

FLORIDA GAMING CONTROL COMMISSION

TRANSCRIPT OF PUBLIC MEETING PROCEEDINGS

DATE TAKEN: Thursday, February 1, 2024
TIME: 9:28 a.m. to 11:23 a.m.
PLACE: Betty Easley Conference Center
Joseph P. Cresse Hearing Room 148
4075 Esplanade Way
Tallahassee, Florida 32399
BEFORE: Vice Chair Julie Brown
Commissioner Charles Drago
Commissioner John D'Aquila
Commissioner Tina Repp

STENOGRAPHICALLY REPORTED BY:
JANE FAUROT
Registered Professional Reporter

JOB NO.: 332978

1 APPEARANCES:

2

Speakers (FGCC staff):

3

Lou Trombetta, Executive Director

4

Ross Marshman, Deputy Executive Director and Chief Legal Officer

5

Elina Valentine, Deputy General Counsel

Carl Herold, Director of Law Enforcement

6

Susan Whitmire, Chief Information Officer

7

8 Public Specker:

9

Jonathan Zachem, Zachem Law, P.A.

10

11 Others present:

12

Members of the public

The Florida Channel

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1 Proceedings began at 9:28 a.m.:

2 VICE CHAIR BROWN: Good morning. The time
3 is almost 9:30. Today is Thursday, February
4 1st, and this is the Florida Gaming Control
5 Commission's February meeting.

6 If you would please indulge me and stand
7 for the Pledge of Allegiance, which will be
8 given by Commissioner D'Aquila.

9 (Pledge of Allegiance.)

10 VICE CHAIR BROWN: Thank you, Commissioner
11 D'Aquila. And good morning, everyone. I hope
12 you all are doing well. We are going to go
13 right into the meeting if there are no comments
14 by Commissioners. With that, can we go to the
15 approval of the meeting minutes on the agenda.

16 Commissioner Drago.

17 COMMISSIONER D'AQUILA: I make a motion to
18 approve the minutes of September 7th, 2023.

19 VICE CHAIR BROWN: Thank you.

20 COMMISSIONER DRAGO: Second.

21 VICE CHAIR BROWN: All in favor say aye.

22 (Vote taken.)

23 VICE CHAIR BROWN: Thank you. The motion
24 passes.

25 We are moving into the discussion of the

1 addendum to mutual cooperation between -- my
2 favorite topic -- HISA, HIWU, and FGCC.

3 Ms. Valentine will present.

4 MS. VALENTINE: Good morning. Elina
5 Valentine.

6 Item 2 of the agenda is an addendum to the
7 mutual cooperation agreement entered into last
8 year by the Commission, the Horse Racing
9 Integrity and Safety Authority, and the Horse
10 Racing Integrity and Welfare Unit, a division
11 of Drug Free Support, LLC.

12 As a brief overview, the mutual
13 cooperation agreement allows the Commission to
14 be an interested party for purposes of
15 receiving otherwise confidential information
16 regarding the enforcement actions taken by HIWU
17 pursuant to the anti-doping and medication
18 control program.

19 In addition, pursuant to the cooperation
20 provisions of the agreement relating to the
21 race track safety program and the anti-doping
22 and medication control rules, the Commission is
23 eligible for a credit that is applied toward
24 HISA's financial assessment on the race track.
25 The addendum extends the term of the

1 cooperation agreement to December 31st, 2024.

2 In addition, the addendum makes certain
3 nonsubstantive changes to the terms of the
4 agreement. These changes impose no additional
5 obligations on the Commission. Accordingly,
6 the staff's recommendation is for the
7 Commission to execute the addendum.

8 VICE CHAIR BROWN: Thank you,
9 Ms. Valentine.

10 Commissioners, are there any questions?

11 I just want clarification. Just for the
12 record, from the prior agreement that we had it
13 stated that there was an estimated total of
14 credits of 1.685 million. Currently in the
15 addendum it says -- with a footnote, but it
16 says one million 50. Can you just clarify the
17 differentiation of the amount?

18 MS. VALENTINE: Yes. The 1.68 million
19 credit that is stated in the footnote includes
20 certain testing that the state does not do but
21 the race tracks do. And so with respect to the
22 testing that is performed by the Commission,
23 the credit that is allocated for that testing
24 is 1,050,000, and then the remainder is a
25 credit that is received by the race tracks

1 directly.

2 VICE CHAIR BROWN: Thank you. So,
3 currently, like, it is estimated at least the
4 rate -- there will be a total of 1.685 credits
5 in gross?

6 MS. VALENTINE: Yes, that is the initial
7 assessment for the 2024 year that HISA has
8 provided to us as the credit.

9 VICE CHAIR BROWN: Thank you.
10 Commissioners, any other questions? If
11 not, can we get a motion to approve the
12 addendum?

13 COMMISSIONER DRAGO: So moved.

14 VICE CHAIR BROWN: Is there a second?

15 COMMISSIONER REPP: Second.

16 VICE CHAIR BROWN: All those in favor say
17 aye.

18 (Vote taken.)

19 VICE CHAIR BROWN: Thank you. Thank you.
20 And we're going to hear from Ms. Valentine a
21 lot today, because Alvarado is on maternity
22 leave if I'm correct.

23 MS. VALENTINE: That is correct.

24 So, Item 3 on the agenda, 3.1, is a
25 consent order in Case No. 2023-062397. This

1 consent order is presented to the Commission
2 for consideration in lieu of further litigation
3 in the Florida Gaming Control Commission,
4 Division of Pari-Mutuel Wagering versus
5 Investment Corporation of Palm Beach doing
6 business as Palm Beach Kennel Club. The case
7 number, if I haven't already said it,
8 2023-062397.

9 Pursuant to the terms of the stipulation
10 and consent order, the Respondent will remit a
11 total fine of \$500, a \$250 fine for a violation
12 of Rule 75-11.0175(7)(e) of the Florida
13 Administrative Code, and then a \$250 fine for a
14 violation of Rule 75-11.0175(7)(f) of the
15 Florida Administrative Code.

16 As litigated in the evidence, the
17 Respondent represents that the appropriate
18 staff received additional training and that
19 Respondent will ensure that the audio in the
20 count room is sufficient to hear the call out
21 of the drop box number, which is one of the
22 violations.

23 VICE CHAIR BROWN: Thank you. And also
24 that, I guess, in the stipulation it also
25 provides that the staff received -- already

1 received additional training. This entity
2 will -- we will not see this again.

3 MS. VALENTINE: Correct.

4 VICE CHAIR BROWN: Okay. Commissioners,
5 any questions? Can we get a motion to
6 approve --

7 COMMISSIONER DRAGO: Just one question if
8 I could.

9 VICE CHAIR BROWN: Sure. Commissioner
10 Drago.

11 COMMISSIONER DRAGO: I didn't notice in
12 there anything about priors. What kind of
13 priors do they have in regards to this type of
14 offense?

15 MS. VALENTINE: So, according to the
16 investigative file, there are no prior
17 violations of those particular rules.

18 COMMISSIONER DRAGO: Okay. Thank you.

19 VICE CHAIR BROWN: Thank you. And with
20 that, can we get a motion to approve the
21 consent order as presented?

22 COMMISSIONER DRAGO: So moved.

23 COMMISSIONER D'AQUILA: I'll second that
24 motion.

25 VICE CHAIR BROWN: Any discussion? All

1 those in favor say aye.

2 (Vote taken.)

3 VICE CHAIR BROWN: The motion passes.

4 We'll try to go very nice on you today.

5 MS. VALENTINE: That's fine. I'm ready
6 for questions.

7 VICE CHAIR BROWN: Okay. We're going to
8 go to 4.1 and 4.2.

9 MS. VALENTINE: Okay. I apologize. I was
10 told I was not being picked up in the mic, so
11 I'm going to lean closer.

12 Item 4.1 is Case No. 2023-037689, the
13 Florida Gaming Control Commission, Division of
14 Pari-Mutuel Wagering versus Lanica Woods. This
15 is a recommended order that -- recommending
16 permanent exclusion of the respondent from all
17 pari-mutuel and slot facilities in the State of
18 Florida.

19 This recommended order is before you
20 following an administrative hearing during
21 which the respondent presented mitigating
22 evidence, and at which time the recommending
23 officer determined that based on respondent's
24 ejection from Calder Casino, that respondent
25 should be placed on a permanent exclusion from

1 all pari-mutuel facilities and all facilities
2 for slot machine licensing in the state.

3 VICE CHAIR BROWN: Thank you. And this
4 one was interesting because the petitioner or
5 respondent was participating in poker for four
6 hours. And I know the hearing officer's
7 hearing got an opportunity to hear the
8 mitigating circumstances, but the client agreed
9 with the respondent.

10 I'm just curious, four hours of the same
11 play. Did something happen within -- at 2:00
12 a.m. that notified the -- Calder that the
13 respondent was -- I guess they were using her
14 food container to hide cards or swap cards? It
15 just seems really peculiar to be excluded,
16 based on the evidence at least. And again, the
17 respondent went through an informal hearing, so
18 is it appropriate to hear from the hearing
19 officer, Ms. Valentine?

20 MS. VALENTINE: No. But I can -- I can,
21 based on the record, provide a response. Based
22 on the information in the record, I understand
23 respondent testified that she thought that she
24 was just learning how to play a game, but what
25 was observed, and there was an independent

1 review of the surveillance footage, that she
2 was using these food containers to conceal the
3 swapping of cards with another patron.

4 VICE CHAIR BROWN: And she indicated that
5 she was being educated by the dealer during
6 this time, too?

7 MS. VALENTINE: Yes, that was her
8 testimony. Based on her testimony, however,
9 the hearing officer did determine that she
10 should be excluded based on the objection from
11 Calder Casino. As to whether it was cheating
12 or not, that was a decision that was made by
13 Calder Casino, not by the Commission. We don't
14 have any of the evidence in front of us, and
15 that is not a determination that we make.

16 VICE CHAIR BROWN: What's her
17 administrative posture if we proceed with the
18 recommended order?

19 MS. VALENTINE: Once you issue a final
20 order in this case, then she will have time to
21 appeal the decision through the district court
22 of appeal.

23 VICE CHAIR BROWN: Okay. Commissioners,
24 are there any questions? Again, I just kind of
25 was on the fence on this, the four hours.

1 COMMISSIONER DRAGO: I just have one
2 question. It mentions cheating several times.
3 Is that the actual offense or is that just a
4 term that we're using here? What is the actual
5 offense? Is that technically what she's
6 charged with, cheating, or is there
7 subcategories within that cheating that is
8 actually the charge?

9 MS. VALENTINE: I'm not certain that there
10 were any criminal charges in this case. It
11 looks like it was a decision that was made by
12 the Calder Casino staff to eject her from their
13 facility based on what they observed. And then
14 when it comes to the Commission, our
15 determination is was she ejected or was she not
16 ejected. So there's not a substantial amount
17 of investigation, if at all, that our staff
18 performed in reviewing the decision of Calder
19 Casino.

20 COMMISSIONER DRAGO: So, I'm just trying
21 to get at what the actual offense is. I
22 understand cheating is kind of a term we might
23 all use when someone is not following the rules
24 in gambling, but I'm just trying to figure out
25 the actual offense that they barred her from

1 the facility. And I've seen what they're
2 referring to. I'm just wondering is there --
3 is there an offense, a specific offense that
4 she would be charged with? I'm not talking
5 about criminally. I'm talking about
6 administratively for what she did.

7 And I guess the second part of that is
8 what you just said in terms of we don't really
9 get into what the offense was, I guess. If
10 they're thrown out, then we just kind of take
11 that as it may.

12 I'm just trying to figure out exactly the
13 specific offense other than that just a general
14 kind of umbrella term of cheating. If there is
15 one, if we require one, or --

16 MS. VALENTINE: No, we don't require a
17 particular offense. In terms of our rules and
18 statutes, there's nothing in our rules and
19 statutes that this particularly falls on. She
20 is not charged with violating an administrative
21 rule.

22 There is information in the record
23 regarding her particular actions, and so the
24 information that was provided by the Commission
25 staff is that she and another participant were

1 observed on numerous occasions colluding with
2 each other by looking at each other's hands,
3 swapping cards with each other, and capping
4 their bets to get a larger payout on the
5 winning hand. These actions are all considered
6 cheating.

7 And at 2:11 a.m. is when the cardroom
8 supervisor requested that surveillance conduct
9 video review of their activities. And to
10 answer your earlier question, Commissioner
11 Brown, that's probably what started everything.

12 Again, for our purposes, there doesn't
13 necessarily need to be a crime or a particular
14 offense. The statute merely provides that if a
15 patron is ejected from a casino, then we --
16 that the Commission may proceed with placing
17 that patron on an exclusion list.

18 COMMISSIONER DRAGO: Okay. I understand.
19 Thank you.

20 VICE CHAIR BROWN: Commissioner D'Aquila.

21 COMMISSIONER D'AQUILA: This is a question
22 for counsel. Is it not typical in any of our
23 cardrooms in our state, capping a bet,
24 exchanging cards, this kind of behavior is
25 grounds for being excluded, is it not?

1 MS. VALENTINE: I believe so.

2 COMMISSIONER D'AQUILA: We're not acting
3 any differently in this matter than we are in
4 any other cardroom violation that we have seen
5 since the beginning of this Commission from
6 what I gather. Is that a true statement?

7 MS. VALENTINE: Yes, that's a true
8 statement.

9 COMMISSIONER D'AQUILA: And I would also
10 just add, and I have to think that Calder being
11 in a competitive market does not exclude people
12 or their clients lightly, but this was a
13 repeated violation that took place over more
14 than an hour from what I understand, correct?

15 MS. VALENTINE: Yes.

16 COMMISSIONER D'AQUILA: Thank you.

17 VICE CHAIR BROWN: Thank you. And also
18 with patron Antwan Bradley, which was her
19 collusion partner, according to the
20 investigative report, has that person been
21 permanently excluded from facilities?

22 MS. VALENTINE: I believe that that
23 happened at the last meeting, but I can
24 confirm.

25 VICE CHAIR BROWN: Sounds good. All

1 right. Commissioners, we are right for a
2 motion.

3 COMMISSIONER D'AQUILA: I'll make a motion
4 to deny the -- to approve the recommendation.

5 COMMISSIONER REPP: I'll second.

6 VICE CHAIR BROWN: Thank you. Any
7 discussion? I appreciate the conversation,
8 too. And with that, all those in favor say
9 aye.

10 (Vote taken.)

11 VICE CHAIR BROWN: Thank you.

12 4.2, please.

13 MS. VALENTINE: Item 4.2 is Case
14 No. 2023-037859, Garrett T. Anderson versus the
15 Florida Gaming Control Commission. This case
16 came in front of the informal hearing officer
17 for an informal hearing following the
18 Commission's issuance of a letter of license
19 denial based on the petitioner's felony
20 convictions. The informal hearing officer
21 recommended denying the application and
22 therefore the Florida Gaming Control Commission
23 should adopt the hearing officer's recommended
24 order and deny petitioner's application for a
25 cardroom employee occupational license.

1 VICE CHAIR BROWN: Thank you. And I
2 believe this one the individual is on probation
3 until February 15th, 2024, correct, for this
4 offense?

5 MS. VALENTINE: Give me one moment to
6 confirm on the record. I believe, yes.

7 VICE CHAIR BROWN: Does that have any
8 bearing on staff's recommendation at all?

9 MS. VALENTINE: Well, at this time,
10 because the letter of license denial was issued
11 and the petitioner had an opportunity to be
12 heard at an informal hearing and the informal
13 hearing officer had issued a recommended order
14 recommending the denial, I do not believe so at
15 this time.

16 VICE CHAIR BROWN: Okay. Thank you. This
17 case is kind of crazy.

18 Commissioners, any questions? Do we have
19 a motion to approve the recommended order?

20 COMMISSIONER D'AQUILA: I'll make a motion
21 to approve the recommended order.

22 VICE CHAIR BROWN: Thank you. Is there a
23 second?

24 COMMISSIONER REPP: Second.

25 VICE CHAIR BROWN: All those in favor say

1 aye.

2 (Vote taken.)

3 VICE CHAIR BROWN: Thank you.

4 All right, Ms. Valentine, we are on to a
5 discussion of license denials, Items 5.1
6 through 5.5.

7 MS. VALENTINE: Item 5.1 is Case
8 No. 2023-056812, Andrea Bermeo. The Division
9 seeks to deny Ms. Bermeo's application for a
10 slot machine/cardroom/pari-mutuel combination
11 occupational license based on her conviction of
12 a misdemeanor offense for petit theft.

13 On September 19, 2023, the applicant
14 submitted an application to the Division for
15 the license. The Division subsequently issued
16 a deficiency letter requesting that the
17 applicant amend the application to disclose
18 information regarding a 2013 offense. Once the
19 applicant had done so, it appears that the
20 applicant was convicted of petit theft.

21 The Division requested -- received from
22 the applicant a request for a waiver of the
23 restriction excluding offenders with
24 disqualifying offenses. That waiver request
25 was denied. Accordingly, the Division seeks to

1 issue a letter of license denial in this case.

2 VICE CHAIR BROWN: Thank you.

3 Commissioners, this is the only one of the five
4 items before us that really kind of stuck out
5 to me. I don't know if you all have the same
6 concern about the denial. Just because of the
7 mitigating circumstances -- there are so many
8 mitigating factors. The 2013 case, FDLE did
9 not even arrest the individual. There's no
10 arrest record whatsoever. The community
11 service and fine was paid. There's no criminal
12 history of prior or subsequent. And even the
13 testimony of the individual, there's no
14 additional facts other than the testimony of
15 the individual who stated she was trying to
16 protect her younger relative who was under -- a
17 minor at the time.

18 There was no actual thing that she had in
19 her possession. I just don't think we should
20 deny this particular license based on the
21 mitigating factors in a 2013 crime.

22 Commissioner D'Aquila or Commissioner
23 Repp.

24 COMMISSIONER REPP: Yeah. I just wanted
25 to confirm that there's been no subsequent

1 convictions or issues with the law?

2 MS. VALENTINE: Correct. That is her only
3 disqualifying offense.

4 However, just to address some of the
5 statements of Vice Chair Brown, Ms. Bermeo --
6 there was issued a notice to appear, and in the
7 notice to appear the officer reviewed the
8 surveillance tape and had found that Ms. Bermeo
9 was concealing items on her person as she was
10 shopping. And I think even placing them in her
11 purse, so we have that part.

12 VICE CHAIR BROWN: But why is there no
13 arrest record?

14 MS. VALENTINE: She was issued a notice to
15 appear in lieu of a physical arrest.

16 VICE CHAIR BROWN: Commissioner Repp.

17 COMMISSIONER REPP: I mean, that -- that
18 fact goes to the credibility of her story that
19 she presented to this matter, which causes some
20 concerns. But, once again, it was more than --
21 it was a number of years ago, but when
22 initially asked she put on her application no,
23 I have nothing. And then when confronted with
24 it she admitted to it. And then the issue that
25 Ms. Valentine presented, like, that gives me

1 some concern.

2 VICE CHAIR BROWN: Commissioner D'Aquila.

3 COMMISSIONER D'AQUILA: She had the items
4 on her person, not just the minor. Is it
5 correct that both did? Can I get clarification
6 on that? It's only that is she protecting the
7 minor, or was she the one committing the petit
8 theft?

9 MS. VALENTINE: So, according to the
10 investigative report that is in her file as
11 part of the interview, the investigator of the
12 commission staff had written a footnote that
13 according to the notice to appear form and the
14 loss prevention officer's sworn statement
15 prepared at the time, Bermeo was observed by
16 store loss prevention staff concealing
17 cosmetics and several other items valued at
18 \$137 in her purse.

19 VICE CHAIR BROWN: Again, the only concern
20 here is -- well, there's several. There's been
21 no crime before, there's no crime after, and
22 there's kind of conflicting evidence here. She
23 wasn't arrested. You know, it's only a notice
24 of appearance that indicates these facts. I
25 just -- I don't know what to believe.

1 Commissioner Drago.

2 COMMISSIONER DRAGO: Yes. Thank you. We
3 get faced with the time issues on these
4 offenses all the time, of course, and the other
5 issue that comes up so often is the fact that
6 the applicant didn't put it on their
7 application. And I wonder -- like in this
8 case, I don't know if you know or not, but were
9 there other incomplete parts of this
10 application besides this, or was this the only
11 piece that was incomplete that had to be
12 (coughing) -- I'm sorry -- that had to be
13 redone?

14 MS. VALENTINE: I believe that was the
15 only subject of the deficiency letter is this
16 conviction.

17 COMMISSIONER DRAGO: And it was a petit
18 larceny. She was charged as an adult, right?
19 She was not a juvenile at the time that we know
20 of?

21 MS. VALENTINE: Correct.

22 COMMISSIONER DRAGO: And it's petit
23 larceny, so it's going to be -- I think back
24 then it was probably under \$300 I think is what
25 it was -- what the statute was back then.

1 The notice to appear is kind of customary
2 with that type of an offense rather than a
3 physical arrest, so I understand why that might
4 have been done.

5 My concern still is -- I agree with Vice
6 Chair Brown in terms of how long ago it was,
7 and no other offenses, and signs that she's
8 been rehabilitated, and no indication that
9 she's, you know, involved in criminal activity
10 at this point. I think they're all important
11 issues that we're bringing up that need to be
12 at least considered for sure.

13 VICE CHAIR BROWN: Thank you, Commissioner
14 Drago.

15 Commissioner D'Aquila.

16 COMMISSIONER D'AQUILA: Have any and all
17 fines been paid and so forth?

18 MS. VALENTINE: Yes.

19 COMMISSIONER D'AQUILA: I think I will add
20 that considering there are no subsequent, all
21 fines have been paid, there is some unusual
22 handling with regard to courts and so forth,
23 there's been nothing subsequent for this
24 individual. And ten years has lapsed is my
25 understanding?

1 MS. VALENTINE: Yes.

2 COMMISSIONER D'AQUILA: Thank you.

3 VICE CHAIR BROWN: Commissioners, any
4 other discussion? If not, we are right for a
5 motion to either approve the license denial --
6 but a notice of intent to issue the license
7 denial or reject it. Is that right, or grant
8 it?

9 MS. VALENTINE: Grant the application.

10 VICE CHAIR BROWN: Grant the application.

11 All right. Commissioner Drago.

12 COMMISSIONER DRAGO: I'll make a motion to
13 grant the application.

14 VICE CHAIR BROWN: Thank you. Is there a
15 second?

16 COMMISSIONER REPP: Second.

17 VICE CHAIR BROWN: Thank you. Any
18 discussion? All those in favor say aye.

19 (Vote taken.)

20 VICE CHAIR BROWN: All right. Thank you.
21 The motion passes.

22 All right. Item 5.2, please.

23 MS. VALENTINE: Item 5.2 is the Florida
24 Gaming Control Commission, Division of
25 Pari-Mutuel Wagering. The applicant is

1 Daneillia Forester, Case No. 2023-057026. This
2 is regarding an application for a pari-mutuel
3 wagering professional individual occupational
4 license. The Division seeks to issue a letter
5 of license denial in this case. And
6 Ms. Forester, I believe, submitted the
7 application on July 12th, 2023. On August 4th,
8 2023, the Division issued a deficiency letter
9 requesting that Ms. Forester amend the
10 application to disclose information relating to
11 an arrest that occurred on January 25, 2021.

12 Once the applicant submitted a completed
13 application, it appears that on December 6th,
14 2021, Ms. Forester was convicted of grand
15 theft, a felony offense in the State of
16 Florida. This is a disqualifying offense under
17 Section 550.105(5)(b), Florida Statutes.

18 The applicant requested a waiver of the
19 restrictions excluding offenders with
20 disqualifying offenses for licensure. The
21 executive director declined to provide the
22 waiver. Accordingly, the Division seeks that
23 the Gaming Control Commission authorize the
24 issuance of a letter of license denial in this
25 matter.

1 VICE CHAIR BROWN: Thank you very much.
2 And there's still restitution due and fines and
3 costs and all that. So, if there are no
4 questions, could I get a motion of the issuance
5 of --

6 COMMISSIONER DRAGO: Could I just make one
7 comment quickly? In terms of -- I'm sorry.
8 Going through these cases, I know that we're
9 all, you know, our mission here is to protect
10 the public obviously, and also to protect the
11 integrity of the business that we're involved
12 with.

13 And so I think as we go through these
14 cases there are significant things that are
15 different in terms of the people applying, the
16 applicant's history and -- their current
17 history as opposed to their history of years
18 ago and the type of the offense and so forth.

19 And I think it's important that we are
20 kind of meshing out these different parts of
21 these cases in terms of what the actual facts
22 are relating to any criminal activity or lack
23 thereof and the importance of making these
24 decisions to protect the public and protect the
25 industries.

1 And so I'm just trying to clarify for my
2 own perspective that these are not random
3 decisions that are being made, that we're
4 trying to accomplish that mission of protecting
5 the public and the integrity of the industry
6 and still remember that people in some cases
7 deserve to be able to have an opportunity to
8 work in the State of Florida.

9 So we're really trying to closely
10 scrutinize these. And sometimes if it looks
11 like we're being random or why are we picking
12 this one over that one or whatever, I think we
13 try to bring that out in the meeting, the kinds
14 of things that we're looking at and the kinds
15 of things that are being considered before we
16 make these decisions.

17 So I just wanted to make that point,
18 because some of these things, you know, grand
19 theft versus petit theft and ten years versus
20 two years and all those kinds of things,
21 they're not just sliding by us. Those are what
22 we're considering, those kinds of issues, when
23 we make this decision. So it certainly isn't
24 random or discounting anything that the staff
25 is recommending or the work that staff is

1 doing. We're using that as -- you're working
2 to make these decisions.

3 So we appreciate that, and I just want to
4 make it -- from my perspective, I want to just
5 make it clear as we look at this that we're
6 trying to -- we're trying to be very clear and
7 decisive for good reason whenever we pick and
8 choose in terms of licensing.

9 VICE CHAIR BROWN: Those are really
10 poignant comments, and I appreciate you
11 bringing that to the attention of the public as
12 well, because there are -- the statute requires
13 either a good moral character, rehabilitation,
14 and there are a variety of mitigating factors
15 that are not necessarily subjective. It's a
16 process that we have kind of been refining over
17 the past few years, two years.

18 Commissioner Repp.

19 COMMISSIONER REPP: With regards to
20 Commissioner Drago's comments, in review of
21 this, in 2021 the fact that it's a felony,
22 there's fines due, fairly substantial fines,
23 but also what also bothers me is on her
24 application she answered no to the question
25 "Have you ever been convicted or have you been

1 adjudicated for any crime?" And as I had said
2 several meetings ago, it just frustrates me
3 when I see "no" written to that question when I
4 feel it should have been pretty clear -- when I
5 see the omission there.

6 VICE CHAIR BROWN: Commissioner D'Aquila.

7 COMMISSIONER D'AQUILA: As a follow-up to
8 Commissioner Repp's comment, I'll just add the
9 violent nature of this particular violation and
10 the recent timeline are, I think, relevant
11 factors.

12 VICE CHAIR BROWN: Absolutely. Thank you.

13 And thank you, Commissioners, for the
14 hearty discussion. With that, can we get a
15 motion to approve the notice of intent to deny?

16 COMMISSIONER DRAGO: So moved.

17 VICE CHAIR BROWN: Is there a second?

18 COMMISSIONER REPP: Second.

19 VICE CHAIR BROWN: All those in favor say
20 aye.

21 (Vote taken.)

22 VICE CHAIR BROWN: All right. The item
23 passes.

24 We're still dealing with theft right now,
25 so on to 5.3.

1 MS. VALENTINE: Item 5.3 is Case
2 No. 2023-060611, and it is an application by
3 Lori-Ayn Mennilli for a cardroom employee
4 occupational license.

5 Ms. Mennilli submitted an initial
6 application October 12th, 2023. The Division
7 subsequently issued a deficiency letter
8 requesting that the applicant amend the
9 application to disclose information relating to
10 her May 20, 2021, offense. On October 26th,
11 2023, the applicant submitted a completed
12 application.

13 Based on review of the completed
14 application, it appears that on or about
15 June 16th, 2021, Ms. Mennilli was convicted of
16 petit theft, a misdemeanor offense in the State
17 of Florida. It is a disqualifying offense
18 pursuant to Section 849.086(6)(g), Florida
19 Statutes.

20 The applicant requested a waiver of the
21 restrictions excluding offenders with
22 disqualifying offenses. The executive director
23 did not grant the request for a waiver.
24 Accordingly, the Division seeks that the
25 Commission authorize the issuance of a letter

1 of license denial in this matter.

2 VICE CHAIR BROWN: Thank you. And I think
3 this one is a little bit different than the 5.1
4 in several regards, besides just the timeline,
5 but also the notice to appear reflects the
6 applicant was given her Miranda rights and she
7 stated that she wasn't given her Miranda
8 rights. There's a lot of conflicting evidence
9 in here, and it is a very recent crime,
10 although she has completed her restitution.

11 And to Commissioner Repp's point, she also
12 declined to put the arrest down on her
13 application. I feel this one is distinguished
14 from 5.1 in terms of mitigating factors.

15 But, Commissioners, do you have any
16 comments or questions?

17 Commissioner Repp.

18 COMMISSIONER REPP: I'm looking at this
19 and I thought that I saw that she answered yes
20 on the questionnaire.

21 MS. VALENTINE: Yes. This was a case
22 where she had answered yes, but I believe did
23 not provide any information about the
24 conviction.

25 COMMISSIONER REPP: So she did answer

1 forthright, just didn't provide the
2 information.

3 MS. VALENTINE: That is correct.

4 COMMISSIONER REPP: Thank you.

5 VICE CHAIR BROWN: Any other questions?
6 Commissioner D'Aquila?

7 COMMISSIONER D'AQUILA: Yes. I had a
8 question. It appeared to me that -- do I
9 understand correctly that the retailer in
10 question paid the fine and then subsequently
11 said that the video of the alleged crime was
12 not available?

13 MS. VALENTINE: That was Ms. Mennilli's
14 testimony during the waiver interview. The
15 information to support that is not in the
16 record.

17 COMMISSIONER D'AQUILA: We don't have any
18 record of those assertions anywhere?

19 MS. VALENTINE: Correct.

20 COMMISSIONER D'AQUILA: I would imagine
21 it's not in our normal recourse to question the
22 retailer on the incident and so forth. That's
23 strictly coming from her testimony?

24 MS. VALENTINE: Yes.

25 COMMISSIONER D'AQUILA: Okay.

1 VICE CHAIR BROWN: And this was where she
2 was scanning items, like individually scanning
3 items and just didn't -- but didn't scan the
4 actual items, is that right, the (indistinct)
5 pattern?

6 MS. VALENTINE: Yeah. I think that she
7 was observed holding the item and then passing
8 her hand -- passing the item through the
9 scanner with the code obscured by her hand.

10 VICE CHAIR BROWN: Scanners I don't like.
11 It's a lot of work.

12 Commissioners, any questions?

13 COMMISSIONER D'AQUILA: I have one more
14 question. So, again, they were -- it's a
15 checkout situation. We have no other
16 violations whatsoever, correct, in the check?

17 MS. VALENTINE: Correct.

18 COMMISSIONER D'AQUILA: In this particular
19 instance she was checking out items at a
20 retailer, and one or more of the items in a
21 batch of items did not get picked up by the
22 scanner, and she was later approached by the
23 security of the retailer, correct?

24 MS. VALENTINE: Yes.

25 VICE CHAIR BROWN: And it's a misdemeanor.

1 It's 2021. Petit theft under \$300 value, and
2 she has a conditional license that is issued
3 right now at Ocala Bets?

4 MS. VALENTINE: I believe so.

5 COMMISSIONER DRAGO: I think for me the
6 concern is that -- I don't know how close it
7 was, I mean, a short time ago it was two and a
8 half years or whatever it was ago, I don't know
9 that you can show a pattern of being
10 rehabilitated in that short amount of period,
11 so that's my consideration.

12 VICE CHAIR BROWN: I would concur with
13 that. If there are no other comments, we are
14 right for a motion right now.

15 COMMISSIONER DRAGO: I move to approve
16 staff recommendation.

17 VICE CHAIR BROWN: Is there a second?

18 COMMISSIONER REPP: Second.

19 VICE CHAIR BROWN: All those in favor say
20 aye.

21 (Vote taken.)

22 VICE CHAIR BROWN: Thank you. Moving on
23 to 5.4. Theft again.

24 MS. VALENTINE: Item 5.4 is Case
25 No. 2023-064914, and this is regarding an

1 application submitted by Christopher Vanhassel
2 for a pari-mutuel wagering professional
3 individual occupational license.

4 Mr. Vanhassel submitted the application to
5 the Division on November 3rd, 2023.

6 Subsequently, the Division requested additional
7 information in a deficiency letter, and then on
8 November 14, 2023, the applicant submitted a
9 completed application and requested a waiver of
10 the -- from the restrictions excluding
11 offenders with disqualifying offenses under
12 Section 550.155, Florida Statutes.

13 The applicant was convicted of criminal
14 trespass on July 2nd, 2020, a felony in the
15 State of Pennsylvania. This is a disqualifying
16 offense. The executive director declined to
17 waive the restrictions excluding the offenders,
18 therefore, the Division of Pari-Mutuel Wagering
19 recommends that the Commission authorize the
20 issuance of a letter of license denial in this
21 matter.

22 VICE CHAIR BROWN: Thank you. And there's
23 some more details in the investigative report,
24 too. It's a more complicated list of offenses.
25 It's not just the -- and what he disclosed was

1 disorderly conduct, but there are a lot of
2 other additional offenses. And while he's
3 applying to be a jockey, the moral character
4 here is questionable.

5 Commissioners, are there any questions on
6 this item? If not, can we get a motion to
7 approve the staff recommendation?

8 COMMISSIONER D'AQUILA: I make a motion to
9 approve the staff recommendation.

10 VICE CHAIR BROWN: Is there a second?

11 COMMISSIONER REPP: Second.

12 VICE CHAIR BROWN: All those in favor say
13 aye.

14 (Vote taken.)

15 VICE CHAIR BROWN: Thank you. And the
16 last one, 5.5.

17 MS. VALENTINE: Item 5.5 is Case
18 No. 2023-071869, and it is regarding an
19 application for a slot
20 machine/cardroom/pari-mutuel combination
21 occupational license by Robert Joseph Russell.
22 On November 17th, 2023, Mr. Russell submitted
23 an application.

24 Subsequently, the Division issued a
25 deficiency letter requesting that Mr. Russell

1 amend the application to disclose information
2 relating to two arrests. Mr. Russell disclosed
3 the offense that is the disqualifying offense
4 for purposes of 550 and 551, and 849.

5 And then on December 20, 2023, Mr. Russell
6 submitted a completed application. Upon review
7 of the application, it appears that on
8 August 2nd, 2004, the applicant was convicted
9 of three felony offenses in the State of
10 Florida, possession of cocaine, resist officer
11 with violence, and tamper with physical
12 evidence.

13 In addition, on March 13, 2019, the
14 applicant was convicted of petit theft, which
15 is a misdemeanor offense in the State of
16 Florida. The applicant did not apply for a
17 waiver from the statutory restrictions
18 excluding applicants with disqualifying
19 offenses from licensure. Furthermore, such a
20 waiver is not available under Section 550.076,
21 Florida Statutes. Accordingly, the Division of
22 Pari-Mutuel Wagering recommends that the
23 Commission authorize the issuance of a letter
24 of license denial in this matter.

25 VICE CHAIR BROWN: Thank you,

1 Ms. Valentine.

2 Commissioners, any questions? Can we get
3 a motion to approve notice of intent to deny?

4 COMMISSIONER D'AQUILA: I make a motion to
5 approve notice of intent to deny.

6 VICE CHAIR BROWN: Is there a second?

7 COMMISSIONER DRAGO: Second.

8 VICE CHAIR BROWN: All those in favor say
9 aye.

10 (Vote taken.)

11 VICE CHAIR BROWN: Thank you. All right.

12 Now we are going to move right into the
13 discussion of policies and procedures. We have
14 ten law enforcement policies that have been
15 published on our agenda items, and we are going
16 to turn it over to the chief of the Division of
17 Law Enforcement, Mr. Herold.

18 MR. HEROLD: Good morning.

19 VICE CHAIR BROWN: Good morning.

20 MR. HEROLD: Vice Chair and Commissioners,
21 thank you for having me. And, for the record,
22 Carl Herold with the Division of Law
23 Enforcement.

24 So, this morning I have ten policies
25 related to law enforcement procedures, and I

1 want to thank you for taking the time out of
2 your schedule to review these.

3 They're, you know, some more policies that
4 are essential to the effective and appropriate
5 function of law enforcement, so I'll just go
6 through these somewhat quickly. I'm not going
7 to say very quickly.

8 The first one that I had here is on
9 vehicle pursuits and essentially lays out the
10 law enforcement pursuit policy for the Gaming
11 Commission, and our pursuit policy is that we
12 will not conduct any pursuits. We have that
13 latitude, and that's how we are going to go
14 with that. There will be no pursuits.
15 Questions?

16 VICE CHAIR BROWN: Chief, thank you.
17 Commissioners, if you would like, please feel
18 free to just jump in on any of the policies as
19 Chief Herold presents them.

20 MR. HEROLD: Yes, please.

21 The second one is 2.13.01 on report
22 preparation, and it's just saying that the
23 purpose of the policy is to provide guidance to
24 those members of the Division who complete
25 investigations and reports as part of their

1 duties. And to give you the layman's
2 interpretation, it just gives them guidelines
3 about when and how quickly they should complete
4 reports and how they will be turned in and
5 reviewed by supervisors and how, if errors or
6 corrections are found within the report, how a
7 supervisor will return those reports back to
8 the investigators for review and that type of
9 thing.

10 The second one is 2.14.01, and that is
11 subpoenas and court appearances. And it is
12 simply guidelines on how law enforcement
13 investigators, should they receive subpoenas or
14 court appearance notices, how they are required
15 to respond to those, and that they will be
16 compensated as having been on duty while they
17 respond to those types of appearances.

18 The next one is dealing with informants.
19 It's 2.16.01, and it's simply -- this one is to
20 provide guidelines for the use of informants
21 and prioritize the safety of informants and law
22 enforcement personnel and suspects and the
23 general public.

24 Essentially, that is just guidelines on
25 how you will interact with the informant, how

1 you will keep up with some documentation
2 related to that particular informant, and how
3 you will utilize them in any operations so that
4 we ensure the safety of the informant and the
5 public and the agent in that particular
6 respect.

7 VICE CHAIR BROWN: Thank you, Chief
8 Herold. Commissioner Repp has a question.

9 MR. HEROLD: Oh, yes, please.

10 COMMISSIONER REPP: Yes. Under the
11 section with unsuitable informants, I'm not
12 entirely clear and I would just hope to get
13 some clarification.

14 When you're looking at the considerations
15 there when you're talking about unsuitable
16 informants, someone in a supervised drug
17 treatment program or a prior criminal history,
18 are these -- in your experience in how these
19 are to be applied, are these just mitigating
20 issues or are they something that are taken
21 into consideration with other mitigating
22 issues, or would being in a supervised drug
23 treatment program be just grounds for nonuse.

24 MR. HEROLD: I think we would evaluate
25 those in their totality. Obviously, anybody

1 that's in a drug treatment program presents
2 additional concern and has -- they're not a
3 great witness, and they could present some sort
4 of danger to the overall investigation and the
5 agents and themselves. But I think the purpose
6 is to look at these and evaluate them on the
7 totality of the facts.

8 COMMISSIONER REPP: Thank you.

9 VICE CHAIR BROWN: Commissioners, any
10 other questions? Okay. On to the next policy
11 regarding warrant services.

12 MR. HEROLD: Warrant services, 2.23.01.
13 This is simply guidelines for the planning and
14 servicing of arrest and search warrants by
15 members of the Division. When we have search
16 warrants or arrest warrants, these are the
17 guidelines generally that apply to serving
18 search warrants and arrest warrants and those
19 kind of things like that.

20 The next one is conflict of interest and,
21 as you know, there's a high level of standard
22 of ethical conduct on the part of law
23 enforcement individuals, and this kind of
24 outlines some of the conflicts that would be
25 unacceptable, and so it's a policy that's meant

1 to assist the members in recognizing and
2 avoiding potential conflicts of interest. That
3 way we ensure effective and ethical operating
4 practices on the part of the members of law
5 enforcement.

6 VICE CHAIR BROWN: Thank you.
7 Commissioner D'Aquila.

8 COMMISSIONER D'AQUILA: Director Herold,
9 in this conflict of interest area, do we
10 need -- what is your opinion with regard to is
11 there a need to be more specific as conflicts
12 of interest, we know what the gaming industry
13 is, but where -- as you know firsthand, we are
14 in an area right now where another industry
15 that is maybe not considered gaming from the
16 outside could be deemed a conflict of interest.
17 I'm specifically referring to the issue that
18 we're experiencing with, you know, certain
19 amusements industry.

20 Do we -- as we are working with other law
21 enforcement agencies, do we need to be clear
22 and is there an issue if a person has an
23 interest in an industry that is potentially
24 problematic as it overlaps into our gaming
25 industry? It's a hypothetical question.

1 MR. HEROLD: Well, you know, I think
2 that's a great question. I think we should be
3 cognizant of that as we go forward. I'm not
4 sure if -- and I would take your guidance on
5 it. I'm not sure that it needs to necessarily
6 be clearly identified, but I think it's
7 certainly a valuable consideration because it
8 creates conflict, I will say that, potentially.

9 COMMISSIONER D'AQUILA: And the reason I
10 raise the question is I would be very concerned
11 if a member of our law enforcement team had
12 financial interests in an industry that is
13 currently the subject of (indistinct), but it's
14 a difficult one. I will admit I've had
15 difficulty getting my hands wrapped around it.
16 What comes to mind is the severity of the issue
17 we're experiencing not only in this state, but
18 other states as well.

19 MR. HEROLD: Well, if you would -- we can
20 handle that one of two ways, and thank you for
21 your comments on that.

22 We have some pre-screening questions that
23 we utilize whenever we hire folks in law
24 enforcement, and we can add that to our
25 pre-screening if you feel that's comfortable

1 for you and meets the need. If not, we can
2 pull this policy back and write that
3 specifically into it.

4 COMMISSIONER D'AQUILA: I'm not certain
5 the policy needs to be changed, but I'm
6 satisfied with your answer to the question. I
7 think we're on the same plane of --

8 (Overlapping conversation.)

9 MR. HEROLD: Yes, I think that is a valid
10 concern and thank you for bringing it up.

11 VICE CHAIR BROWN: Commissioner Repp and
12 then Commissioner Drago.

13 COMMISSIONER REPP: Yeah, I just wanted to
14 actually commend the specificity there as to
15 the conflict of interest. I think when it says
16 members should avoid situations with the
17 perception of conflict of interest, and that
18 kind of covers it. But I think in combination
19 with training and the policy, I think that what
20 we have here should be sufficient to cover, you
21 know, I think a reasonable perception if
22 somebody has something going on.

23 So I kind of like that little catch-all
24 there with just, you know, if you think
25 something is wrong and you didn't say anything,

1 well, this kind of subjects employees to say,
2 yes, I thought something was wrong, it's
3 actually important for me to not make that
4 call, so I'm satisfied with that section being
5 there.

6 VICE CHAIR BROWN: Commissioner Drago.

7 COMMISSIONER DRAGO: Just as a comment in
8 support of what everybody is saying. This is
9 such an important policy. I think it works
10 well; I think it's written well. You know,
11 perception is just as important as reality.
12 And of course perception is reality to people.
13 And maintaining our integrity and the
14 community's trust in our organization is
15 critical, so I think it's a good policy. I
16 think it's great.

17 VICE CHAIR BROWN: All right. Thank you,
18 Commissioners. And just a follow-up on this.
19 I agree it would be appropriate to put it in
20 the questionnaire, the screening.

21 We have another conflict of interest,
22 though, for all employees, a policy that we
23 approved. How does this -- does it differ
24 substantially from our global conflict of
25 interest policy? I can't recall.

1 MR. HEROLD: It does not differ. It's an
2 addition.

3 VICE CHAIR BROWN: Okay. Thank you. If
4 you could move on to rapid response and
5 deployment.

6 MR. HEROLD: Certainly. 2.36.01 is our
7 rapid response and deployment, and essentially
8 it outlines how our agents will respond. You
9 know, we're committed to stopping violence in
10 schools and workplaces and other locations by
11 individuals or groups of individuals who are
12 determined to target and kill persons and to
13 create mass casualties. And this policy is
14 just meant to identify factors and guidelines
15 that will assist our special agents.

16 We are very cognizant that in our location
17 here in Southwood we have two schools very
18 close to us. While we have a presence from
19 Capitol Police, we recognize that should
20 something horrible happen in our proximity that
21 we very likely could be some of the first law
22 enforcement individuals to show up on-site, and
23 so we want to make sure that there's a policy
24 associated with that and our agents know, you
25 know, what their responsibilities are.

1 VICE CHAIR BROWN: Commissioner Drago.

2 COMMISSIONER DRAGO: Just a couple
3 questions. Training, of course, is a critical
4 part of this, especially with active shooting
5 situations. Is there and if you are aware of
6 in this area or in terms of state agencies, a
7 joint operations task force type of situation
8 for active shooting situations, specifically
9 the first step would be for the training, and
10 then of course to activate in time of need. Is
11 there such a -- such a joint operation like
12 that in effect today that we can -- we can
13 attach to and be a part of the training and so
14 forth?

15 MR. HEROLD: That's a fantastic question.
16 And what I'll tell you is that both within the
17 criminal justice requirements on training, just
18 this past year every agency that did not have a
19 procedure on armed assailant response had to
20 have one, and you saw that earlier, I think
21 three or four months ago, when that was passed
22 in, and so we have that.

23 But to add onto that, you know, we have
24 our local law enforcement partners here with
25 the FDLE, Capitol Police, and we have -- we are

1 meeting with them, and we have spoken to them,
2 and we're trying to find a way that we can fold
3 our resources into what they have here so that
4 if there is some sort of active response in
5 this particular area where we have a stance
6 that we can be a part of that.

7 COMMISSIONER DRAGO: That's great. I
8 mean, I strongly encourage that we prioritize
9 that type of training for all our people, and
10 especially since this type of an operation is
11 so -- it's just required if you're going to
12 have to deal with other agencies.

13 MR. HEROLD: Absolutely.

14 COMMISSIONER DRAGO: There's no way to get
15 around it. It's not something we can just
16 train on our own and be satisfied. So I look
17 forward to that, because I think that's such a
18 critical part of this policy is the requirement
19 for the training and that we fulfill that
20 requirement in cooperation with these other
21 agencies. So, thank you.

22 VICE CHAIR BROWN: And, Chief Herold, also
23 that is applicable to all of our officers
24 around the state, too?

25 MR. HEROLD: Absolutely. Absolutely. You

1 know, I was speaking kind of specifically here,
2 but, you know, we have agents that are in south
3 Florida. They are housed within FDLE's Miami
4 regional operations center, so they work
5 shoulder to shoulder with other law enforcement
6 partners down there. And then we haven't yet
7 totally filled out our central Florida
8 location, but it would apply to them as well.

9 VICE CHAIR BROWN: Okay. Agency
10 assistance.

11 MR. HEROLD: Agency assistance is 2.40.01,
12 and it's simply to provide guidance to our
13 members when requesting or responding to a
14 request for mutual aid, or when assisting local
15 law enforcement. And it just provides some
16 generalized guidelines for when we have been --
17 if we get a request from local law enforcement,
18 but also we will in the future as part of a
19 state law enforcement agency, we will be
20 assisting in the mutual aid compact. We'll
21 bring some resources to that so that whenever
22 there's any type of statewide emergency or if
23 there's a local disaster we will be involved in
24 that and that --

25 (Electronic interruption.)

1 VICE CHAIR BROWN: Chief Herold, are there
2 going to be actual agreements with the mutual
3 aid? I'm sure in certain circumstances, but I
4 don't see it in the policy that there will
5 always be a memorandum of understanding or
6 something to that effect. Mutual aid
7 cooperation. It doesn't necessarily -- there
8 does not have to be an actual written
9 agreement?

10 MR. HEROLD: That is correct.
11 Essentially, the agreement is we meet with
12 those individuals that handle the mutual aid
13 and determine what kind of resources we bring
14 to bear. You know, every agency has its own
15 level of resources and their own specific
16 resources, and our goal is to make sure that
17 our assistance doesn't take away from our
18 primary goal, but at the same time it works
19 with the resources that we have on hand.
20 Obviously we wouldn't be asked to bring a dive
21 team. We don't have a dive team, so . . .

22 VICE CHAIR BROWN: And I'm really excited
23 about the future for the Division of Gaming
24 Enforcement, too, and taking it even over the
25 next 12 months. If Mr. Trombetta -- Executive

1 Director Trombetta and I talked about this
2 earlier, seeing the Gaming Commission step up
3 and really be in charge of a global task force
4 in cooperation with other state entities and
5 possibly local entities to focus on specific
6 issues.

7 And I think we're really -- we have made a
8 very significant presence in the state, but I
9 definitely see us doing it even more so over
10 the next 12 months, and really taking the lead
11 on task force initiatives with other partners
12 like FDLE and other local entities, the Florida
13 Sheriffs Association, things like that. So I'm
14 really looking forward to seeing what the
15 future brings.

16 MR. HEROLD: Well, thank you, and I can
17 tell you that from our stance through the
18 guidance of Mr. Trombetta is that the law
19 enforcement unit as it's established right now
20 is not what it's going to look like in
21 six months from now or even a year from now.
22 As a ground-up operation, we are constantly in
23 transition trying to get to the next level.

24 We have our eye on our ultimate goal to be
25 exactly what you said, which is the -- you

1 know, we would like to be a premier law
2 enforcement agency. We'd like to interact at
3 every level, and our goal is to simply go after
4 these bad actors in, you know, illegal
5 gambling, and they just don't function in a
6 small area. They are much bigger, they're
7 multistate, and so our goal is to -- if we're
8 going to have any significant impact and, you
9 know, have some real effectiveness in going
10 after illegal gambling, we're going to have to
11 morph into an agency that extends across state
12 lines and everything like that. May I --

13 VICE CHAIR BROWN: Performance history
14 audits is exciting.

15 MR. HEROLD: Yes. Performance history
16 audits, this is simply an audit of performance
17 by individuals, and the purpose of it is to
18 help identify any kind of commendable
19 performance as well as provide early
20 recognition of training needs and other
21 potential issues.

22 And simply what that means is if suddenly
23 we find out that one of my agents or law
24 enforcement in general are being attacked by
25 people with yard rakes and we don't have the

1 skill set to respond to that, you know, we
2 could say, look at all the -- you know, all
3 these people with yard rakes that we're
4 encountering and maybe we should have some
5 training in that stuff. So that's what that
6 is.

7 VICE CHAIR BROWN: Commissioner Drago.

8 COMMISSIONER DRAGO: Yeah, I think
9 performance indicators are very critical in all
10 areas, but specifically in law enforcement as
11 well. And I think I would just like to make
12 sure we're looking at it both ways.

13 So, the first way is exactly what you just
14 said. If you identify needs as you go along
15 through the year you can correct things, if
16 it's training or if it's policies or whatever.

17 I would also like to look at -- us to look
18 at it in terms of predicting issues such as --
19 we have listed here under number one,
20 performance indicators. It says use of force
21 incidents. I assume that means if a particular
22 officer has got a lot of use of force incidents
23 you would want to identify that. Maybe there's
24 a need for that officer to have more training
25 or whatever the case may be.

1 MR. HEROLD: Correct.

2 COMMISSIONER DRAGO: So I would hope that
3 we would be able to establish in this
4 indication not only looking back but looking
5 forward and some type of an early-warning
6 indicator that maybe issues popping up with
7 personnel for whatever reason the agency may be
8 able to fix it before -- before somebody gets
9 hurt, or somebody's rights are violated or
10 whatever.

11 MR. HEROLD: Right.

12 COMMISSIONER DRAGO: So, just so that
13 we're looking forward as well as backwards. I
14 think these performance indicators and this
15 performance policy is going to be very, very
16 helpful. And in the long run there's software
17 out there that will do that for you. But, you
18 know, in the beginning we could probably do it,
19 you know, manually.

20 VICE CHAIR BROWN: Thank you. Yes, we
21 have both Commissioners. Welcome to --

22 COMMISSIONER D'AQUILA: In light of the
23 earlier comment on conflicts of interest,
24 should you perceive conflicts of interest or
25 issues of conflict of interest to be a

1 performance indicator or is that covered
2 elsewhere?

3 MR. HEROLD: I think it's better handled
4 in a different location. This is more along
5 the lines of, you know, actual performance.
6 And much to what Commissioner Drago said, you
7 know, a lot of those indicators may be found at
8 either the state or the federal level that, you
9 know, we would have to recognize, but this is
10 specifically speaking with, you know, to our
11 agents. But I do think that the ethical
12 conduct is better handled in a different
13 location over in the ethical --

14 COMMISSIONER D'AQUILA: Thank you.

15 VICE CHAIR BROWN: Thank you.

16 Commissioner Repp.

17 COMMISSIONER REPP: Thank you.

18 Director Herold, how often are the
19 performance history audits? Do you plan to
20 review them? Is it six months, a year, is it
21 every 30 days, is there a --

22 MR. HEROLD: We would review it every
23 year, but we will constantly be evaluating it
24 because we don't want to wait a year out to
25 recognize that there is a problem.

1 COMMISSIONER REPP: Thank you.

2 MR. HEROLD: Thank you.

3 VICE CHAIR BROWN: Thank you. And just
4 confirmation that all employees upon hire, do
5 they get actual copies of all of the policies?
6 I mean, I know they will be available on our
7 internal website, but will they get actual
8 copies?

9 MR. TROMBETTA: I'm sorry to interrupt.
10 We have an audio problem where we're not sure
11 the court reporter can hear us, so I'm going to
12 suggest --

13 VICE CHAIR BROWN: Can you hear?

14 MR. TROMBETTA: I'm sorry. The court
15 reporter can, that's the important part. I
16 just wanted to confirm because I think we can
17 move forward. I mean, I'm going to confirm
18 with legal here. You heard, I think at one
19 point the meeting said "you're now muted."
20 From my understanding, we're muted on the
21 Florida Channel right now and I wanted to
22 confirm.

23 As long as the court reporter is here, I
24 think we can continue because we'll have a
25 transcript; is that correct?

1 VICE CHAIR BROWN: Are we still muted? Do
2 we want to take a five-minute break?

3 MR. TROMBETTA: Okay. The Florida Channel
4 is now okay, so I think everything's fine. I
5 didn't mean to interrupt.

6 VICE CHAIR BROWN: Okay.

7 MR. TROMBETTA: Okay. Thank you for
8 helping.

9 VICE CHAIR BROWN: I'm glad someone was
10 calling in.

11 MR. TROMBETTA: Sorry to interrupt the
12 question.

13 VICE CHAIR BROWN: We are done with the
14 performance history audits; is that correct?

15 Okay. We are up -- oh, confirmation of
16 physical policies by the new hires.

17 MR. HEROLD: Yes. So, we do provide the
18 written policies, but ultimately all of our
19 policies will be up on the site. And that's
20 much more efficient in case any edits are made
21 to the policies they can always go and find the
22 most current policy version.

23 VICE CHAIR BROWN: And this is just a
24 suggestion, and I don't know if it would
25 justify to necessarily -- law enforcement may

1 apply to all employees, but I think it would be
2 prudent to maybe have an acknowledgment, a
3 written acknowledgment that employees have read
4 the written, you know, signature. They have
5 read the policies, they agree that they have
6 read them and they are educated on them,
7 particularly because these are just so
8 important. All of them are important, but
9 these are so important.

10 MR. HEROLD: And to your point, yes,
11 you're absolutely correct, but there are a
12 couple of mechanisms in place. Initially,
13 we're doing the written policies where they
14 sign that they've acknowledged and had an
15 opportunity to ask any questions related to
16 them.

17 But actually part of our overall -- in the
18 law enforcement realm our overall policy is
19 that we have a mechanism where they can sign
20 them digitally, review them, and then that way
21 that's captured and you don't have to worry
22 about does everybody -- you know, where is the
23 file with all the signatures and it's kept up
24 there. And that's pretty standard conduct
25 within the law enforcement community.

1 VICE CHAIR BROWN: And the last one.

2 MR. HEROLD: And last, but not least
3 certainly, eyewitness identification. And to
4 kind of share with you the guidelines dealing
5 with eyewitness identification are pretty well
6 settled. There's a lot of case law from the
7 U.S. Supreme Court and federal guidelines and
8 state guidelines that speak to how you're
9 supposed to conduct eyewitness types of
10 identification and lineups and those kind of
11 things like that.

12 And so, while this looks very
13 comprehensive, I didn't do it. It's all from
14 the guidelines. So, you know, nothing else
15 from me. I didn't invent it.

16 VICE CHAIR BROWN: Thank you. And I know
17 our colleagues are really familiar with all of
18 these policies, our law enforcement folks. So
19 we're really lucky to have them and their
20 insight on these policies.

21 Commissioners, if there are no questions,
22 can we get a specific motion illuminating,
23 though, each policy by number to approve. If
24 you want, I could read them off to you and you
25 can make the motion.

1 COMMISSIONER REPP: Thank you.

2 VICE CHAIR BROWN: Okay. Can we get a
3 motion to approve Item or Policy 02.09.01,
4 02.13.01, 02.14.01, 02.16.01, 02.23.01,
5 02.30.01, 02.36.01, 02.40.01, 02.44.01, and
6 finally, 02.48.01 for the record.

7 COMMISSIONER REPP: A motion to approve.

8 VICE CHAIR BROWN: Thank you. Is there a
9 second?

10 COMMISSIONER DRAGO: Second.

11 VICE CHAIR BROWN: Any discussion on the
12 policies as presented? If not, could we get --
13 all those in favor say aye.

14 (Vote taken.)

15 VICE CHAIR BROWN: Thank you. It passes
16 unanimously.

17 And I know, Chief Herold, it's been a lot
18 of work that's been involved, a lot of
19 revisions, and really appreciate your work in
20 conjunction with the executive director and
21 legal as well. So, thank you.

22 MR. HEROLD: Thank you very much.

23 VICE CHAIR BROWN: All right.

24 (Electronic interruption.)

25 VICE CHAIR BROWN: And what do we think

1 about that?

2 MR. TROMBETTA: I might ask Suzie for an
3 update on this, but it sounds like -- what I'm
4 being told is that Florida Channel is picking
5 everything up. There's a problem with Teams,
6 which is I think what we use to record the
7 meeting. And the court reporter is here, so,
8 again, there's a transcript and we're good.

9 The transcript is the important part, but
10 if people need a copy there are the minutes
11 that we do afterwards.

12 Suzie, does that sound correct?

13 MS. WHITMIRE: Correct.

14 VICE CHAIR BROWN: Thank you. And you're
15 on now.

16 MR. TROMBETTA: Thank you. What started
17 as a short update has now morphed into quite a
18 longer one.

19 Thank you all. You know, going forward
20 I'm trying to find ways to kind of provide more
21 updates in these things, so just in January, I
22 think I'm going to -- right now the plan is to
23 kind of review the month that passed.

24 Just administratively we had a bunch of
25 people out sick, like I think most agencies.

1 There was something going around after the
2 holidays that everybody picked up, so we kind
3 of dealt with that.

4 Initially, the legislative session
5 started, so I will be having that update more
6 specifically about our bills in my update, but
7 that's obviously taking a lot of time and
8 effort. We had people around the state, some
9 meetings with people in HISA (phonetic) in
10 south Florida ahead of the Pegasus race.

11 We had a rule workshop which I'll also
12 touch on more specifically, and we also had --
13 I think Lisa was down in Ocala securing office
14 space for our Ocala agents. So we had a -- we
15 did a lot in January. A lot of, kind of, good
16 things were accomplished and kind of moving
17 forward.

18 On the rule workshop, so a week -- yeah, a
19 week ago we held a rule workshop in south
20 Florida on our cashless wagering. We posted an
21 agenda. We kind of did it in somewhat of a
22 unique way in that we posted an agenda that
23 contained several questions for the audience
24 and stakeholders to address. We had a good
25 feedback at the meeting. There'll be a

1 transcript available. We've received some
2 submissions already, and the record is open
3 until February 12th for anyone that was there
4 or anyone else even now to provide written
5 comment to us to get feedback.

6 Ultimately, the big picture, we're still
7 in the development phase. Once we get some
8 feedback and if we're comfortable with the
9 feedback, which I think we're very close, we'll
10 try to put draft language together, and then
11 we'll hopefully be able to move into the notice
12 of a proposed rule phase, which is the more
13 formal push in a rulemaking.

14 At that point we'll probably have to have
15 a hearing. And then hopefully, depending on
16 how the hearing goes, we will take feedback
17 again and if our rules are -- well, hopefully
18 we'll move forward from there.

19 Any questions just on cashless or
20 anything? Again, there will be a transcript,
21 too, of that.

22 VICE CHAIR BROWN: I had a question. I'm
23 sorry if I caught you offguard, but do we know
24 as part of the record -- I mean, do we have an
25 estimate of how many states have laws or rules

1 on cashless wagering?

2 MR. TROMBETTA: That isn't part of the
3 record, but we can -- you know, our staff has
4 looked at other states for essentially rules
5 that they have already passed, so I know we've
6 done research already to that effect. I don't
7 think we've done research specifically for the
8 question you just asked, how many states have
9 this. But we're looking at -- we have
10 received, you know, received -- in our staff
11 research, I have receive copies of rules that
12 have been adopted in other states.

13 We're also looking at, you know, both BMM
14 and GLI, independent kind of testing labs, have
15 I believe reached out and offered some type of,
16 like, guidance in terms of best practices, so
17 we're looking at that.

18 I imagine, too, there was representatives
19 from both of those companies at the rule
20 workshop that said they'd be submitting
21 follow-ups. I think one of them actually even
22 submitted or suggested that they would be
23 submitting feedback about what other states are
24 doing, so it is something that we're looking
25 at.

1 VICE CHAIR BROWN: Thank you.

2 Any other questions? Again, Commissioner
3 Repp.

4 COMMISSIONER REPP: No. I just wanted to
5 comment that I like the idea of posting the
6 workshop with some questions. I think it kind
7 of narrows things in and helps people focus and
8 helps generate a lot of good ideas. I'm
9 looking forward to reviewing what we get. I
10 think it's a good idea. If you get any
11 feedback from people participating in the
12 workshop regarding questions asked or sent
13 specifically, but that type of approach.

14 MR. TROMBETTA: Yes, ma'am. The way the
15 workshop worked is essentially it just allowed
16 general comments at first, and then we went
17 question by question. So we got feedback both
18 generally and specific to our questions. The
19 submission that we've already received also
20 went question by question. So, I mean, I agree
21 with you. You know, I started out by saying we
22 did it kind of an odd way, but this is the
23 first time I've done a workshop where we had
24 questions like this, and it's super helpful
25 from our end.

1 Particularly on this rule where, you know,
2 we're kind of -- I think we have some
3 flexibility, but we're also trying to figure
4 out where the, you know, kind of wiggle limits
5 are on this. And some of the questions that we
6 posed were sort of "How does this work? How do
7 you, as the industry, seen this work?" You
8 know, we would address specific things that
9 we're looking at in the statute and kind of
10 more of an operational side, too. So I'm
11 looking forward to the feedback we're going to
12 get.

13 COMMISSIONER REPP: Thank you.

14 MR. TROMBETTA: Turning to legislative
15 stuff. I'm just going to focus on our own
16 bills. As we're all aware, we are pushing both
17 an agency bill, you know, in my head sort of
18 the regulatory stuff, a criminal bill, and we
19 have two trust fund bills. All of them are
20 kind of moving. I think our agency bill in the
21 House has -- is in its second of three
22 committees right now.

23 We're still kind of working to fine-tune
24 some of the language. There may be an
25 amendment coming just to address some of the

1 things in the bill. I'd like to not address
2 specific questions about the amendments right
3 here, but just know that we are -- we've been
4 working with the industry to try to address
5 concerns.

6 You know, I think the intent with this
7 agency bill was to kind of get low-hanging
8 fruit and not really get anything that would be
9 too controversial. So we're trying to keep it
10 in that mode.

11 Yes, ma'am?

12 VICE CHAIR BROWN: No, I just want to
13 compliment the team, too, the legislative
14 affairs director and internal affairs just in
15 keeping us apprised of various articles, the
16 media garnered some attention to some of these,
17 so I really appreciate it. I know it's
18 tireless. I mean, it's a really busy 60 days,
19 and there's a lot of interest in the industry.
20 So I really thank you guys for all the work
21 you're doing.

22 MR. TROMBETTA: Our criminal bill is kind
23 of equally -- it's moving. The criminal bill
24 raises penalties for crimes associated with
25 sort of the intentional bad actors and the

1 illegal slot machine business. So it's been
2 well received by most members that I've spoken
3 with. We've met individually with a lot of
4 members and anyone who has questions.

5 But to your point, you know, both Henry
6 and Eric (phonetic) have been very good at
7 reaching out, following up with everybody on
8 these committees and trying to help. You know,
9 as you know better than most, the hardest part
10 of this is the knowledge part, you know,
11 getting through the "I didn't know that was
12 legal, or what about it is illegal," so just
13 kind of getting that -- face-to-face meetings,
14 I think, helps a lot just in getting people to
15 understand the situation.

16 The other thing that I'm finding that was
17 super helpful -- sorry -- is the data that was
18 collected through our report, our reporting
19 portal on the website. You know, we were able
20 to create a map, I think the law enforcement
21 team put together. They essentially put
22 locations to -- I don't know how they did it.

23 We got complaints. We got over 1500
24 complaints of illegal criminal activity last
25 year going on in the space (phonetic). They

1 were able to kind of overlay it on a state map
2 and we used that as a talking point, which is
3 great. You know, it's just great to see it,
4 because it gives people a better idea of just
5 how pervasive this activity is.

6 VICE CHAIR BROWN: Thank you. And I
7 should have extended to the legal. I know
8 legal is wearing so many hats, but legal has
9 been helping with everyone else and all of
10 that, too, and so we really appreciate the
11 overall in everyone here.

12 MR. TROMBETTA: And then, finally, we have
13 two trust fund -- sorry.

14 COMMISSIONER DRAGO: That's okay. I just
15 want to make a comment on the map. Can you
16 send us a copy of that? I don't remember --

17 MR. TROMBETTA: Yes.

18 COMMISSIONER DRAGO: -- seeing that. That
19 would be really interesting to see.

20 And this comes from the reports on the
21 portal of criminal activity, not necessarily
22 police response, but criminal activity that's
23 been reported to us where there's been arrests
24 or anything else, right?

25 MR. TROMBETTA: Yes, sir. And as the

1 sponsor of our bill said yesterday in
2 committee, it's location-based. So it doesn't
3 even capture the number of machines. It's a
4 multiple, if you're looking for the number of
5 machines in the state. So it does a really
6 good job of showing the problem and why
7 increased felonies are important.

8 COMMISSIONER DRAGO: And was there a
9 number there that you can recall in terms of
10 the number of reports on that activity
11 that's --

12 MR. TROMBETTA: I would prefer to send you
13 the -- it's over a thousand, but I'd prefer to
14 send you the document just so you have the
15 exact number.

16 COMMISSIONER DRAGO: Sure. Thank you.

17 VICE CHAIR BROWN: And also, the complaint
18 portal, it's updated for Commissioners to look
19 at currently. Isn't that right, Suzie?

20 MR. TROMBETTA: Yes. You can get access
21 to the back end, the kind of thing like an
22 Excel sheet that shows all the data, and
23 there's also a graphic that can be produced.
24 So we can provide all that access to the
25 Commissioners.

1 So the trust fund bills are going well,
2 too. We have a bill that will create a federal
3 trust fund for any monies that we may receive
4 through our criminal activities if we
5 essentially engage in federal -- correct me
6 here, Ross -- in crimes involving -- federal
7 crimes essentially. He will speak much better
8 than I will.

9 MR. MARSHMAN: Good morning. If we're
10 working in cooperation with federal law
11 enforcement and we receive proceeds as part of
12 our cooperation with the federal government, or
13 we receive funds from a federal government
14 program itself, then we need a repository for
15 those funds, so this bill would give us that
16 repository.

17 MR. TROMBETTA: And separately we have a
18 trust fund for any funds seized outside of
19 that. So there are two separate funds that
20 we're ending up with hopefully, and those also
21 are progressing very well.

22 VICE CHAIR BROWN: Any questions?

23 COMMISSIONER D'AQUILA: I have a question.
24 Director Trombetta, with regard to the bills
25 that we are not sponsoring, are we in regular

1 contact with the committees and any knowledge
2 they may need and so forth as there is so much
3 going on out there at the moment?

4 MR. TROMBETTA: Yes, sir. So bill
5 analysis, just Joe and Tracy's team, Joe and
6 Tracy are kind of the -- well, we do a bunch of
7 analysis on a whole bunch of bills, not
8 necessarily just the ones that we are pushing.
9 So, I don't know the number, but we've done a
10 ton of analysis on several bills, and we make
11 ourselves available when questions come from
12 really anybody to try to help provide an
13 overview of what the bill does and what the
14 impact on the state will be.

15 VICE CHAIR BROWN: (Nodding head.)

16 MR. TROMBETTA: Okay. Any other questions
17 on legislation or legislative session?

18 COMMISSIONER DRAGO: No.

19 MR. TROMBETTA: Kind of a preview of the
20 next meeting. So, in March we will have two
21 things that I just want to get on your radar
22 because it might be kind of a long meeting.
23 First are the operating licenses. The
24 operating -- we have to issue the operating
25 licenses annually by March 15th, I believe is

1 the day. So if you remember, we kind of
2 planned this meeting so that we could do it and
3 we had a little bit of time just in case
4 something happened.

5 I think we're going to try to organize
6 them by industry, so -- also I don't know if
7 you have a preference, but, you know, not
8 necessarily in the order, but just ideally we
9 just go by industry. It's just easier, I
10 think, to group them together so we'd have all
11 the Greyhounds together, all the thoroughbreds
12 together, all the, you know, jai alais
13 together. That's kind of the preferred method.
14 But again, it's going to be a lot of them.

15 And then secondarily we are now about
16 halfway through the law enforcement policies,
17 so about half of them have been adopted. It
18 might be exactly half, but we are making that a
19 priority to try to get them done, so there may
20 be a number of them on the next meeting as
21 well. Just kind of a heads up.

22 Before I bring Suzie up, we have to kind
23 of provide a new demo of the website. I also
24 just want to touch on something that came up in
25 one of the license denials that you had today.

1 Just an overview, not anything related to any
2 specific cases you've heard, but just the
3 question about cheating in a cardroom, about
4 whether or not there's a violation.

5 I just wanted to make clear there is a
6 violation in rule about people engaged in some
7 type of deceptive activity in a cardroom. So
8 we do have the authority to file an
9 administrative complaint. We've done it in the
10 past under certain situations. When there's
11 exclusion cases, I think as was presented, the
12 issue -- we don't have to get to that part, the
13 underlying violation about cheating isn't
14 something that necessarily the agency has to
15 review or look at in order to find the person
16 may be excluded.

17 The authority and the law provides
18 essentially the person be excluded if the
19 facility has excluded that person. So from the
20 legal side we just have to show that the person
21 was excluded, and then we can exclude them, if
22 that makes sense.

23 And if there is any other questions just
24 on how that process in general works, again, I
25 don't want to touch on specifics in any case

1 that was presented, but if there's any other
2 question on that I want to make myself
3 available, too.

4 VICE CHAIR BROWN: Commissioner Drago.

5 COMMISSIONER DRAGO: Yeah. Thank you for
6 that explanation there. I really appreciate
7 it.

8 I want to go back to the meeting for next
9 month before we move on. I want to make sure
10 we got the date. I think it's the 6th, is it,
11 which is a Wednesday this time?

12 VICE CHAIR BROWN: Wednesday?

13 COMMISSIONER DRAGO: Wednesday, the 6th.

14 VICE CHAIR BROWN: Thank you. Are we sure
15 it's Wednesday, the 6th?

16 MS. PARKER: Yes.

17 VICE CHAIR BROWN: Dixie says yes. I
18 think there's a conflict on the 7th.

19 MR. TROMBETTA: Do you need to adjust the
20 meeting? I had it on -- okay. What day -- was
21 it Wednesday?

22 VICE CHAIR BROWN: Yeah, Wednesday.

23 MR. TROMBETTA: Does that work for
24 everybody?

25 VICE CHAIR BROWN: Uh-huh.

1 COMMISSIONER DRAGO: There was some issue
2 with the 7th, and I think part of it, too, was
3 we were trying to move it back as far as we
4 could in case we needed to do more before the
5 15th, so we talked about giving as much time --
6 but it looks like Commissioner Repp's got a
7 different memory.

8 COMMISSIONER REPP: I do. This may not be
9 correct, but I have us down for Thursday again
10 in March, and April as the Wednesday. I think
11 we were going to do it on Wednesday the next
12 month. I have it as a Thursday. I don't know.

13 COMMISSIONER DRAGO: Okay.

14 COMMISSIONER REPP: I'm the only one --

15 COMMISSIONER DRAGO: No, I have April as
16 Wednesday, too, so --

17 VICE CHAIR BROWN: I have April as the
18 Wednesday.

19 COMMISSIONER DRAGO: Yes. So, I guess --
20 I guess it's good we brought it up, and we make
21 sure that we've got it finalized.

22 MR. TROMBETTA: I just got a reminder.
23 The issue was that the room -- we had initially
24 agreed on Wednesday. We checked; the room
25 wasn't available, and then we moved it to --

1 the 5th was the original date, when we were
2 going to do it, but the room wasn't available.

3 COMMISSIONER DRAGO: March 5th.

4 MR. TROMBETTA: So I'm still not clear
5 if --

6 COMMISSIONER REPP: Tuesday -- they were
7 going to move it to Tuesday, but the room
8 wasn't available, so we moved it to Wednesday.

9 COMMISSIONER D'AQUILA: I have it down as
10 the 6th of March and the 3rd of April.

11 VICE CHAIR BROWN: Uh-huh, yes, the same.

12 COMMISSIONER DRAGO: Do we need to change
13 that or are we good with the 6th, though?

14 VICE CHAIR BROWN: I think so. We're all
15 good with those dates, right?

16 COMMISSIONER REPP: Meeting the 6th of
17 March?

18 VICE CHAIR BROWN: I do have a conflict
19 with the May, there's a major conference in
20 May -- but we could talk about it at one of the
21 next meetings -- that I think the Commissioners
22 would want to go to it as well.

23 All right. Suzie, I can't wait for this
24 website. I'm so excited. We officially have
25 business cards, so, thank you with the new

1 logo. They look great. So, thank you again
2 for your expertise.

3 MS. WHITMIRE: Good morning,
4 Commissioners.

5 COMMISSIONER D'AQUILA: Good morning.

6 MS. WHITMIRE: The last time we looked at
7 the website -- this is the current website. We
8 did rebrand it when we got the new logo, but it
9 was still very clunky for our users, not very
10 user-friendly. So last time you saw the
11 updated look with the buttons that were driven
12 by consumer and regulatory and much more
13 user-friendly.

14 The big discussion came around the
15 rotating bar up top. And at the time we were
16 using pictures provided by the facilities, our
17 licensed facilities, and instead what we've
18 done is at the recommendation of the Commission
19 use stock images of gaming images and
20 enforcement. So now we have a rotating bar at
21 the top like we did before, but with more
22 generic stock images. Other than that, the
23 site hasn't changed.

24 We did, however, say, well, we have all
25 these images provided by our facilities, and if

1 we could use them where would we use them. So,
2 as an option, and this is simply an option, is
3 that we would go ahead and put it on the map of
4 licensed facilities.

5 So since they're already picking the
6 licensed facility locations, having a map --
7 having a picture of the licensed entities
8 seemed to be something that we could do.
9 Again, we could drop it, but, you know, we
10 wanted to, if we could, show our licenses up
11 here in the bar. It's completely up to you
12 whether we just drop them at all, but we
13 thought that would be a way to use the images
14 we already had.

15 VICE CHAIR BROWN: Does that include all,
16 including Indian gaming?

17 MS. WHITMIRE: The images do not include
18 Indian gaming. The location map does.

19 VICE CHAIR BROWN: Commissioners?
20 Commissioner Drago.

21 COMMISSIONER DRAGO: Are they -- on the
22 bar on the top with the actual facilities on
23 that page, is it just randomly going through or
24 are you clicking on something to make them pop
25 up when you click on it?

1 MS. WHITMIRE: It's random.

2 COMMISSIONER DRAGO: Okay.

3 MR. TROMBETTA: And, again, we sent emails
4 to all the permit holders asking if they would
5 like to contribute to this project, and that
6 offer will stand. I mean, if anybody's not on
7 there that wants to be, that was our plan. And
8 again, so if you are okay going forward like
9 this, that will stay. If not, you know, we can
10 scrap the whole thing.

11 VICE CHAIR BROWN: I like how you can
12 filter it, too, by cardroom, slots,
13 thoroughbreds. I would have remove Greyhounds,
14 but I guess it's because they're licensed, but
15 it would be misinterpreted that Greyhound is
16 still live racing. So I don't know if you
17 would include that, but I like the filter. I
18 think that's great for people.

19 Commissioner D'Aquila.

20 COMMISSIONER D'AQUILA: Should we clarify
21 with an asterisk next to Greyhound, because we
22 are currently not permitting Greyhound racing
23 in the state?

24 MR. TROMBETTA: Correct, but this is
25 just -- you know, so the purpose of this was to

1 provide information to a wide audience. One of
2 the more freelance questions we get are what
3 type of license or permit is this. So the
4 classification, you know, Greyhound permits are
5 still Greyhound permits. When they apply for a
6 license they'll still be a license to conduct
7 Greyhound racing issued as an annual operating
8 license, but, as you said, the Constitution
9 prohibits the actual live -- wagering on a live
10 event, so there's no actual live gaming
11 activity.

12 I think we could put maybe an asterisk or
13 maybe like an explanation when you click on --
14 maybe above the locations where it says Big
15 Easy, we could just say none of the Greyhound
16 racing permit holders are conducting live
17 activities or something like that.

18 COMMISSIONER D'AQUILA: Yeah, maybe even
19 in parentheses.

20 MR. TROMBETTA: Sure.

21 COMMISSIONER D'AQUILA: It's just
22 confusion in the marketplace.

23 MR. TROMBETTA: Sure.

24 COMMISSIONER D'AQUILA: We know what it
25 means, but I don't believe the general public

1 does, looking at the state necessarily, you
2 know, but just a minor, minor point.

3 MS. WHITMIRE: If you note here, if you
4 click into it it says "no live racing"
5 (inaudible) track simulcast only. So that was
6 the caveat that we put on the Greyhound racing.

7 COMMISSIONER D'AQUILA: You just might put
8 that same right next to the tab.

9 VICE CHAIR BROWN: I agree.

10 MS. WHITMIRE: We can do that.

11 COMMISSIONER D'AQUILA: In parentheses,
12 you know, simulcast only.

13 VICE CHAIR BROWN: Yeah, I agree,
14 Commissioner. Or even a footnote at the bottom
15 with the explanation. Even folks from out of
16 state would be curious, "Oh, Florida still has
17 live Greyhound racing."

18 MS. WHITMIRE: That can be changed. How
19 do you feel about the generic stock images?

20 COMMISSIONER D'AQUILA: I like it.

21 VICE CHAIR BROWN: Commissioner Drago?

22 COMMISSIONER DRAGO: I like the stock
23 images very much. I think they look great and
24 I don't see any cause for any concern in any
25 regard or conflicts or anything like that.

1 VICE CHAIR BROWN: You have really
2 enhanced what you've already worked on. It
3 looks great. Completely -- very professional,
4 and your team has done a great job.

5 MS. WHITMIRE: Thank you. We appreciate
6 it.

7 COMMISSIONER DRAGO: But on the page where
8 we're identifying the locations, I still have a
9 lot of issue with the flashing at the top with
10 the different facilities. I still think it
11 does -- in my opinion, this is the same message
12 and it has the same issues. Are we showing
13 more of this place and less of that place, and
14 why is this place coming up and seems to stay
15 on the screen longer than that one. I just
16 feel like, again, it looks like advertising to
17 me.

18 And it's great -- the map is wonderful.
19 Showing the locations, where each place is
20 wonderful. I just -- I just feel like that
21 flashing of the advertising at the top just is
22 troublesome to me. If I was a citizen on here,
23 and I don't know, a potential issue from
24 operators who might not have as nice a picture
25 up there or as long up there or anything.

1 A lot of it is perception. We spoke about
2 that before. Perception is reality. I just
3 don't want to cause people any issues or
4 concerns about any conflicts with this agency
5 and the industry. Just my thoughts.

6 MS. WHITMIRE: We also thought that you
7 may feel that way. Current development has the
8 no banner, and that's why we have locations as
9 an option for you to choose.

10 VICE CHAIR BROWN: Look at them guessing.

11 MS. WHITMIRE: So right now if we went
12 live today it would be without the rotating
13 banner, but we wanted to give you the
14 opportunity, since we had asked our facilities
15 for the pictures for -- an opportunity to put
16 it somewhere.

17 So it's completely up to you which way you
18 want to go, but we kind of thought that that
19 may be the point that you would feel, too. So
20 either way. You know, we were just trying to
21 make it look professional and be good for you
22 guys as well.

23 VICE CHAIR BROWN: Both Commissioner Repp
24 and Commissioner D'Aquila have questions or
25 comments.

1 COMMISSIONER REPP: I think it looks
2 wonderful. It's very professional, very
3 informative. I'm wondering, if we took out the
4 banner -- when you click the individual
5 locations, could we bring up maybe a picture of
6 the building, you know, for recognition? Like,
7 oh, there's -- you know, if you click on the
8 blue tabs, could you get a picture or would
9 that be more acceptable to everyone?

10 VICE CHAIR BROWN: I think that's a great
11 idea.

12 And, Commissioner D'Aquila.

13 COMMISSIONER D'AQUILA: I'm just going to
14 present an alternative view to my colleague
15 Commissioner Drago. I think it demonstrates
16 the maturity and the sophistication of the
17 state, its gaming industry. I think removing
18 it from the front page was a very important
19 decision. I commend you on that. The stock
20 imagery, which I think is the best practice in,
21 you know, our regulating industry commission
22 that we are.

23 However, I think for those -- for the very
24 few people that go that far back and look at
25 that other page, I think it serves to show that

1 our state and our industry is mature and
2 professional. I think the images that staff
3 have chosen are for a reason. I don't see any
4 harm in them being on the back page next to
5 where the licensees are, you know, with an
6 explanation.

7 We are a visual people, so I'm not seeing
8 it the way I did with regard to the home page
9 next to our logo. So, again, I'm presenting an
10 alternative.

11 With regard to in some locations feeling
12 maybe they don't have as much, but it doesn't
13 take a lot, even with the small businesses out
14 there to create the right image. You know,
15 they had that opportunity. They're being
16 afforded that opportunity. They can put an
17 image out there. So I like the way you are
18 showing an option (inaudible). But again, I
19 can see it going either way.

20 MS. WHITMIRE: We had the thought that
21 using legal (phonetic) in places look very
22 different than a legal casino, or one of our
23 facilities, so when you see these buildings
24 that are dedicated to it and see what they look
25 like, and then you see the mom and pops that

1 are being shut down by enforcement, there's a
2 definite visual difference between them. And
3 so that was kind of the reason why we even
4 considered putting it on the location page is
5 because it really is -- you know, you see
6 something on the side of the road, and it's not
7 on the list, but you see the image and it's
8 kind of the differentiation between those that
9 are not legal and legal. But we are open
10 either way.

11 And perhaps we can do something with,
12 like, Google Maps where if they hover over the
13 address, they can see their picture or
14 something like that if we didn't want to go
15 with the banner.

16 VICE CHAIR BROWN: I think Commissioner
17 Repp's also suggestion of just clicking on the
18 location and the image, you see the Big Easy
19 right at the top, and even the website or
20 whatnot, you know, just something so that
21 there's more information.

22 But I'm going to give deference to
23 Commissioner Drago.

24 COMMISSIONER DRAGO: I don't really have
25 anything to add. You know, I look at the --

1 you know, up and down sides of this and I don't
2 really see any reason why we have to put it on
3 there when there are some down sides to putting
4 it on there, in my opinion.

5 So, rather than having to deal with any
6 perception issues or any conflict issues, we
7 don't need to do it. You know, I don't think
8 it really benefits anybody. I don't think
9 seeing a picture is going to really benefit the
10 citizens in any way. So, that's just the way I
11 feel.

12 There's certainly maybe room for, like
13 Commissioner Repp said, some type of compromise
14 or something, you know, that maybe will lessen
15 the perception than that big banner that looks
16 to be advertising the different facilities.

17 MS. WHITMIRE: So if you want to move
18 forward with the website without the locations,
19 and we'll come back later with maybe some
20 recommendations for maybe some tags that do
21 show it once they click on the image, and then
22 we can change it later. But let's do the big
23 update of the website, leave the location
24 banner off, but, you know, still have the map
25 and then you can come back with our options for

1 maybe showing the image on the drop-down.

2 VICE CHAIR BROWN: That sounds good. I
3 think you got some direction here, though, in
4 general.

5 MS. WHITMIRE: Absolutely.

6 VICE CHAIR BROWN: And with the caveat
7 that we are a visual people, you know, and if
8 somebody wants information of a legitimate
9 legal place, they can click on the image of the
10 pin (phonetic), and then they could either be
11 directed to a website or they could be directed
12 to the facility.

13 So, thank you very much.

14 MS. WHITMIRE: You're welcome.

15 VICE CHAIR BROWN: Is there anything else
16 you wanted to show us and the public on the
17 updated website?

18 MS. WHITMIRE: Not really. I mean, it's
19 come a long way. As we add buttons, we now
20 have rooms to classify them at the end. It
21 really has become -- if you remember our first
22 website, it was pretty pitiful, and it has
23 continued to grow and will continue. This will
24 not be the last update of our website, but it
25 was really nice to be able to see -- our

1 external director is tweeting and it actually
2 shows up on the page.

3 So, I mean, it's really live. It's not
4 working at all right now. I can't click
5 anywhere at this point. So, technology. Oh,
6 here it comes. So here you are in February's
7 meeting right here during the time as you
8 speak live --

9 VICE CHAIR BROWN: Look at them.

10 MS. WHITMIRE: -- you show up. It's just
11 kind of, you know, really modern, and that was
12 what we were trying to do. We've come a long
13 way. Our web designer is wonderful, and we've
14 just been really lucky to be able to continue
15 to make it more user-friendly.

16 Much of what is behind the scenes is still
17 what you've always seen, so it's not going to
18 be a whole lot different for them. They should
19 be able to navigate better. The one thing
20 that -- we get a lot of comments on is this one
21 here, it says "I want to" and it allows them
22 to -- some people think differently, so this
23 allows them to figure out what they want to do.
24 So we're just trying to make it as simple for
25 our consumers to go around the site, and I

1 think, you know, this shows the maturity of the
2 organization as we continue to grow.

3 VICE CHAIR BROWN: That's why -- it's very
4 sophisticated, and I would just add with the
5 calendar of events to always be cognizant of
6 putting workshops and other information out
7 there so that the public is re-emphasized as to
8 these additional meetings.

9 MS. WHITMIRE: Absolutely.

10 VICE CHAIR BROWN: Commissioners, any
11 other comments or questions?

12 Commissioner Repp.

13 COMMISSIONER REPP: Just one comment to
14 the website. Just something to think about is
15 my thought as I sit here looking at the website
16 and thinking about everyone's comments is while
17 we're here to regulate the industry, we're also
18 here to promote the safe gaming establishments
19 that we have here in Florida. So hopefully we
20 can find a balance between the two on those
21 issues, which I think are both equally as
22 important.

23 Thank you.

24 MS. WHITMIRE: We will return next month
25 and give you some new options.

1 VICE CHAIR BROWN: Thank you. All right.

2 Mr. Trombetta, does that conclude your
3 executive report?

4 MR. TROMBETTA: It does. Thank you.

5 VICE CHAIR BROWN: Thank you. All right.

6 We do have -- we're going to move to the public
7 comments. We have a speaker that's signed up,
8 and then I'll open it up for anybody else.

9 Mr. Jonathan Zachem.

10 You have doctor handwriting.

11 MR. ZACHEM: Does that work now? Okay.

12 Yes. I didn't realize there would be a quiz
13 before I started speaking. Sorry.

14 Thank you, Commissioners. I'll try and be
15 brief. This is really probably not something
16 that we can answer today, but something I
17 wanted to bring to your attention that
18 hopefully we can work in partnership going
19 forward.

20 A lot of the folks that are in the
21 industry are very risk-averse and try and make
22 submittals to you all to make sure that they're
23 in compliance, to make sure what they're doing,
24 and also to update the Commission as far as
25 process of what they're trying to do in

1 attempts to modernize and make sure that they
2 understand rules and statutes well.

3 It's a little bit challenging for some of
4 my clients and some of the folks that I work
5 with to truly understand how to get there. The
6 vehicles that you normally use that I'm sure
7 some of you all are familiar with, if not all
8 of you, are normally to ask for a declaratory
9 statement or to ask for a variance or waiver.
10 And those are very clearly delineated in
11 statute and rule, but part of the problem you
12 have is if you look at a situation and you
13 don't see a rule or a statute that applies,
14 it's difficult to have a vehicle to ask the
15 Commission if what we're doing is right.

16 So, what we're kind of faced with is I've
17 had a few situations where we've submitted some
18 things and the Commission isn't quite sure how
19 to approach it if it's not listed as a
20 variance, waiver, or declaratory statement.
21 And we're stuck in a situation where we're
22 trying to make sure to be in those compliance
23 areas.

24 We want to be partners, but, again, this
25 process is a bit difficult for us. And I'll

1 give you an example. One of my clients has an
2 accounting system that they're trying to put
3 into effect. It doesn't appear that a rule or
4 statute applies to it, but we submitted some
5 information in October to try and make sure
6 that the staff knew what was going on and make
7 sure that they knew how things were approached.

8 They still haven't even received a
9 response pertaining to it. So we're kind of in
10 a position now where we're assuming that this
11 means that there's not something that they're
12 taking issue with. We had planned to go
13 forward in February, which it's now
14 February 1st, so we've got folks that are going
15 to be applying for licensure to end up working
16 in this area. It doesn't change anything as
17 far as the regulatory barriers as far as
18 anybody. They would be licensed, they would do
19 everything that we normally do, but we don't
20 have anything substantive to say we've reviewed
21 and we agree that you can do this.

22 It seems more reactionary where they're
23 pushed to under these other umbrellas. And
24 even on the other side, I have a variance that
25 is before the Commission right now, and I get

1 it's challenging around the holidays, and
2 there's been a lot of folks that have been out
3 with illness or other reasons. I'm human. I
4 get that.

5 But even with follow-up questions. The
6 last submittal that came in was early to
7 mid-December. And there's been no follow-up
8 since then for what I would assume is a
9 noncontroversial variance of rule. And we
10 don't find out we're not on the agenda for any
11 of your Commission meetings until usually the
12 week before.

13 So we're stuck in a position where we're
14 now right around 50 days since the last
15 submission to answer any follow-up questions.
16 And I'm assuming we're going to be up in March;
17 by the sound of it you've got a pretty healthy
18 agenda, and we have to within 90 days of the
19 last communication.

20 But it's kind of a situation where it's
21 not necessarily can but should. Could it go
22 90 days? It could, but it's not really
23 controversial and the idea of it taking 70, 80
24 days for a business process to be approved is a
25 bit onerous on a pari-mutuel operator.

1 So, this is more just to plant a seed in
2 your brain as to how we can work together
3 better in partnership and maybe communicate
4 with you. If there's things that we can offer
5 up to be able to make the process clearer and
6 more expedited, we would love that opportunity
7 to work with you and see what we can do, but
8 it's a little bit challenging for some of my
9 clients right now.

10 VICE CHAIR BROWN: Thank you for
11 approaching us and informing us, and also
12 highlighting an example, because I know my
13 colleagues and I do not like regulatory lag by
14 any means, but I'm going to give them the floor
15 as well to ask you any questions. And I also
16 appreciate the fact that the industry is
17 risk-averse, and so you want some certainty.

18 You want -- and we are here to provide
19 that. So if there is unnecessary regulatory
20 lag, we will be addressing that. But I'm going
21 to, again, open up the floor and have also our
22 legal staff respond to some of the comments.

23 Commissioner D'Aquila.

24 COMMISSIONER D'AQUILA: I mean, is the
25 perception something that you perceive to be

1 simpler, could be dealt with in a quicker
2 fashion, or is the expectation -- is it
3 standard right now that all replies from the
4 Commission are replied to within 90 days? I'm
5 trying to understand your point.

6 How does one distinguish what is a simple
7 matter versus a more complex matter? Are we --
8 in your observation, are we behind -- beyond
9 90 days on any matter, and/or my second
10 question is, is there an expectation gap or an
11 expectation that things that are maybe not as
12 controversial should be dealt with simple.
13 Because what we might have here is a disconnect
14 with operations. I'll let our esteemed guests
15 speak to that, but I want to make sure I
16 understand your point.

17 MR. ZACHEM: Sure. And thank you. It's a
18 very fair question. I think the challenge with
19 it -- let me first say, is the 90 days, when
20 you end up talking about responses to this,
21 encompasses -- it's part of the administrative
22 procedures element that you got with it.

23 So think about everything that could apply
24 for a variance or waiver from multiple entities
25 and how complex they can be from a (inaudible)

1 operations center and understanding what it is
2 and how it's going to be, to something as
3 simple as I want to use a different computer
4 that's not specifically listed in stat -- in
5 the rule.

6 So the 90 days is there as a cap for all
7 of this to apply. So, while -- and this goes
8 back to what I was saying as far as can or
9 should. Can you end up taking 90 days? Of
10 course, and it's very reasonable to say 90 days
11 is out there. But should on these elements, if
12 you're talking about follow-up questions where
13 you've already had a dialogue -- and I don't
14 want to get into too much of the meat of the
15 variance. I don't think that's appropriate to
16 do here or put any folks there, but there's a
17 back and forth for a couple of months that even
18 gets to the question. This isn't even a new
19 issue.

20 And it's going to go case by case,
21 Commissioner, to be very candid. It's not a
22 situation where we can say "Well, now our
23 target is 15 days, 20 days." That would be too
24 difficult to place upon your staff and your
25 team. Legal would have nightmares. I've been

1 there before.

2 But when you've had a back and forth that
3 lasted two months prior to this point to get
4 your final answer to some of your questions,
5 and then take 50 days where you still haven't
6 even put it on an agenda and there's been
7 follow-up to it, I think there's an element of
8 reasonableness that has to be attached to it.

9 And, again, I get that there's some people
10 moving around and we've got a team here that's
11 doing the best that it can during session. But
12 the point of this is really going forward is
13 just so that you are aware that there are some
14 of these things that are happening and seeing
15 if there is more communication that you need
16 from permit holders or clarifications that we
17 can end up providing to help out, what can we
18 do. Not necessarily just what can your staff
19 do, but what can we do to end up helping out.

20 So hopefully that answered your question.

21 VICE CHAIR BROWN: I'm sure staff would
22 love to jump in here, so Mr. Trombetta or
23 Mr. Marshman.

24 MR. TROMBETTA: I'm going to let
25 Mr. Marshman respond.

1 MR. MARSHMAN: The Commission received a
2 legally deficient petition, and instead of
3 dismissing it as much or recommending that we
4 dismiss it as much, we instead reached out to
5 the petitioner and asked for more information.
6 We didn't have to do that, but we did, because
7 we understand that the industry wants clarity
8 and that they're risk-averse and they're trying
9 to do the best they can.

10 After we got a legally sufficient
11 petition, it still did not comply with the
12 law's requirements to get the type of formal
13 answer that the petitioner was seeking. We
14 then reached out again and we received
15 questions and responses.

16 We now have 90 days from that last
17 response to sort through what the speaker has
18 admitted is a very complex issue. We are
19 moving as fast as we can on that issue; we have
20 been in communication with the petitioner and
21 petitioner's counsel throughout this process.
22 And if he has any particular issues with how
23 it's being handled, I would recommend that he
24 speaks with counsel assigned to the case.

25 Does the Commission have any other

1 questions regarding this matter, or would you
2 like to move to any other issue that was
3 addressed by the speaker?

4 VICE CHAIR BROWN: Commissioners, I just
5 have a question about what is the process for
6 finding out when parties will be informed,
7 whether they're going to be placed on the next
8 agenda and what that process looks like.

9 MR. MARSHMAN: That's case by case.

10 VICE CHAIR BROWN: Okay. And I have a
11 question regarding whether a dec statement is
12 needed or a variance or waiver is needed when
13 an application is filed.

14 MR. MARSHMAN: Well, in this specific
15 general case, we're talking about a petition
16 for a variance or waiver, because the
17 petitioner identified a series of rules that
18 the petitioner believes could constrain or not
19 constrain their conduct. So in this particular
20 case we have 90 days to rule on that. And if
21 we do not rule on it in 90 days, the petition
22 is deemed granted. So there is a hard and fast
23 day for that.

24 A petition for a declaratory statement,
25 which as I am currently aware there are none

1 pending, there is a 90-day deadline, but there
2 is no automatic trip that grants or denies the
3 petition.

4 Petitions for declaratory judgment,
5 petitions for waiver or variance result in the
6 Commission issuing final agency action. That
7 will impact not only the petitioner but
8 potentially others in the industry that must be
9 taken into account both legally and politically
10 on how we are going to answer and respond to
11 these.

12 These are legally significant documents.
13 As the speaker pointed out, they present
14 complex issues. And it helps no one to rush
15 and meet an arbitrary deadline to appease
16 certain interests when we all have to be
17 careful on both sides of the equation, both as
18 the regulator and as the regulated, to make
19 sure that we get the best result in a case like
20 this.

21 VICE CHAIR BROWN: Absolutely. I
22 wholeheartedly agree with everything that you
23 just stated, and I appreciate your comments and
24 your balance.

25 Commissioner Drago.

1 COMMISSIONER DRAGO: I'd like to hear --
2 go through the whole thing and hear the staff's
3 response to the other issue before I have any
4 questions.

5 MR. MARSHMAN: I apologize, Commissioner.
6 What else would you like me specifically --

7 COMMISSIONER DRAGO: There were two issues
8 that were brought up, I believe, right? One
9 was the dec statement issue and the other one
10 was the variance issue, right?

11 MR. ZACHEM: That's correct. There was an
12 accounting system that was also submitted on
13 October 13th.

14 MR. MARSHMAN: Would you like me to
15 clarify something?

16 COMMISSIONER DRAGO: Yes, if you want to
17 you can.

18 MR. MARSHMAN: Sure. There are limits on
19 what I can publicly discuss since this could be
20 the subject of litigation in the future, but
21 it's my understanding that it is unreasonable
22 to expect that you can fire off certain
23 information without the proper context, without
24 the proper ask to a regulator and expect a
25 formal binding response from a regulator. I do

1 not believe that that is the correct posture
2 for a regulator to be in. There is a formal
3 process that the speaker has already identified
4 to which he can avail himself to get the formal
5 binding answer that he and his client may be
6 seeking.

7 However, informal guarantees or
8 communications back and forth serve no one's
9 interests. They do not provide certainty to
10 the industry, and they do not provide
11 regulatory consistency for any other person
12 that may be engaged in this space.

13 An informal email back and forth does not
14 have any sort of public notice that a formal
15 process would have, such as a petition for a
16 declaratory statement or petition for variance
17 or waiver. Those both require publication in
18 publicly available journals so that everyone
19 else can know what's going on.

20 So if are there other people in the
21 industry that are seeking formal direction from
22 the regulator, there are formal processes of
23 which they can avail themselves. I believe
24 that is the most practical risk-averse way so
25 that the regulated and the regulators, not only

1 the people asking the question, but that
2 everyone else in a regulated industry can all
3 be on the same page.

4 And if one particular entity is asking us
5 a question that could impact others, that is
6 why the law is written, so that we as
7 regulators have to make sure that everyone else
8 in that space knows, A, one of your peers is
9 asking us a question. Do you have input; do
10 you have concern? Informal exchanges of
11 information and approval do not meet statutory
12 requirements and do not meet the goals of a
13 successful regulatory regime.

14 COMMISSIONER DRAGO: Thank you. That was
15 very informative, and I -- I mean, I'm not -- I
16 don't know how far we want to go with this,
17 Vice Chair, but I'm just -- I appreciate your
18 coming forward. I think this is the -- I think
19 this is the forum for that. I think it's good
20 that you have come forward. I think it's good
21 that you bring issues up such as these.

22 I don't know if this is the right place to
23 debate it, but I think the information that
24 I've received is helpful from both of you, so I
25 appreciate that very much. And I appreciate

1 that it's brought up and that we will have the
2 opportunity to hear more and gather more
3 information from staff as it goes along.

4 But I do think it's good that you have the
5 opportunity to be able to come up and voice
6 your concerns to us.

7 VICE CHAIR BROWN: Absolutely.

8 Mr. Zachem, before you respond.

9 MR. ZACHEM: Okay.

10 VICE CHAIR BROWN: Commissioners, do you
11 have any questions of staff, first? No?

12 Do you have questions of Mr. Zachem?

13 MR. ZACHEM: To be clear, this was not a
14 goal of being hostile towards staff. As I said
15 towards the end, it's what can we do to end up
16 helping the process in partnership with you.

17 As far as the specifics in this case,
18 Mr. Marshman has been very understanding. He's
19 correct. An informal communication did come in
20 and he worked very well with us. The idea is
21 how can we progress from that point on so that
22 we can have better communication and be able to
23 put it on notice for the entire industry.

24 So that was not the goal of this
25 communication, and we just hope we can have a

1 partnership with you all down the road so that
2 the proper communication ended up being done
3 and we can end up helping out the industry as a
4 whole. So that was the goal for it, and I
5 thank you all for your time. And if it was
6 received in a negative context, that certainly
7 wasn't the goal.

8 VICE CHAIR BROWN: Thank you.

9 Thank you, again, as Commissioner Drago
10 said, for coming up here and letting us know of
11 your perception of the process and then having
12 clarification from Mr. Marshman. You know,
13 we're striving to give regulatory certainty,
14 and absolutely if there's unnecessary
15 regulatory delays we want to know, but it
16 sounds like our legal team is working
17 expeditiously on this complex issue.

18 MR. ZACHEM: Thank you.

19 VICE CHAIR BROWN: Is there any other
20 members of the public that would like to
21 address us today?

22 Seeing none, Commissioners, any other
23 matters to address?

24 COMMISSIONER DRAGO: No.

25 VICE CHAIR BROWN: Mr. Trombetta?

1 MR. TROMBETTA: It's high noon now. I
2 should weigh in in support of my legal team,
3 but I don't need to. Thank you.

4 VICE CHAIR BROWN: All right. Seeing no
5 other matters -- thank you -- this meeting is
6 adjourned.

7 (The meeting concluded 11:23 a.m.)

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COURT CERTIFICATE

STATE OF FLORIDA
COUNTY OF LIBERTY

I, JANE FAUROT, RPR, certify that I was authorized to and did stenographically report the foregoing proceedings, and that the transcript is a true and complete record of my stenographic notes.

Dated this 13th day of February, 2024.



JANE FAUROT, RPR