Regulations

1. "The commission shall have full discretion to refuse to grant a license to any applicant for a license or to suspend or revoke the license of any licensee." MGL c. 128A, §11.

2. "Any commissioner or representative of the commission... shall have the right to refuse admission to or eject from its premises any person whose presence on said premises is detrimental, in the sole judgment of the commissioner or representative of the commission or of said licensee, to the proper and orderly conduct of a racing meeting... Any person so excluded by any commissioner or representative of the commission or by a licensee shall have a right of appeal to the commission. The commission shall hold a hearing within ten days after any such person requests an appeal and may after such hearing by vote allow such person admission to such meeting.[1]" M.G.L. c. 128A, § 10A.

Conclusions of Law

1. Based on the Findings of Fact above, the Commission has jurisdiction to hear this disciplinary matter.

2. Based on the Findings of Fact above, the Appellant's conduct constitutes valid grounds for the ejection and suspension of the Appellant pursuant to G.L. c. 128A, §§ 11 and 10A.

Discussion

The Commission received evidence and testimony regarding the appeal file by the Appellant for both a 1995 ejection and a 2010 license suspension. The history of the Appellant's licensing in Massachusetts is not disputed. According to the record, the Appellant was ejected in 1995 for filing a false application. The State Police testified that the reason for this ejection was that the Appellant had been suspended/revoked in New Jersey since 1983. In 2009, the Appellant was licensed as a groom utilizing a different variation of his name. This different name caused the Board of Stewards and State Police to be unaware of the fact that this same individual was the subject of a still valid ejection.

[1] The Commission notes that the appeal was made seven years after the ejection and is arguably untimely.

This oversight was corrected in 2010 when the Appellant's license was suspended, again for filing a false application in not disclosing the previous discipline. The Commission finds that these undisputed facts are sufficient to uphold the ejection and suspension of the Appellant on their own. However, the Appellant has made two primary arguments in mitigation. First, the Appellant argued that, with regards to the initial ejection in 1995, he was unaware of his discipline in New Jersey. The Commission was not provided evidence either supporting or contesting this contention. Similarly in 2009 and 2010, the Appellant applied for a racing license without disclosing the 1995 ejection, which the Appellant also denied having any knowledge of. The Commission finds this self serving testimony by the Appellant to not be credible. Instead, the Commission finds the evidence supports a contrary finding, that the Appellant was aware of his past discipline but chose to take the risk that he might be licensed without his past discipline being discovered, which took place in 2009.[2] In 2009, the evidence shows that the Appellant was licensed because of his use of a different name on his application. The Appellant testified that the use of the different name was not intended to deceive, however, the Commission again finds this testimony to not be credible. The Commission finds that the Appellant was aware of his past discipline (both in New Jersey and in Massachusetts) and that he failed to disclose that discipline for fear it would result in a denial of licensure. The Commission further finds that the Appellant waited fourteen years to obtain a new license, using a different name, in an attempt to enhance his chances for getting a license. The fact that this worked during the 2009 and 2010 racing seasons is unfortunate, however, the State Police and the Board of Stewards were more than justified in correcting the problem once discovered. Though the Appellant also has criminal matters which could impact his licensure, the Commission finds that they are irrelevant. For filing false applications and for attempting to deceive Massachusetts racing officials, the Commission finds more than ample grounds to uphold all discipline rendered against the Appellant.

[2] The Appellant testified that he had been licensed in 2007, however the State Police and the Chief Steward claim that they have no knowledge of that licensure, the Commission finds this licensure, even if it occurred, is irrelevant for this analysis, thus no finding is necessary.

Conclusion and Order

In keeping with its duty to promote the best interests of racing as well as the health, welfare and safety, of those involved, and based on the Findings of Fact and Conclusions of Law set forth above, the Commission finds that Appellant is subject to appropriate sanctions.

The Commission therefore **ORDERS** the following:

1) To uphold the 1995 ejection of the Appellant; and

2) To uphold the 2010 suspension of the Appellant's license.

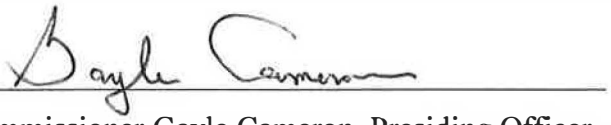
RIGHT TO RECONSIDERATION

This is a tentative decision of the Commission. The Appellant is hereby notified of the right to seek reconsideration of this Tentative Decision by filing written objections within thirty (30) days of the issuance of this decision (date below) with the Commission at the following address:

Massachusetts Gaming Commission
Racing Division
1000 Washington Street
Boston, MA 02118

The Commission will not hold additional hearings; the written submission is the sole opportunity of the parties to make any further arguments regarding this matter.[3] The Commission will review this matter after the expiration of the thirty day period, receipt of objections from the Appellant, or after receiving a notice from the Appellant waiving the right to file objections, whichever comes first. Thereafter the Commission will issue a final decision which will outline any applicable appellate rights.

MASSACHUSETTS GAMING COMMISSION
RACING DIVISION

By: 

Commissioner Gayle Cameron, Presiding Officer

Dated:

[3] 801 CMR 1.01(11)(c), the rule establishing the procedures as to Tentative Decisions, provides that where, as in this case, the full Commission did not preside at the reception of evidence, the presiding officer shall issue a Tentative Decision. The parties are entitled to an opportunity to "file written objections to the Tentative Decision... which may be accompanied by supporting briefs." 801 CMR 1.01(11)(c)(1). The Commission then considers the record, including the Tentative Decision and any objections and responses filed thereto and either modifies, reverses, or affirms and adopts the Tentative Decision, "making appropriate response to any objections filed..." 801 CMR 1.01(11)(d).

5 b ii

Protocol for Prospective Gaming Developers' Interactions with Massachusetts State Agencies

Purpose.

It is the intention of the Executive Branch of the Commonwealth (Executive Branch) and the Massachusetts Gaming Commission (MGC) to create a prompt, efficient and transparent mechanism for prospective gaming developers to acquire the information that they need to advance their proposals. It is also the intention of the Executive Branch and the MGC to organize the inquiries from developers in such a way as to minimize the burden on the developers and the multiple state agencies that will necessarily be involved.

In order to implement this intention, the Executive Branch and MGC have agreed on the following protocol for servicing prospective developers. In understanding this protocol, it should be noted that the MGC has determined that a prospective developer will become an "applicant," as defined in its enabling legislation and in this protocol, once a developer has paid the $400,000 license application fee called for in M.G.L. c. 23K, Section 15(11). This payment, along with an executed "Statement of Intent to Apply," may be submitted to the Commission any time between August 8, 2012 and the time a completed Request for Applications-Phase One (RFA-1) which is expected to be issued by the Commission in October-November 2012 is submitted to the Commission. It should also be noted that the MGC intends to obtain the services of a point person ("ombudsman") to be the single point of contact for potential developers to coordinate their relationships with state agencies. Similarly, each affected agency will appoint a single key contact person for this protocol.

The protocol has three different stages of operation:

- PRIOR TO BECOMING AN "APPLICANT"
  Prospective gaming developers will have the opportunity to have one meeting organized by the ombudsman. This meeting may have representatives of all of the state agencies requested by the developer. In this phase of operation, the developer may also submit written inquiries to the ombudsman, who will pass the inquires onto the relevant state agencies; each Secretariat in the Executive Branch will endeavor to provide responsive information to the Gaming Commission within two business days of each inquiry. The ombudsman shall keep a record of all inquiries.
- POST-QUALIFICATION AS AN "APPLICANT" AND PRE-LICENSE AWARD
  Once a developer has qualified as an applicant and paid the $400,000 license application fee, each developer may request as many meetings with state agencies as are reasonably necessary to complete its application to the MGC in the competition for license awards (Request for Application-Phase Two, or RFA-2). All such requests will be directed through the MGC ombudsman, and all meetings will be coordinated by the ombudsman and the key contact person at each state agency. The ombudsman shall keep a record of all meetings.
- POST-LICENSE AWARD
  Once an applicant is selected to be the expanded gaming licensee in a region, licensees will work directly with administration officials and state agencies, without needing to contact the ombudsman, to pursue all regulatory parameters required to establish the gaming facility.

5b iii

The Commonwealth of Massachusetts

Massachusetts Gaming Commission

84 State Street, Suite 720

Boston, Massachusetts 02109

TEL: (617)979-8400
FAX: (617)725-0528
www.mass.gov/gaming

Advisory to Massachusetts communities that may qualify as "host" or "surrounding" communities under Massachusetts General Law Chapter 23 in a proposal for a gaming license

In order to support the many communities across Massachusetts that are being approached by private developers about the possibility of developing a gaming facility within or near their borders, the Massachusetts Gaming Commission is offering various kinds of general advice and technical support.

I. Licensing Schedule.

The schedule discussed in this section is highly tentative, and is published only for the purpose of giving potential host and surrounding communities a general sense of schedule, with which they can assess the urgency of their need to comply with developers' requests. These schedules are subject to change, and should not be relied on for any formal or legal action. It should also be noted that this schedule applies only to license proposals in regions A and B (in other words, exclusive of region C, Southeastern Massachusetts) for which the Commission is now beginning to develop the application process. For now, the schedule and licensing process for gaming facility applications in region C will be under the control of a compact presently in negotiation between the Governor's Office and tribal applicant(s) in region C.

The Massachusetts Gaming Commission is committed to a "fair, transparent, and participatory" process in awarding the gaming licenses across the Commonwealth. It is our intention to move this process forward as quickly as possible, in order to meet the aspirations of the Legislature and the Governor for economic development and new revenue. But we are equally committed to undertaking this process with a deliberateness that assures that we do it right.

As of the writing of this advisory, the Commission has established the following *approximate time frame* for the licensing process:

- Mid-October 2012 to mid-November 2012: release of Requests For Applications-Phase One (RFA-1), first stage in the application process which will prequalify bidders for their financial, corporate and personal integrity.
- January to May 2013: submission by applicants of completed RFA 1.
- April to November 2013: 3-6 month period for Commission to review completed responses to the RFA-1, and release Request for Applications-Phase Two (RFA-2) to successfully pre-qualified applicants. RFA-2 will be the final site-specific application that all applicants that pass the RFA-1 background check may submit.
- July 2013 to May 2014: a 3-6 month period during which applicants will complete and submit their full site specific license applications, RFA-2. No later than the end of this period, applicants must sign agreements with host and surrounding communities and have host agreements approved by referendum.
- October 2013 to November 2014: 3-6 month review of RFA-2 applications by the Commission, and final selection of licensees.

Accordingly, the range of time frames for the licensing process as presently envisioned by the Gaming Commission is as follows:

License Application Step	Earliest Likely Date	Latest Likely Date
Release of RFA-1	mid-October 2012	mid-November 2012
Applicants submission of completed RFA-1 (pre-qualifying phase, 3-6 months)	January 2013	May 2013
Commission review of completed RFA-1 and release of RFA-2 to qualified applicants (3-6 months)	April 2013	November 2013
Applicant submission of completed RFA-2; surrounding community agreements executed and host community agreements approved by referendum (3-6 months)	July 2013	May 2014
Commission review of completed RFA-2 and selection of licensee(s) (3-6 months)	October 2013	November 2014

At any time up to the final submission of a completed RFA-2, developers and prospective host and surrounding communities may meet, negotiate and, if they wish, begin to develop host and surrounding community agreements. Given that siting and licensing a gaming facility is a complicated process, it is reasonable for developers to want to undertake these discussions and negotiations as soon as possible. However, it is important for prospective host and surrounding communities to understand that regulations prescribing the content of site specific applications (RFA-2) have not yet been promulgated and, even when they are, the Commission will not be ready to accept and begin processing site specific applications until it has concluded its examination of the developer's RFA-1 application and has concluded that the developer is qualified.

II. Technical assistance for prospective host and surrounding communities.

It is the intention of the Massachusetts Gaming Commission (and its enabling legislation passed by the Legislature) to provide as much technical assistance as possible to prospective host and surrounding communities, as well as funding for their work, as they endeavor to negotiate appropriate terms and conditions of host and surrounding community agreements. Chapter 23K, Section 4(7), of the Massachusetts gaming law states that "the commission may receive and approve applications from a municipality to provide for reasonable costs related to legal, financial and other professional services required for the negotiation and execution of host and surrounding community agreements as provided in section 15, and to require that such costs be paid by the applicant for a gaming license. " The Commission will soon issue regulations that implement this mandate and provide guidance to cities, towns and developers regarding the process for fee applications.

The MGC has been working over the past few weeks with a variety of organizations, including Mass Municipal Association, several of the regional planning authorities (RPAs), the Collins Center at UMass Boston, and Mass Development to determine the best mechanism for providing this technical assistance. The Commission recognizes that it must provide or facilitate provision of assistance in a manner that is even handed across all communities and does not compromise either the objectivity or the appearance of objectivity of the MGC in its subsequent deliberations.

We expect that the MGC and its partners will soon have an organized resource of professionals with understanding of the expanded gaming law, and access to consultant, legal and other resources for the communities to utilize in their discussions and negotiations with the gaming facility developers. It is also the present intention of the MGC to appoint an "ombudsman" who will serve as a single point of contact at the Commission for municipalities interested in this technical support, and who will be responsible for proactively communicating with prospective hosts and surrounding communities about the resources that are available to them.

The Commission has already been asked and answered many inquiries from local officials across the Commonwealth. Many of these questions and answers, along with other

background information about the gaming law and plan can be found at our website at mass.gov/gaming. Also found at that site is a link to an email contact with the Commission, to which we will reply promptly.

We hope this is helpful to the many communities across the Commonwealth that are wrestling with the prospect of serving as a host or surrounding community for a gaming license.

The Massachusetts Gaming Commission

July 17, 2012

6

MEMORANDUM

July 26, 2012

To: Massachusetts Gaming Commission

From: James F. McHugh

Re: Policy Questions in connection with the Draft Phase 1 regulations

Our gaming consultants accompanied the draft regulations they sent us last week with a memorandum detailing several policy questions that required an answer from the Commission before the drafts could be completed. Our outside counsel, Anderson & Krieger, likewise submitted a memorandum detailing several policy questions. There is some overlap between the two. Some of the policy questions were resolved during the course of our discussion with the gaming consultants at the July 10 open meeting but others remain unresolved. This memorandum contains a combined list of all policy questions the two groups raised. In the list, I have summarized the resolution of those we resolved on July 10 and have used a green typeface to show that no further policy discussion is required for those. For the others, I have included my recommended resolution and the reasons for it simply to provide a target for discussion at our July 26 meeting. I solicited comments on my recommendations from the gaming and legal consultants and then discussed their comments in a joint session. As a result, though phrased as my recommendations in the paragraphs that follow, these recommendations have the support of both the gaming and the legal consultants.

The policy questions are:

1. Financial assistance for host/surrounding communities: In essence, the question is whether the regulations should provide for early funding for municipalities. My recommended answer is "yes." The regulations should provide that the Commission will allow a developer who desires to do so to pay the statutory application fee of $400,000 before filing the Phase 1 application. If the developer elects to pay that fee, it must sign a certificate stating that it understands that the deposit is nonrefundable, that regulations governing applications have not yet been promulgated, and that its application will be governed by the regulations that are promulgated. When the Commission receives the deposit and the certificate, the Commission will deem the developer to be an "applicant." At that point, cities and towns can negotiate with developers over upfront payment of study and negotiation costs and, when those negotiations have resulted in an agreement, can apply to the Commission for approval of that agreement. See G.L. c. 23K, §4(7). In addition, cities and towns can apply to the Commission for some

portion of the $50,000 the statute states is to be paid to cities and towns from the application fee. See G.L. 23K, §15 (11).

2. Exhaustion. The question here is whether the Commission staff should be empowered to interpret and apply regulations in the first instance, with an appeal to the Commission if someone is dissatisfied with the staff's interpretation, or whether all interpretive questions ought to be presented to the Commission initially. My recommendation is that the staff should be permitted to interpret the regulations in the first instance. Particularly as we began our operations, a great number of interpretive issues will arise. The staff, which will be closest to the ground in applying the regulations, ought to have some freedom to make an interpretation and move forward. If someone is dissatisfied with the interpretation, the regulations ought to provide a mechanism for appeal to the full Commission. In addition, if the Executive Director is of the opinion that an issue regarding interpretation of a regulation has arisen in an area where the staff needs guidance, the Executive Director is free to bring that issue to the Commission's attention for resolution at a regular public meeting.

3. Variance. As currently drafted, §2.03 (4) of the regulations says simply that if "[i]n special cases and for good cause shown, the Commission or Bureau may relax, waive or permit deviations from Commission regulations." The question is whether the criteria for relaxation or waiver should be more detailed. My recommendation is that whatever additional detail is useful must be balanced against the desirability of retaining maximum discretion for the Commission. Every time we set out a detailed set of criteria, we create a mechanism for litigation on grounds that we failed to follow the criteria we promulgated. Courts will generally defer to an administrative agency's interpretation of its own rules and its development of a "common-law" that fills in gaps or ambiguities in the existing regulatory scheme. The more detailed the regulations, however, the less room for discretion and the less willing courts are to defer to administrative expertise.

4. Political contributions. When a developer files an application, it becomes subject to the restrictions and reporting requirements of G.L. c. 23K, §§ relative to campaign contributions and other contributions to cities and towns. The question here is whether, insofar as reporting is concerned, the commission should promulgate a regulation requiring reporting of all contributions and donations that have been made since November 22, 2011, when the governing statute was passed. My recommendation is that the regulations should require a report so that all applicants are on a level playing field insofar as reporting is

concerned and their obligation to report is not determined by the date on which they decide to file an application. The Office of Political and Campaign Finance intends to issue its own regulations, but they will cover narrower area and, in all likelihood, will begin the obligation to report at the time a developer becomes an "applicant." Insofar as that component of the regulations is concerned, however, their regulations will not conflict with ours, particularly if they use our definition of "applicant" as the reporting trigger.

5. Code of ethics. The enhanced code of ethics will be part of a separate policy, not part of the regulations.

6. Qualification of developers. G.L. c. 23K, § 12(b) provides that if, during the course of its investigation of an application, the Bureau determines that the applicant is not qualified for any of the reasons the section specifies, the Bureau should cease its investigation and recommend that the Commission deny the application. The question is whether the Bureau should proceed in that fashion when examining the Phase 1 application. The Commission concluded that the Bureau should not stop at the first disqualifying circumstance but should continue to examine the entire Phase 1 application, listing all of the disqualifying circumstances and reasons in its final report and recommendation to the Commission.

7. Graded qualifications. Related to the issue discussed in ¶ 6 is the question whether, at the conclusion of its investigation, the Bureau should issue qualified recommendations, i.e., recommendations that would say something like the applicant is qualified but is given a B+ rating or the applicant is qualified but is weak in its financial plan. My recommendation is that it should not do so. Those kinds of recommendations are evaluative conclusions drawn from underlying facts. The Bureau report should set forth the facts and Commission can make the evaluative judgment in the context of processing the overall application when we get to the RFA-2 stage. A less than excellent "grade" is likely to risk creation of another litigation point without producing any significant offsetting value.

8. Requests that applicants provide supplemental information that is relevant to their application. The question here is whether we ought to have a regulation allowing the Commission or the Bureau to ask for additional information relevant to the application or the investigation after the applicant has filed the application. My recommendation is that we should. Questions inevitably will arise as the investigation proceeds and answers to those questions may require the applicant to furnish additional information.

9. Requests that applicants provide supplemental information that is not relevant to their application. We have discussed on several occasions whether we should ask applicants during the application process for information that may be useful to a study we are conducting but is not required by statute or regulation and, indeed, may not be relevant to decisions we are required to make during the investigation. The question here is whether we should create a regulation under which we can seek that kind information. My recommendation is that we should. The developers possess a broad range of information that is helpful to us in developing policy even if that information is not, strictly speaking, relevant to their Phase 1 or Phase 2 application. Much of that information, to be sure, is available elsewhere, though it may be far more laborious to get it from alternative sources. We probably cannot, and should not in all cases insist on the provision of information of that sort, but a regulation would signal that, from time to time, we may. In the event that a developer declines to comply with our request we can decide what, if any, further steps are appropriate. In some cases, negotiations might represent the proper course, in others, a regulatory change to require provision of the information and in still others simply turning to alternative sources.

10. Role of the Bureau in making findings on violations of the statute or regulations. The statute empowers the Bureau to investigate alleged violations of the statute or any Commission regulations. The question here is whether, at the conclusion of its investigation, the Bureau should be empowered to make findings that are final unless a person adversely affected appeals to the Commission or whether the Bureau should be limited to making recommendations to the Commission. In keeping with the analysis under ¶ 3 above, I would recommend that, in all cases save final decisions on the Phase 1 and Phase 2 RFA's, the Bureau be empowered to make the findings and impose sanctions, with the adversely affected person having a right to appeal. Once the Commission reaches a mature state, there are likely to be a significant number of minor violations and minor penalties and many of those will simply be accepted by the person against whom the penalty runs. There is no need to clutter up the Commission's schedule with matters the camp Bureau resolves in a fashion that the adversely affected party is prepared to accept. Where the Phase 1 and Phase 2 RFA's are concerned, the Bureau should make recommendations to the Commission for the Commission's final action in accordance with the statutory formula and procedures.

11. Finality of deadlines. Here the question is whether the deadline for filing the RFA-1 application is final under all circumstances or whether the Commission

should have the power to extend the deadline for extraordinary circumstances. We concluded at our meeting that the Commission should have that power.

12. Withdrawal of applications. The question is whether an applicant should have the unlimited and unqualified right to withdraw its application at any stage or whether the Commission ought to have some control over whether the applicant is permitted to do so. At our meeting we concluded that the Commission should have that power.

13. Application filing fee. Here the question is whether the applicant should be required to pay the $400,000 application fee upon receiving the application or upon filing the application. In accordance with ¶ 1 above, I recommend that the answer be neither. Instead, the applicant should be permitted to file the application fee at any time after the date we announce up to and including the time when the developer files the RFA-1 application.

14. Adjudicatory proceedings. Sections 19 through 24 of the regulations deal with adjudicatory proceedings of various kinds. The question here is whether, to the extent possible, those regulations ought to conform to standard Massachusetts adjudicatory regulations to the fullest extent possible. My recommendation is yes. First of all, the local administrative law bar is familiar with the standard regulations and procedures. There is no reason to make them learn new procedures unless it is absolutely necessary. Second, to the extent we want to think about transferring some functions to DALA in the future, the more standardized the procedural rules are, the easier the transfer will be.

15. Should the regulations provide for pre-application consultation? My recommendation is yes but only for Phase 1 and Phase 2 RFA applications. Otherwise we are likely to be swamped. If we discover that some additional category of our activity would benefit from pre-application consultations, we can always add a new regulation to deal with that category.

16. Should the regulations provide for notice to the public of the identity of the applicants? My recommendation is yes. If in addition, either the regulations or a policy that we disseminate broadly should state, in substance or effect, the name of the applicant and then it should describe the procedure we will follow to process the application, important components of which include an investigation by the IE, posting of the public results of the investigation, a period for public comment on the posted components of the IEB investigation and then a public hearing held by the Commission on the Phase 1 application.

17. Should the commission issue a request for RFA 1 applications at the same time it issues the application form? My recommendation is a qualified yes. Once the form is issued, there is no reason to delay requesting applications unless we do not have in place the infrastructure we need to process those applications and to answer questions about them after the application is issued.

18. Should the regulations specify that the application expires if the applicant fails to respond in a timely way to the Commissions requests for information? My recommendation here is that the application should not automatically expire. Instead the commission should have the power, embodied in regulations, to dismiss an application for specified, durable foot dragging or other noncooperation but that there should not be an automatic guillotine that drops at a preset time. With some frequency, activity or inactivity that has all the earmarks of willful noncooperation turns out on examination to be the result of forces beyond the applicant's control.

19. Open items. In addition to the items just discussed, § 5 (investigations, subpoena powers and penalties), § 6.06 (declaratory judgments) and §§ 23-24 have been referred to the Attorney General for advice regarding content. If the Tribal Compact if is approved by the Legislature, we may need something that looks like a set of Phase 1 regulations to applicable to our relations with the Tribal Gaming Commission, but there are at present too many contingencies to give any serious consideration to what those regulations ought to contain.

CHARIABLE GAMING

MGC REPORT TO THE LEGISLATIRE

I. Background

The Expanded Gaming Statute, St. 2011, c. 194, devotes two sections to the subject of Charitable Gaming. The first is Section 16, an extensive section that creates G.L. c. 23K, the statute that creates the Gaming Commission and defines its duties and responsibilities. Chapter 23K, § 4(41) provides that

> "The [gaming] commission shall have all powers necessary or convenient to carry out and effectuate its purposes including, but not limited to: . . . the power to regulate and enforce section 7A of chapter 271 relating to bazaars; provided, however, that nothing in this section
>
> shall limit the attorney general's authority over public charities pursuant to the General Laws."

Section 111 provides that G.L. c. 23K, § 4(41) becomes effective on July 31, 2012.

Section 103 is the second section of the new law that deals with charitable gaming. That section provides that

> "Notwithstanding any general or special law to the contrary, the Massachusetts gaming commission shall analyze the laws relating to charitable gaming, raffles and bazaars in effect on the effective date of this act, including section 7A of chapter 271 of the General Laws. The analysis shall include a review of the efficacy of those laws and the need to update, redraft or repeal those laws. The commission shall report its findings and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerks of the senate and house of representatives and with the house and senate chairs of the joint committee on economic development and emerging technologies not later than April 1, 2012."

Because the Commission was created on March 21, 2012, it did not have an opportunity to conduct the analysis or make the report by the April 1, 2012, deadline. Accordingly, by a letter dated April 19, 2012, the Commission's chair informed legislative leaders that the report would be filed on July 31, 2012. This is the promised report.

In preparing this report, the Commission has reviewed existing statutes and regulations governing charitable gaming, met on several occasions with representatives of the office of the Attorney General, the Massachusetts State Lottery, the Treasurer, and the Town Clerks' Association. The Commission also solicited comments on the operation of charitable gaming from members of the public, from members of the Town Clerk's Association and from representatives of charitable institutions throughout the Commonwealth. The Commission is very grateful for the assistance all of those groups provided.

II.Facts

Charitable gambling in Massachusetts grosses approximately $75 million annually, approximately $18 million of which is retained by the sponsors of the gambling events. The gambling takes one of four forms. The first and by far the largest in terms of the amount wagered is beano, the local name for what elsewhere is known as bingo. In 2011, the latest year for which figures are available, $38.8 million was wagered at beano games held throughout the Commonwealth. Of that sum, $1.6 million was retained by the charitable sponsors, $30.7 million was returned to players in the form of prizes and the balance was consumed by expenses and taxes. In 2011, 199 licensed beano games were conducted throughout the Commonwealth, typically on a weekly basis. Over the years, however, that number of beano games has been in steady decline.

Second, but closely allied, are charitable gaming tickets. These tickets are distributed by the Massachusetts Lottery (Lottery) and sold, almost exclusively, at beano games. The tickets, which typically sell for $1, are called "pull tabs" because they have tabs on one side which, when opened, show whether or not the ticket-holder has won a cash prize. Like scratch tickets and other devices distributed by the Lottery, the cash prizes can be collected instantly from the ticket vendor at the beano game. In 2011, sale of charitable gaming tickets produced gross revenues of $15.7 million, $4.7 million of which was retained by the charities.

Raffles are the third form of charitable gaming and consist of a wide variety of events in which individuals purchase tickets for participation in a blind drawing to determine by chance which of the ticket holders will receive a prize. During 2011, raffles grossed $19.6 million, $11.3 million of which was retained by the charities.

Finally, bazaars, the statutory name for the "casino" or "Las Vegas" nights charitable organizations sometimes use as fundraisers, grossed $1.4 million in 2011, $578,000 of which was retained by the sponsoring charities. A chart showing the gross amounts wagered in all four forms of charitable gambling during 2011 is attached to this report as exhibit A.

The sponsors of the charitable gambling events are organizations that use the proceeds to support their charitable endeavors. They include churches, veterans groups, civic organizations, youth groups and many others. In many cases, the charitable gambling revenue generates the bulk of the funding available to the organization for carrying out their charitable works.

Somewhat different statutory criteria describe the charitable organizations that are eligible for a beano license and those that are eligible for raffle and bazaar licenses. "Any fraternal organization having chapters or branches in at least one other New England state, . . . any corporation organized under the provisions of chapter 180 [the statute governing charitable corporations], any religious organization under the control of or affiliated with an established church of the commonwealth and any veterans' organization incorporated or chartered by the Congress of the United States or listed in [G.L. 40, § 5 (12), an obsolete reference to] any volunteer, non-profit fire company or similar organization furnishing public fire protection, any voluntary association for promotion of the interests of retarded children, the Boston Firemen's Relief Fund, any volunteer, non-profit organization furnishing a public ambulance service, and

non-profit athletic associations" are permitted by G.L. c. 10, §38, to have a beano license provided that they can demonstrate that they have been in existence for five years preceding their license application.

To obtain a lottery or bazaar license, applicants must show that they have been in existence for two years preceding their application and that they are "(a) a veterans' organization chartered by the Congress of the United States . . . ; (b) a church or religious organization; (c) a fraternal or fraternal benefit society; (d) an educational or charitable organization; (e) a civic or service club or organization; [or] (f) clubs or organizations organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any member or shareholder."

All four forms of charitable gambling have their commercial counterparts. The Foxwoods casino, for example, advertises that it has "one of the largest bingo halls in the world," a 3,600 seat facility in Mashantucket, Connecticut. The charitable gambling tickets are comparable to scratch tickets sold by the Lottery and, except for extent of sales and size of the prizes, charitable lotteries are similar to the lotteries the Lottery itself conducts. And, as their names suggest, "casino" or "Las Vegas" nights host the kinds of games one finds in the typical casino.

III. Regulatory framework

The current regulatory framework currently divides oversight of charitable gaming between the office of the Attorney General, the Lottery and local authorities. G.L. c. 10, §§ 37, 38 give the Lottery exclusive regulatory authority over beano games and charitable game tickets. Together, those forms of charitable gaming account for $54.5 million, or 72%, of the total amount wagered on charitable gaming in 2011. Qualified organizations desiring to host a beano game must obtain a license from Lottery and the approval of the local mayor and city council or selectman or, in the case of Boston, the licensing board.

To carry out its regulatory responsibilities, the Lottery has a staff devoted to charitable gambling that includes auditors and inspectors who visit and audit beano games and the sale of charitable gaming tickets at least three times annually on an unannounced basis. In addition, the Lottery has a robust website (http://www.masslottery.com/games/charitable-games/bingo.html) containing helpful information about beano, charitable game tickets and other forms of charitable gaming.

By virtue of G.L. c. 10, § 39A, the Lottery also has regulatory authority over raffles and bazaars conducted by beano licensees. To carry out that authority, the Lottery has promulgated highly detailed regulations codified at 961 CMR 4.00 et seq. Those regulations cover all aspects of raffles and bazaars, including the mechanism for obtaining a raffle and bazaar license and the duties of each person who participates in the operation of a bazaar. Lottery officials estimate, however, that the bazaars conducted by beano licensees amount to only 3% of all bazaars conducted during the course of a given year.

The Attorney General's public charities division has general supervision over all public charities. See G.L. c. 12, § 8B et seq. See also G.L. c. 68, §19. Nested in that broad regulatory

authority is the authority to regulate raffles and bazaars conducted by groups that do not hold a beano license. To carry out those responsibilities, the Attorney General has issued regulations dealing with raffles in which the value of the prizes exceeds $10,000 or in which the cost of the tickets exceeds $10. There are no Attorney General regulations governing other raffles. The Attorney General has also issued regulations governing the conduct of charitable bazaars. Those regulations differ from the bazaar regulations the Lottery has issued and, among other things, contain far less detail concerning the way in which those responsible for operation of a bazaar must carry out their duties. The Attorney General, like the Lottery, has a website devoted to charitable gaming issues. (http://www.mass.gov/ago/doing-business-in-massachusetts/public-charities-or-not-for-profits/soliciting-funds/raffles-and-other-gaming-activity/). No staff of the Attorney General routinely inspects or audits raffles or bazaars.

Day-to-day permitting and licensing of lotteries or bazaars is the responsibility of local authorities who operate in the following fashion. Under G.L. c. 271, §7A, any charitable organization desiring to conduct a raffle or a bazaar must submit an application to the clerk of the city or town where the event is to be conducted. The application must be on a form approved by the commissioner of public safety and, among other things, must show that the applicant is entitled to conduct the event. Upon receipt of the application, the clerk determines whether the application has been completed properly and whether it contains the information the statute requires, i.e., the name and address of the applicant, the evidence on which the applicant relies in order to show that it is qualified to obtain a raffle or bazaar license, the names of three officers or members of the organization who will be responsible for operation of the raffle of bazaar and the uses to which the net proceeds of the event will be applied.

If the application contains the requisite information, the clerk forwards it to the city or town's chief of police who is responsible for determining "whether the applicant is qualified to operate raffles and bazaars" under the statute. If the chief determines that the applicant is qualified, he or she returns the application to the clerk with an approving endorsement and the clerk issues the license. Licenses are valid for one year but may be renewed.

Within 30 days after the license expires, the license holder must prepare a report stating the number of raffles held during the licensed period, the net proceeds of the events and the uses to which the proceeds were put. Two copies of the report must be filed with the city or town clerk who sends one of them to the commissioner of public safety. License holders may conduct an unlimited number of raffles during the license period but are limited to three bazaars during any one calendar year, none of which may operate for more than five consecutive hours.

In addition to the applications and reports just described, all organizations that conduct charitable gaming events must submit to the Lottery a written report regarding each event they conduct and, with the report, pay a tax. Beano, lotteries and bazaars are taxed at the rate of 5% of amounts wagered. Of that amount, 60% of the tax on beano goes to the General Fund and the balance goes to the Lottery to cover the expenses of regulating beano games. Sale of charitable game tickets is taxed at 10% of the gross proceeds. A maximum of 50% of that sum is

payable to the Lottery for the expenses of purchasing and selling the tickets and the balance goes to the Local Aid Fund. The taxes on lotteries and bazaars go to the General Fund.

As noted earlier, beginning on July 31, 2012, the Gaming Commission will have regulatory authority over bazaars held under the authority of G.L. c. 271, §7A. At that point, three state entities will be responsible for some portion the oversight given to charitable gaming. Bingo and charitable game tickets will remain under the exclusive authority of the Lottery, which will also regulate raffles and bazaars conducted by beano licensees. Raffles conducted by charitable organizations that do not hold a beano license will be regulated by the Attorney General. Bazaars conducted by charitable organizations that do not hold a beano license will be regulated by the Gaming Commission, though its regulation will be subject to any regulatory authority the Attorney General exercises pursuant to her general supervisory powers over public charities. Regardless of who regulates the charitable events, those responsible for each event will continue to file tax returns with the Lottery.

IV. Substantive issues

During the course of its inquiry, the Commission received a number of comments dealing with substantive issues that affect charitable gambling. Among those was a suggestion that small lotteries, those run by PTAs, and local school athletic booster clubs, playground associations and other groups that may have no formal organization but provide assistance to establish community organizations, ought to be able to conduct a lottery even if they are not a charitable organization registered with the Attorney Generals Public Charities division and ought not to be required to comply with all of the registration and tax requirements applicable to other raffles if there gross wagering revenues are small.

Other suggestions were to the effect that so-called 50/50 raffles, highly popular raffles in which the winner takes 50% of the total amount wagered and the charitable organization retains the other 50%, ought to be specifically permitted by statute in order to remove any doubts about their legality. Reconciliation of inconsistent prize provisions among the different forms of charitable gambling was likewise recommended by several commentators.

Gaming equipment suppliers suggested that they should be authorized to conduct a casino or Las Vegas night for charitable organizations, in the process taking care of all record-keeping and regulatory filings, and not be limited, as they presently are, simply to supplying equipment for use at the event by the organization's members. Others opposed that suggestion. Indeed, some opponents went further, urging that a statutory provision be created that permitted any local jurisdiction desiring to do so to prohibit all charitable gambling activities with it in its borders.

At present, the Commission takes no position on any of those recommendations. Its primary focus is on the regulatory structure for charitable gambling. As discussed in the next section, the Commission believes that that structure should be substantially streamlined and that the streamlining should be the first order of business insofar as charitable gambling is concerned. To be sure, substantive reforms should be considered but only in the context of a streamlined

regulatory environment so that the impact of those reforms of the resources necessary for oversight can be carefully thought through in a concrete context.

V. Recommendations

In the course of preparing this report, the Commission has conferred extensively with representatives of the Attorney General, Treasurer and the Lottery. As a result of those conversations and its own analysis, the Commission is convinced that regulation of charitable gaming ought to be streamlined and consolidated in a single authority. Moreover, for the following reasons, the commission recommends that the Lottery should be the single regulating authority.

Several considerations underlie that recommendation. First of all, the Lottery already regulates, exclusively, 73% of all charitable gambling that takes place in the Commonwealth. The regulation is effective, and is conducted by knowledgeable state employees who have been engaged in the regulatory process for the last 40 years. It makes little sense to move that smoothly functioning regulatory regime to a new location.

Secondly, the taxation responsibilities cannot be moved out of an area under the Treasurer's general oversight. Even if other regulatory aspects of charitable gambling were moved to another location, therefore, the taxation function, with the associated reports, would have to stay approximately where it is now.

Thirdly, the staff of the Lottery, if appropriately augmented by some additional resources, possesses the experience to regulate and oversee the two forms of charitable gambling it does not now regulate. Indeed, the bazaars it does not now regulate are indistinguishable from the bazaars it does regulate. Raffles are similar to the kinds of events with which the Lottery is thoroughly familiar.

The recommended transfer of regulatory authority to the Lottery will require a number of steps. Obviously, the first is new legislation that will consolidate regulatory authority in the Lottery. In addition to transferring authority, that legislation should address the substantive issues discussed above that have been raised during the course of the Commission's examination of charitable gaming.

The second step will involve the drafting of new regulations to support the new legislation. The foundation for those regulations currently is in place in the form of regulations the Attorney General and the Lottery have independently issued. Those regulations, however, require examination, consolidation and streamlining. Once the statute and regulations have been promulgated, a program and process must be undertaken to familiarize city and town clerks and police chiefs, whose advice should be solicited throughout the drafting process, with the new regulatory environment. Finally, a similar program and process should be undertaken to educate the public, and particularly the charitable gaming community, about the changes.

The Commission believes that the legislation and regulations necessary to effect the changes can be drafted and delivered to you by the end of calendar year 2012 and that,

depending on your schedules and legislative calendars, the statutory changes you elect to make could become effective by July 1, 2013. In drafting the statutory recommendations and the regulations to support them, the Commission will again confer with representatives of the Attorney General, the Treasurer and the Lottery.

In the interim, to avoid unwarranted disruption of a regulatory process already familiar to city and town clerks, police chiefs and the charitable gaming community, the Commission intends to leave in place the existing Attorney General regulations regarding bazaars governed by G.L. c. 271, § 7A, and to issue a notice so stating.

The Commission will be happy to discuss with you at your convenience any questions, comments, or concerns you have with respect to this report.

8a

Massachusetts Gaming Commission

MEMORANDUM

Date: July 18, 2012

To: Commissioners

Cc: Janice Reilly

From: Bruce Stebbins

Re: Meeting/Speaking Request Policy, Public Speak-Out and Expert Testimony

The Commission will continue to receive a wide variety of requests for meetings and invitations to speak before various groups and audiences across the Commonwealth. We acknowledge that some of those requests will come from community organizations and governmental bodies within a potential host community or surrounding community. Additionally, we wish to respond to invitations from community groups, service clubs and professional organizations who seek to learn more about the Commission and our process to bring responsible gaming to Massachusetts.

In addition, as we begin our regulatory process we may wish to invite opportunities for public comment. We should also create an opportunity for interested citizens to use a periodic "speak out" session to voice their concerns and bring to our attention key issues directly relevant to our work. I thought it would be helpful to categorize these requests and suggest some useful criteria to direct how we handle these requests. Below are the four public speaking and participation opportunity categories:

Potential Host or Surrounding Community Organization Request

This category of meeting would include requests or invitations coming from any public body or community-based organizations. Any group in this category that wishes to meet with the Commission to discuss regulations, their activities, and/or seek direction or answers to questions related to the Expanded Gaming legislation must state their meeting interests in a detailed letter of invitation. The commission may then decide whether such a meeting is appropriate due to the nature of the request and the current status of the gaming license process.

Community or Service Organization Request

An example would be an invitation from a community, civic or service organization such as Kiwanis and Rotary Clubs, chambers of commerce, professional associations, etc. that simply express an interest in hearing from a member of the commission or senior staff about the work of the commission, the status of the licensing process or other current topics. As the Commission strives to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, the establishment of a Speakers Bureau will provide an important face-to-face opportunity to communicate directly and facilitate a dialogue with MGC's vast constituency. The MGC Speakers Bureau also provides an opportunity to reach a specific target audience of key stakeholders such as civic and business organizations. It is incumbent upon the Commission to ensure that the public is well-informed on a

number of critical issues associated with expanded gaming including but not limited to the licensing process, increased economic opportunities, community mitigation issues and the overall mission of MGC. The Speakers Bureau will also provide MGC with an opportunity to communicate its roles and responsibilities as well as the Commission's dedication to reducing to the maximum extent possible the potentially unintended consequences of expanded gaming. In order to create the most efficient process, requestors will be required to have a minimum audience of **30 attendees**, make the request **30 days in advance** and fill out a request form located on MGC's website.

MGC Public Speak-Out Session

In accordance with the Open Meeting Law, the MGC, at the discretion of the Chair may allow an opportunity during a regular business meeting for citizens and residents to address the commission about the commission's work and activities as it seeks to implement the Expanded Gaming Act of 2011. The chair may set aside a portion of a meeting prior to the start of one of the commission's regularly scheduled business meetings. A scheduled time will be announced during the prior regular business meeting so individuals can have ample time to plan their participation.

Interested citizens would be invited to sign-up with the MGC before the meeting. Speakers are called by the chairman to speak in the order of when they registered. Each speaker would be limited to three minutes each though the chair has the discretion to limit the amount of time in order to accommodate all those interested in speaking. An individual may also submit comments at that time in written form. Comments may only be directed to the commission and individuals should not expect that a discussion with the commission or any of the commissioners would ensue.

MGC Weekly Meeting Expert Presentations

During the MGCs regular weekly business meetings, the MGC may elect to hear from officials, academics and experts in a variety of topics that could potentially impact and inform the work of the Commission. These individuals will be selected by the Commission only.

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Massachusetts Gaming Commission

Memo

To: Chairman Steve Crosby, Commissioner Gayle Cameron, Commissioner Jim McHugh, Commissioner Bruce Stebbins and Commissioner Enrique Zuniga

From: Elaine Driscoll

Date: 7/25/2012

Re: Speakers Bureau

Overview

As part of the Massachusetts Gaming Commission's mission to create a fair, transparent, and participatory process for the introduction of expanded gaming, I propose that the commission create and implement a Speakers Bureau to facilitate community outreach and increased awareness of the MGC's roles and responsibilities.

As the Commission strives to ensure that its decision-making and regulatory systems engender the confidence of the public and participants, the establishment of a Speakers Bureau will provide an important face-to-face opportunity to communicate directly and facilitate a dialogue with MGC's vast constituency.

The citizens of the Commonwealth will be greatly impacted by the implementation of expanded gaming. It is incumbent upon the Commission to ensure that the public is well-informed on a number of critical issues associated with expanded gaming including but not limited to the licensing process, increased economic opportunities, community mitigation issues and the overall mission of MGC. The Speakers Bureau will also provide MGC with an opportunity to communicate its efforts and dedication to reducing to the maximum extent possible the potentially unintended consequences of expanded gaming.

The MGC Speakers Bureau will reach a specific target audience of key stakeholders and will be an effective method of community engagement. Effective community engagement is critical to the commission's success.

Speakers Bureau Program Description

- COMMUNITY ENGAGEMENT: initiative aimed at educating the public on the roles and responsibilities of the commission as well as what expanded gaming means to the citizen of the Commonwealth
- AUDIENCE SIZE: minimum 30 attendees
- LEAD TIME: request must be received 30 days in advance
- MAKE A REQUEST: requestors must fill-out a Speakers Bureau request form located online at MGC's website.

Target Audience

- Business Groups (Chambers, Rotary)
- Service Organizations (Kiwanis)
- Professional Organizations
- Minority or Cultural Organizations

Community Outreach

- Online visibility on MGC's website
- Periodic email blasts to target audience list
- Press release announcing program
- Social media utilization via Twitter and Facebook to promote program
- MGC brochure