

Florida Gaming Control Commission

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General Business Meeting

May 02, 2023

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FLORIDA GAMING CONTROL COMMISSION  
GENERAL BUSINESS MEETING

PRESENT: Charles "C.B." Upton, Chairman  
(appearing via Telephone)  
Julie I. Brown, Commissioner  
John D'Aquila, Commissioner  
Chuck Drago, Commissioner  
Tina Repp, Commissioner

DATE: Tuesday, May 2, 2023

TIME: 1:00 p.m. - 3:57 p.m.

PLACE: Fort Lauderdale Marriott North  
6650 North Andrews Avenue  
Fort Lauderdale, Florida 33309

Stenographically Reported by:  
Thomas N. Sevier, RPR, FPR-C

Job No. 307928

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APPEARANCES:

On behalf of Florida Gaming Control Commission:

FLORIDA GAMING COMMISSION  
2601 Blair Stone Road  
Tallahassee, Florida 32399  
(850)717-1499

BY: ROSS MARSHMAN, ESQ.

BY: EMILY ALVARADO, ESQ.

BY: ELIZABETH STINSON, ESQ.

BOARD STAFF PARTICIPATING:

Louis Trombetta, Executive Director  
Joseph Dillmore, Director of Pari-Mutuel Wagering

PUBLIC PARTICIPATING:

Dr. Dionne Benson  
Dr. Cynthia Cole

	I N D E X		
			PAGE
1			
2			
3	DISCUSSION		
4	1	Approval of Meeting Minutes	9
5	6	HISA/HIWU Agreement	11
6	RECOMMENDED ORDERS		
7		Presented by Emily Alvarado	
8	2.1	2022-024620 - Motyk Anthony Scott	80
9	2.2	2022-040422 - Edgar David Diaz	81
10	2.3	2022-052835 - Cynthia Fernandes	83
11	CONSENT ORDERS		
12		Presented by Emily Alvarado	
13	3.1	2022-043151 - Melbourne Greyhound Park, LLC	88
14	3.2	2022-055132 - Sarasota Kennel Club, Inc.	89
15	3.3	2023-000965 - Washington Kennel Club, Inc.	90
16	3.4	2023-001300 - Tampa Bay Downs, Inc.	96
17	3.5	2023-001314 - Tampa Bay Downs, Inc.	97
18	3.6	2023-009295 - Gerald Samuel Bennett	98
19	3.7	2023-009301 - Ramon Edgardo Minguet	98
20		2023-009394	
21	3.8	2023-013155 - Diley Anthony Dakin	99
22	3.9	2023-015414 - Nestor Alfredo Cascallares	100
23	DEFAULT FINAL ORDERS		
24		Presented by Emily Alvarado	
25	4.1	2020-001631 - Cormier Rocco	102
	4.2	2022-007916 - Somphone Pon Manivong	105
	4.3	2022-024885 - Omar Alvarez Cala	106
	4.4.	2022-024908 - Lazaro Pablo Hernandez-Valdes	108
	4.5	2022-030016 - Eduardo Azpurua, Jr.	109
	4.6	2022-040813 - Ryan Charles Calvin	111
	4.7	2022-041261 - Lonnit Edwards Cave	111
	4.8	2022-043586 - Jonathan Ferber	112
	4.9	2022-047909 - Joel Orozco Rodriguez	114

1		I N D E X	Page 4
2			
3	DISCUSSION		PAGE
4	DEFAULT FINAL ORDERS (continued)		
	Presented by Emily Alvarado		
5			
6	4.10 2023-005131 - Nagib Zamar Cardozo		115
7	4.11 2023-005439 - Yoan Perez Jimenez		117
	4.12 2023-007020 - David Majella Fisher		119
	4.13 2023-009468 - Bradley Taylor Hooper		120
8	LICENSE DENIALS		
	Presented by Emily Alvarado		
9			
10	5.1 2023-000559 - Lisa Ledonne		122
	5.2 2023-008505 - Carlos Martinez		123
	5.3 2023-009161 - Anthony Hezekiah Jaqson		124
	5.4 2023-017967 - Christopher Brown		125
	5.5 2023-018311 - Mary Ann Frances Manganiello		126
	5.6 2023-018983 - Miguel Joseph		128
	5.7 2023-019361 - Sharon Maria Cortes		130
	5.8 2023-021423 - Jamil Watson		131
14	7 Rule-Making		133
15	8 Executive Director Update		143
	Presented by Louis Trombetta		
16			
	8.1 FMLA Policy		144
	8.2 Perquisites Policy		145
	8.3 Forms Management Program		148
18			
19	Reporter Certificate		153
20			
21			
22			
23			
24			
25			

1     Thereupon,  
2     the following proceedings began at 1:00 p.m.:

3             COMMISSIONER BROWN: Good afternoon, everyone.  
4     We are going to begin the meeting very shortly. If  
5     you could please take your seats and silence your  
6     phones, that would be great. This meeting is being  
7     transcribed. We do have the new Chairman on the  
8     phone. It has confirmed that he's on. I hope he's  
9     unmuted at this time.

10            Mr. Chairman, we're going to have our  
11     Executive Director give the Pledge of Allegiance  
12     and then turn it right over to you shortly  
13     thereafter. We have a virtual flag here present.

14            (Thereupon, Pledge of Allegiance recited.)

15            COMMISSIONER BROWN: Thank you. With that,  
16     Mr. Chairman, who is on the phone -- we have a  
17     brand new Chairman and a new Commissioner. They  
18     both were appointed this past Friday. Before I  
19     give them an opportunity to speak, I just wanted  
20     to -- because I don't want to necessarily tout  
21     their amazing accomplishments -- I just wanted to  
22     introduce you all to them.

23            We've got Charles "C.B." Upton. He is  
24     President of Upton Holdings. He is an attorney for  
25     Upton Law Firm, previously general counsel of the

1 Department of State, Deputy Solicitor General for  
2 the Attorney General. He has a lot of other  
3 accomplishments. But I wanted to give him an  
4 opportunity to speak to you all and let you hear  
5 from him about his background and just give him  
6 some words.

7 Chair Upton.

8 CHAIRMAN UPTON: Thank you. Good afternoon,  
9 everyone. I am C.B. Upton. I'm happy to be a  
10 member of the Commission. I'd like to thank  
11 Governor DeSantis for the appointment and the  
12 opportunity to serve.

13 I won't go into a great deal about my  
14 background. But I do have experience in gaming law  
15 and regulatory law and a variety of other issues  
16 that will come before the Commission. So I think  
17 my background will serve us well; and, hopefully,  
18 we can all work together and move forward in a  
19 productive way both for the State and for all of  
20 the stakeholders.

21 I apologize that I wasn't able to make the  
22 meeting today in person. I'm certainly looking  
23 forward to working with the other Commissioners and  
24 all of our stakeholders, getting to know everyone  
25 as we move forward together.

1 I think to facilitate an orderly process  
2 today, I'm going to pass the gavel to Commissioner  
3 Brown, who is in the room, to run the meeting. But  
4 I will be available on the phone for comments and  
5 things as we move forward. But, again, looking  
6 forward to working with everyone and happy to be  
7 part of the team.

8 COMMISSIONER BROWN: Thank you, Chair Upton.  
9 We can hear you very properly too. So as we  
10 proceed, we're going to -- when we take up each  
11 item, we're going to do a verbal vote call so that  
12 you can participate too. And we can hear you loud  
13 and clear.

14 Welcome. We're so excited to have you part of  
15 the team. You're going to find the Gaming  
16 Commission is really rewarding and has a great  
17 group of people who are very dedicated.

18 Now I'd just like to introduce briefly  
19 Commissioner Tina Repp. She's got a very  
20 interesting background. She's currently a health  
21 care fraud investigator, previously served over 20  
22 years as a special agent for the FBI. Her  
23 background is just incredible. I'll give her an  
24 opportunity to speak as well.

25 Commissioner Repp.

1           COMMISSIONER REPP: Good afternoon. I'm also  
2 grateful for Governor DeSantis' appointment. I'm  
3 very excited to be here. There's a lot of new  
4 things going on. It's a lot of new ideas going  
5 around starting up this Commission. So it's a very  
6 exciting time to be part of this organization.

7           As Commissioner Brown said, I currently do  
8 health care investigations for a contractor with  
9 Medicare. I previously worked for the FBI. I  
10 retired last May after 23 years of service doing a  
11 lot of fraud investigating, government program  
12 fraud, money laundering, those sort of things that  
13 go along with that. So I'm excited to, hopefully,  
14 bring my talents here to serving the State of  
15 Florida.

16           COMMISSIONER BROWN: Great. Commissioners,  
17 before we begin with the agenda, would you like to  
18 say any comments or welcome the Commissioners?

19           COMMISSIONER D'AQUILA: I'd just like to  
20 welcome the Commissioners and wish you a long  
21 successful tenure here. Proud to be working with  
22 you both.

23           COMMISSIONER DRAGO: Likewise, I welcome both  
24 new Commissioners. I think they're going to find  
25 that this is not only an interesting, but

1 fulfilling Commission to sit on.

2 And we'll all continue to learn things  
3 together and find that this is a major agency for  
4 the State of Florida and a tremendous benefit for  
5 the people of the State of Florida. So I wish you  
6 all the best of luck. And we're very happy to have  
7 both of you and good luck.

8 COMMISSIONER BROWN: Thank you. We are going  
9 to take things a little out of order, because I  
10 know a lot of you have been here since our 9 a.m.  
11 workshop. It's been an exciting, novel, and  
12 enriching day today; not only to be out of  
13 Tallahassee and to be here, but to be here with  
14 folks who have an extreme interest in the industry.

15 Our workshop was very fruitful, got to talk  
16 with a lot of folks. I know a lot of us got a  
17 great deal out of it. So I want to thank our staff  
18 for organizing it. I know it wasn't easy to get  
19 down here and to all be here.

20 So we are going to take things out of order.  
21 I know there's folks in here that would like to  
22 talk about Item 6, which is the discussion of the  
23 HISA/HIWU agreement.

24 Before we do that though, it's just going to  
25 go right after the minutes, we're going to all of

1 the approval of meeting minutes, 1.1. through 1.3.

2 General Counsel, Ross, can the new  
3 Commissioners vote on the prior minutes?

4 MR. MARSHMAN: Good afternoon. If the  
5 Commissioners have had a chance to review the  
6 transcripts of the meetings and compare that to the  
7 video, if any, of the previous meetings, I would  
8 recommend that they could vote.

9 However, I'm not sure if all of our meetings  
10 are memorialized any longer on the Florida Channel.  
11 And because of the short turnaround for the  
12 appointments, I'm not sure if they've had a chance  
13 to review all the minutes.

14 So if they have reviewed them, I think they  
15 can vote. If they have not, perhaps they should  
16 consider abstaining. You still have a majority of  
17 the Commission that's available to vote, so long as  
18 Commissioners D'Aquila, Brown, and Drago have had a  
19 chance to review the minutes.

20 COMMISSIONER BROWN: Thank you so much,  
21 Mr. Marshman. I wanted to give you all a pass  
22 opportunity, because I know we had a hardy agenda  
23 and you guys just got appointed.

24 So with that, Commissioners, is there a motion  
25 to approve the meeting minutes from September,

1 February, and March as noted on the meeting agenda?

2 COMMISSIONER DRAGO: So moved.

3 COMMISSIONER D'AQUILA: I'll second that  
4 motion.

5 COMMISSIONER BROWN: All those in favor  
6 signify by saying "aye". Aye.

7 COMMISSIONER D'AQUILA: Aye.

8 COMMISSIONER DRAGO: Aye.

9 COMMISSIONER BROWN: Opposed or abstaining.

10 CHAIRMAN UPTON: I will abstain.

11 COMMISSIONER BROWN: Sounds good. Thank you.

12 We are going to go ahead and take up Item 6 with  
13 the staff giving a presentation of the new  
14 HISA/HIWU agreement first, if that's okay.

15 MR. MARSHMAN: Good afternoon again. So last  
16 Commission meeting I had presented a draft to the  
17 Commission before I went back to HISA and HIWU to  
18 present with them like the draft that the  
19 Commission would accept.

20 And the Commission gave me certain directions  
21 to explore more reimbursement, more credit  
22 generating opportunities. And I incorporated that  
23 into a draft and sent that back to HISA and HIWU.  
24 The draft that you have now in the meeting  
25 materials are the result of our continued

1 conversation after they received the draft you had  
2 authorized me to transmit to them.

3 There should be a redline version that was  
4 provided to each of you; and then there's, of  
5 course, the draft as HISA/HIWU would accept it in  
6 the meeting materials already. So however the  
7 commission would like to proceed highlighting  
8 certain items in the agenda -- or strike that -- in  
9 the memorandum, I'm happy to do that.

10 How would the Commission like to proceed?

11 COMMISSIONER BROWN: Okay. Commissioners, we  
12 do have two speakers that have signed up on this  
13 item. I don't know if you all want to go ahead and  
14 dive into the agreement first or listen to the  
15 speakers. It is at your pleasure.

16 COMMISSIONER D'AQUILA: I would prefer to  
17 listen to the speakers first.

18 COMMISSIONER DRAGO: I agree.

19 COMMISSIONER BROWN: Sounds good. We've got,  
20 the first one is, I think it's Dr. Dionne Benson.

21 Dr. Benson.

22 DR. BENSON: Good afternoon, Commissioners.  
23 My name is Dr. Dionne Benson. I'm the Chief  
24 Veterinary Officer for the Stronach Group.

25 We have, as Stronach Group, entered into an

1 agreement. For those of you who aren't aware, in  
2 Florida there's kind of a unique situation in the  
3 division of labor between the Commission and the  
4 association in that the Commission runs the test  
5 barn and is responsible for all of the testing  
6 there, whereas at the Stronach Group we do out of  
7 competition testing, what is called TCO2 testing,  
8 prior to races and any vetless works or anything  
9 like that, as well as injuries and fatalities that  
10 occur in the morning.

11 We had signed an agreement with HISA to cover  
12 that, as well as any investigations that go along  
13 with that. Or anytime that the Commission is  
14 unable to have someone present, we are happy to  
15 have someone present to cover the responsibilities  
16 for HISA so that they do not have to send someone  
17 in and bill us for it.

18 Mainly I am here to ask for you guys to  
19 seriously consider signing an agreement with HISA.  
20 Because, quite frankly, there are a shortage of  
21 vets and this arrangement between the State and for  
22 our track, at least, has worked very well for the  
23 past, at least, four years that I've been involved;  
24 and I think that under HISA it will continue to  
25 work well.

1 COMMISSIONER BROWN: Thank you so much.

2 Commissioners, any questions for Dr. Benson?

3 Thank you for coming here. And I should note,  
4 for the record, I should have noted at the  
5 beginning, if the Commissioners have received any  
6 ex parte communications on this docket item, now is  
7 the time to disclose that.

8 I will say that I did have e-mail  
9 correspondence with Dr. Cole from the UF lab. I  
10 provided that to our legal counsel and to our  
11 records and our clerk, so they have those  
12 communications. They were just three limited.

13 If there are any other Commissioners that have  
14 any other ex parte communications, now is the time  
15 to disclose it.

16 COMMISSIONER D'AQUILA: Yes. I will disclose  
17 that I received an e-mail from Dr. Cole, which I  
18 simply said thank you and I forwarded it to our  
19 Executive Director.

20 COMMISSIONER BROWN: Thank you.

21 COMMISSIONER DRAGO: I also received an e-mail  
22 from Dr. Cole. So there's a total of three  
23 e-mails, one from Dr. Cole, one back to her from  
24 me, and then one back to me from Dr. Cole on April  
25 15th. Those were forwarded to Director Trombetta

1 and general counsel. That's it.

2 COMMISSIONER BROWN: Thank you. I assume no  
3 other Commissioners.

4 COMMISSIONER REPP: Nothing, no.

5 COMMISSIONER BROWN: Thank you. With that,  
6 we're going to go to our next speaker, who is  
7 Dr. Cynthia Cole. Thank you for coming down here.

8 DR. COLE: Thank you very much. When I  
9 originally agreed to come down here, it was because  
10 I was hoping to shepherd through an agreement  
11 between the Commission, the University of Florida  
12 Racing Laboratory, and HISA in order to facilitate  
13 a contract.

14 After further discussions on Friday, I was  
15 told that HISA decided they did not want to pursue  
16 that. It was too late in the game. They had  
17 already made some arrangements for distribution of  
18 samples. I decided to still come down, because I  
19 felt there were a few things that needed to be  
20 brought to light that I didn't think were  
21 adequately communicated.

22 First and foremost, I'm a little bit stunned  
23 that sort of the challenge of the legality and the  
24 constitutionality of HISA just really doesn't seem  
25 to be sinking in. If HISA is declared

1 unconstitutional next month, a month after that,  
2 you will no longer have a racing lab.

3 You will have to contract with an external  
4 laboratory, University of Kentucky Industrial Labs,  
5 to do that testing. And I can guarantee you it's  
6 going to be more than 1.9 million that it will cost  
7 you. Those labs are very busy and there is no  
8 underwriting for testing of Florida samples.

9 The second aspect of that would be that I had  
10 originally approached the staff months ago to  
11 propose that they take that 1.9 million that had  
12 been allocated for the testing lab and make a  
13 contract with the University of Florida Racing Lab  
14 and with the auspices that we contract with HIWU to  
15 do the testing.

16 I was told at the time that that could not be  
17 done because there was no benefit to the State. I  
18 said, okay, I understand. When I talked with HIWU  
19 last week, I was also told that they approached the  
20 staff and said why couldn't we use that 1.9 million  
21 and have an offset again for the tracks. Again,  
22 they were told that there was no benefit to the  
23 State, that couldn't be done.

24 I was really surprised and very frustrated  
25 when I listened to the video from your last

1 Commission meeting that that was exactly what you  
2 did for the State employees. So the State  
3 employees for the Division of Pari-Mutuel Wagering  
4 are going to be paid by the State of Florida to  
5 collect samples for an external organization that  
6 is working for a federal agency that has an  
7 unfunded federal mandate that is under a question  
8 of constitutionality.

9 It seems a little shortsighted that you're  
10 letting your own racing lab that has a relationship  
11 with this organization, and before that the  
12 Division of Pari-Mutuel Wagering, for over 25  
13 years, and all of those people are going to be laid  
14 off and no longer have jobs.

15 And we are, indeed, a resource for the State  
16 of Florida. We're just finishing up testing doing  
17 work for the Ocala Breeders' Sales. Millions of  
18 horses went through that sale. Millions of dollars  
19 of horses went through that sale just this past  
20 week. They have another one next week.

21 They are really going to struggle to find  
22 another laboratory that can meet their needs. We  
23 also do collaborative testing for the College of  
24 Veterinary Medicine. You know, we truly are a  
25 resource. We are a resource, though, that very

1 much heavily relied upon this contract and we can't  
2 survive without it.

3 I don't know what can be done. I don't know  
4 if there were external factors that were at play.  
5 I've been told by reliable sources, and maybe  
6 Dr. Benson can comment, that the Stronach Group has  
7 plans for their own racing laboratory in South  
8 Florida. And maybe that was some of the issue that  
9 they felt it would be easier, regardless, to take  
10 work away from the University of Kentucky versus  
11 Florida. I don't know.

12 I know it probably is too late. Literally  
13 layoff notices are going out at the end of this  
14 week. But I felt like my staff deserved to be  
15 heard, and I think in the future maybe more thought  
16 given to fairness in terms of people working for  
17 the State and people working for the State  
18 university system should be treated in the same and  
19 fair manner. And I appreciate your time.

20 COMMISSIONER BROWN: Dr. Cole, thank you. I  
21 think you articulated your concerns very well. And  
22 I'm going to open it up for the Commissioners. But  
23 I do have to express similar thoughts and  
24 sentiments.

25 I would also prefer to have the racing lab,

1 the testing lab be done in the state rather than  
2 sending it out of state. And I would think that  
3 the cost would be more efficient and the process  
4 for securing those specimens more efficient  
5 in-state versus transporting them out of state.

6 And also, that the sentiment of the 25-year  
7 working relationship does not go, you know,  
8 unnoticed as well. I know our staff has some  
9 comments as well. I've had discussions with them  
10 on this. And I'd love for them to provide some  
11 public comment on their feedback on some of the  
12 thoughts that you had.

13 But before we do that, Commissioners, if you'd  
14 like to make some comments as well.

15 COMMISSIONER DRAGO: Sure. Right along the  
16 same lines, I think it's -- we recognize the value  
17 of the partnership with UF. It's not easy, in our  
18 minds, to break that partnership or not be able to  
19 work with you anymore on that. It was important to  
20 us, and we did have conversations with the staff.

21 And I am looking forward to some more  
22 information here in public about what occurred,  
23 what didn't occur throughout this process. I know  
24 it's been a very difficult negotiation for the  
25 staff. Most aspects of it have been very trying to

1 work out, so it was not easy to get this agreement  
2 done.

3 But it is -- we do value Floridians. We do  
4 want to see Floridians keep their jobs. We do want  
5 to see the work stay in Florida, stay with the  
6 University of Florida. I don't think anybody up  
7 here feels any differently. I don't want to speak  
8 for anybody else. But I know that we're here for  
9 the people of the State of Florida, and we want to  
10 support the people of the State of Florida.

11 So with that, after the Commissioners are all  
12 done, we'll hear more from the staff and get some  
13 thoughts on what did occur throughout this process  
14 as it relates to the lab.

15 COMMISSIONER BROWN: Thank you, Commissioner  
16 Drago. Commissioner D'Aquila.

17 COMMISSIONER D'AQUILA: I'm just going to echo  
18 the other two Commissioners that your points were  
19 discussed. And I'm not going to tie everybody up  
20 any longer, but turn it over to staff.

21 COMMISSIONER BROWN: Before we do that, Chair  
22 Upton or Commission Repp, would you like to make  
23 any comments or we'll go right to staff?

24 COMMISSIONER REPP: I have no comments.

25 CHAIRMAN UPTON: I would like to make a few

1 comments. I've had an opportunity to review the  
2 contract. I've also read the opinion from the  
3 Fifth Circuit that Dr. Cole referenced. I have  
4 grave concerns about the constitutionality if a  
5 very well-respected federal appellate judge said  
6 that it was blatantly unconstitutional.

7 Having said that, this isn't a judicial body  
8 that gets to determine the constitutionality of it.  
9 If an aggrieved party were to raise a challenge, I  
10 think they would have a very strong likelihood of  
11 success.

12 I have a few questions that I'd like to ask  
13 Dr. Cole, if I may.

14 COMMISSIONER BROWN: Please.

15 CHAIRMAN UPTON: Dr. Cole, how many people are  
16 going to lose their jobs if we proceed like we're  
17 talking about?

18 DR. COLE: There are 15 in the laboratory.  
19 And to be honest --

20 CHAIRMAN UPTON: Do you have other -- I'm  
21 sorry. It's a little hard to carry on a  
22 conversation with me being on the phone. Again, I  
23 apologize for that.

24 You have other work there that you're doing.  
25 But this is the bulk of the revenue that that lab

1 brings in; is that right?

2 DR. COLE: Yes. The contract with the  
3 Division is the bulk of the laboratory, sort of  
4 pays the bills. And the other work that we take on  
5 sort of allows for continuing education, updating  
6 equipment, et cetera.

7 I'm not going to deny that a number of those  
8 people can get other jobs -- the university is a  
9 good environment, the university is hiring -- but  
10 not all of them. It's going to be a struggle for  
11 some of them.

12 CHAIRMAN UPTON: Right. Now, how do your --  
13 because one of the things that I've heard -- and I  
14 want to confirm on the record the accuracy of this.

15 How do your services, the charges for them  
16 compare to the services of this non-profit that the  
17 federal government is insisting that we use?

18 DR. COLE: So it's interesting. There have  
19 been discussions that Florida was just way too  
20 expensive. But, you know, it's a very small world  
21 in the racing world. So all of the laboratory  
22 directors know each other. And we're competitors,  
23 but we're also friends and colleagues. And so we  
24 had sort of backdoor communication knowing that we  
25 were all around the same dollar per test.

1           One of the odd things that they did is they  
2           had to negotiate a price per sample, which we've  
3           never done per se. We've had a maximum sample  
4           load, because we think that just brings it down to  
5           kind of the lowest common denominator when you're  
6           doing that.

7           But, for example, when they chose not to  
8           continue negotiations with UF, the samples from UF  
9           are now going to Kentucky. That has doubled the  
10          Kentucky sample load. And so they are now at sort  
11          of the magic number of 300 and something dollars  
12          per sample. If they had moved the samples to  
13          Florida instead of Kentucky, I would have been at  
14          the magic number of 300.

15          So as I've told some people, HISA developed,  
16          with HIWU developed a Mercedes-Benz testing  
17          program, but they only had funding for a used  
18          Corolla. And so the way they made that work was by  
19          closing down a couple labs and redistributing those  
20          so they could get the value of the volume of  
21          testing.

22          CHAIRMAN UPTON: Okay. I appreciate your  
23          answers. I did enter this late. But I have tried  
24          to get up to speed on this particular issue,  
25          because I know it's an important one. I have

1 serious concerns about the constitutionality of  
2 HISA. And I look forward to discussing with the  
3 other Commissioners really what is our role given  
4 all that's out there and what to do.

5 But I am certainly, Dr. Cole, sympathetic to  
6 your position.

7 DR. COLE: Thank you. I appreciate your  
8 concern.

9 COMMISSIONER BROWN: Thank you, Chair Upton.  
10 And we have had hardy discussions as well of the  
11 legality and frustration of this implementation of  
12 this law at prior Commission meetings. So I also  
13 echo the same sentiment that you conveyed.

14 With that, I would just turn it over to our  
15 staff, our legal staff to have some further comment  
16 about the discussions and maybe our Executive  
17 Director.

18 MR. TROMBETTA: Lou Trombetta, Executive  
19 Director of the Gaming Commission. If there's  
20 anything specific you'd like, I'd be happy to kind  
21 of provide it. But I'm going to echo kind of what  
22 has already been said here.

23 Nobody wants this situation to happen the way  
24 it's happening. We are responding to an external  
25 push by the federal government to create more

1 oversight that is, unfortunately, impacting the UF  
2 lab in a way that kind of wasn't immediately  
3 expected.

4 To Dr. Cole's point, we have had conversations  
5 with both Dr. Cole and with HIWU for, you know,  
6 months about trying to figure out how to make this  
7 work, what to do. But, you know, initially the  
8 information wasn't there from HISA and HIWU, you  
9 know, about how the drug testing program was going  
10 to be implemented.

11 You know, the Act, I think, identified USADA  
12 as an organization that HISA was supposed to enter  
13 into a contract with. And it gave them, I think, a  
14 deadline of July 1 of 2022. And ultimately that  
15 fell through.

16 So everybody was then kind of responding,  
17 okay, well, what are they going to do now. And  
18 eventually they did get this deal done with HIWU.  
19 The details about racing labs, from my perspective  
20 and from the information that's been available from  
21 HISA, has been, you know, sporadic at best.

22 We attend, you know, the Association of Racing  
23 Commissioners International. ARCI holds a number  
24 of events throughout the year where racing  
25 commissions and commissioners and representatives

1 can get together and talk. And, you know, since  
2 HIWU's implementation, the question about how the  
3 labs were going to work has been something that's  
4 been discussed.

5 But the discussions have all really been  
6 questions; because there was very little  
7 information about what HISA and HIWU was going to  
8 do, because this was sort of the last piece of the  
9 puzzle that they were putting together.

10 I mean, even until a month or so ago, I was  
11 under the impression they were only, I think there  
12 was one lab out of Denver that they had a contract  
13 with. And there wasn't anything else. And then --

14 COMMISSIONER BROWN: It's crazy.

15 MR. TROMBETTA: -- all these other things kind  
16 of fell in line.

17 You know, I've known Dr. Cole for a long time.  
18 I have a high opinion of her. I have a high  
19 opinion of the work that University of Florida  
20 Racing Lab does. And this is not the preferred,  
21 you know, exit for them. I think she's right, you  
22 know.

23 And we have had these talks with you all that  
24 depending on any of these pending court cases --  
25 you know, the State of Florida is also in a weird

1 position. Right now HISA only applies to  
2 thoroughbred racing.

3 The drug testing rules for quarter horses,  
4 Standardbred racing are not preempted by federal  
5 law. So right now, and for the near future, no  
6 quarter horse or Standardbred permit holders have  
7 applied to operate any dates. But they're not  
8 prohibited from doing that.

9 So if that happens at some point -- again,  
10 ignoring the constitutionality argument, if at some  
11 point, you know, two or three years down the road,  
12 somebody wants to run quarter horses, we as a  
13 Commission are going to have to figure out how to  
14 test those samples. And it's not going to be  
15 through the structure that HISA has provided or is  
16 providing.

17 So, I mean, that's kind of the background.  
18 But if you have any questions just from the  
19 operational side, I can answer them.

20 COMMISSIONER BROWN: Commissioner D'Aquila.

21 COMMISSIONER D'AQUILA: Yes. Executive  
22 Director Trombetta, when approximately did HISA  
23 give us an indication that they were going to do  
24 the testing in Kentucky?

25 MR. TROMBETTA: I don't know. Sorry. You

1 know, it's not a helpful answer.

2 But the indications that I had from HISA until  
3 very recently was that there was going to be a  
4 lab -- I forget what the lab is called.

5 Industrial, is that correct? And they were very  
6 quiet. According to HISA, they were struggling to  
7 come to agreements with labs because of this issue  
8 of cost.

9 One thing that's also worth noting for the  
10 record is that the contract we have with the  
11 University of Florida is not a per sample contract.  
12 We have an appropriation. We do a quarterly  
13 release. But it's not necessarily based on a per  
14 sample basis. And what HISA has tried to do is  
15 they've tried to get a per sample cost from all  
16 these labs.

17 And it sounds like they, you know, figured out  
18 how many starts there were going to be in the  
19 country nationally; because that was going to  
20 affect the overall bill to all the states and the  
21 number of samples that they would be testing at the  
22 lab. So they kind of started with the starts, then  
23 went to samples, and were trying to come up with  
24 the costs.

25 I think they had an idea and then they kind of

1 went around and reached out to the labs and said,  
2 hey, can you make this work. I'm making a lot of  
3 assumptions here. I don't know any of this  
4 firsthand. But to me, that's how it had to have  
5 come together.

6 COMMISSIONER BROWN: Commissioner D'Aquila.

7 COMMISSIONER D'AQUILA: May I follow up?  
8 Executive Director Trombetta, is it a fair  
9 statement that HISA up until the last 30 days of  
10 this agreement -- and I believe we are within 20  
11 some odd days of the latest date when HISA is to  
12 begin, which has been preempted a few times so far.

13 But is it a fair statement that, an indication  
14 as to whether they were going to use our lab or  
15 not, there was no clear indication up until the  
16 last few weeks or last month?

17 MR. TROMBETTA: I'd say that's correct. In  
18 general, one of the --

19 COMMISSIONER D'AQUILA: And I'm trying to  
20 follow up also to Dr. Cole's comment about, you  
21 know, the opportunity and the negotiation process  
22 between our Commission and HISA and the challenges  
23 and the timelines, because I was having a difficult  
24 time discerning the two descriptions.

25 MR. TROMBETTA: So the timeline again -- I

1 might screw up the specifics. But, in general, the  
2 implementation of HISA has been delayed in a number  
3 of ways. One, there's two programs. It's the  
4 Racetrack Safety Program and the drug testing  
5 program.

6 There is, again, this July 1st of 2022 initial  
7 implementation date that the Racetrack Safety  
8 Program was implemented, but the drug testing  
9 wasn't. And, again, that's going back almost a  
10 year. Then there was, they were trying to get  
11 rules through to become effective at the end of  
12 March.

13 But the rules for the drug testing program  
14 were effective for, I think, four days before a  
15 judge found that HISA or the FTC did not file the  
16 correct rule-making procedures in providing notice.  
17 So now there's a new date, May 22nd.

18 And throughout that time, there's been  
19 different rumors about who the drug testing  
20 contract was going to be with, if it was going to  
21 be with USADA, with some other organization, with  
22 ARCI. That wasn't very clear until it was done.

23 From when it was very clear that HIWU was the  
24 one that they had the contract with, my impression  
25 is that they've been doing different negotiations.

1 They've been negotiating with the states. They've  
2 been negotiating with the racing labs. They've  
3 been negotiating and talking with the tracks as  
4 well.

5 But HISA has been publicly criticized for  
6 their transparency and their communication. You  
7 know, I think the people at HISA are trying to do  
8 the right thing for the industry. I think that  
9 they are trying to clean up and protect the animals  
10 involved in the sport. But I think the  
11 implementation of it has not gone very well in  
12 those two areas. They are not transparent and  
13 their communication has been difficult.

14 You know, they have people sign NDAs are the  
15 rumors. I don't know if Dr. Cole can, you know,  
16 talk about that. I'm not necessarily asking her  
17 to. But my understanding is that when they were  
18 reaching out to people, they were asking people to  
19 sign NDAs about the negotiations. So it was very  
20 difficult to really get the big picture of what was  
21 going on.

22 So, you know, my team, Liz Stinson, Ross  
23 Marshman, a lot of the legal team, Joe Dillmore,  
24 Glenda, there's been a lot of people that have been  
25 very involved and paying attention with the public

1 materials. You know, Joe has been on the phone  
2 with Ben at HIWU a lot.

3 Liz has lots of contacts, regular calls.  
4 We've been trying to do everything we can to get  
5 information ahead of time to make decisions. But,  
6 you know, I think, you know, a lot of this is not  
7 on my staff.

8 COMMISSIONER D'AQUILA: May I ask one more  
9 follow-up? Mr. Trombetta, can you also elaborate  
10 just a little bit further on your experience -- I  
11 know you traveled throughout the country speaking  
12 with Commissioners and Executive Directors at other  
13 agencies. Have they had a similar experience with  
14 HISA for the most part?

15 MR. TROMBETTA: Yeah. I mean, again, frankly,  
16 our relationship with HISA is, I think, one of the  
17 better ones in the country; because my staff has  
18 done such a good job of trying to communicate with  
19 them.

20 But across the country, states are varying in  
21 how they're responding to this federal program.  
22 Some states have just said, no, we're not doing  
23 this; the federal government is not coming in and  
24 taking over racing. And the consequence of that is  
25 that HISA then, one, the tracks in those states

1 can't conduct intertrack wagering. That's how the  
2 law works.

3 So intertrack wagering, handle, and revenue  
4 based on intertrack wagering is a huge, it's a huge  
5 part of the business for all the racetracks. So,  
6 you know, early on I know we had talks about it,  
7 very early on about that. But that wasn't in the  
8 best interest of the state; you know, that  
9 racetracks make a lot of their money from  
10 broadcasting the signal and a lot of people wager  
11 on that broadcast.

12 So, you know, the hook on HISA is anything  
13 that crosses state lines; so this is kind of where  
14 they've applied the hook and the penalties. So the  
15 way the program works is if you -- HISA, if you opt  
16 out and don't let HISA, you know, take over in your  
17 state, you cannot send that signal out of state.  
18 We didn't think that was in the best interest of  
19 the State of Florida.

20 I'm rambling now. Your question was about  
21 other states. So other states that have been more  
22 motivated to participate, California has opted into  
23 the program. So, again, the first decision point  
24 in this whole thing was HISA gives the state the  
25 bill and then comes to the Commission and says will

1 you opt in to pay this bill.

2 We as a body decided no. Other states,  
3 California and I think Pennsylvania -- thank you,  
4 Liz -- have opted in, but only two. Most other  
5 states that are participating are operating on some  
6 type of credit. So the other -- after that first  
7 decision point, if it's then you decide no, HISA  
8 then sends the state a bill, let's say \$5 million,  
9 \$6 million.

10 And we all got a letter. And the letter said,  
11 we will give you a credit that you can apply  
12 towards this bill in X amount if you conduct these  
13 things. It's my understanding at that point the  
14 lab fees were not necessarily considered as part of  
15 that possible credit. That discussion came up well  
16 later.

17 So that initial credit had to do with sampling  
18 and like a few other, our investigations and TCO2  
19 testing, out of competition testing. It was what  
20 activities was the Commission willing to do. And  
21 that's the agreement that's in front of you.

22 That's what we're trying to get to is that  
23 we've put together a proposed draft of this  
24 agreement that will capture and will allow the  
25 State of Florida to continue to conduct sampling

1 and get a credit for that sampling to help offset  
2 the cost that is otherwise borne by the racetracks  
3 in the state.

4 So going back again, states vary all over the  
5 place. Some are doing what we're doing where  
6 they're trying to capture what they're doing,  
7 trying to get as much of a credit as others. Some  
8 are opting out and just saying we're not going to  
9 have an agreement, we're not going to do anything.  
10 And then HISA is just going to give the bill to the  
11 racetracks in its entirety. So it really is a  
12 range.

13 But the general consensus from State Racing  
14 Commissions, from members of the ARCI is that HISA  
15 did not, could have taken additional steps is  
16 probably the way to better say it to get  
17 commissions involved and to be transparent and to  
18 be public and to be open with what they're doing.  
19 And, you know, frankly, that just didn't happen  
20 that much.

21 COMMISSIONER BROWN: Thank you, Mr. Trombetta.  
22 Commission D'Aquila, we'll go back to you in a  
23 second.

24 This is a bit frustrating, again, because of  
25 the lack of transparency, the amount of

1 confidentiality that they want and protections of  
2 confidentiality in the agreement. And then, again,  
3 the fact that they're now putting our state testing  
4 lab in a posture where they have to price it per  
5 sample, it's not even -- it's not an even playing  
6 ground.

7 And, I guess, the question that I have just  
8 looking at the agreement, I guess, because it's not  
9 necessarily conditioned to the whole agreement as a  
10 whole, we've already decided that we wanted to  
11 enter into an agreement for those credits to  
12 continue operations in the state.

13 But under Paragraph 13, it talks about the  
14 sample testing and how the agency has, you know,  
15 the discretion to choose its own lab. It doesn't  
16 talk about cost. It doesn't talk about anything to  
17 that magnitude. It's pretty bare and gives them  
18 full discretion to choose its own agency, i.e.  
19 Kentucky.

20 What if we decided to push back on that  
21 provision in Section 13, how does that affect the  
22 overall agreement as a whole?

23 MR. TROMBETTA: So I'm going to let the  
24 general counsel, Ross Marshman, answer specifics  
25 about the agreement.

1           But I can tell you, in general, we're in a  
2           situation right now where considering HISA and  
3           HIWU's position -- they have rules now that are  
4           going to be effective May 22nd -- they are, in my  
5           opinion, moving forward whether states are on board  
6           or not.

7           And they're coming from a place where they're  
8           trying to accomplish -- at this point because of  
9           all these delays, they realize that people are  
10          looking at them and kind of wondering what's going  
11          on.

12          So I think the leverage -- you know, I  
13          apologize for the term -- but I don't know if we  
14          have much leverage at this point, frankly. They're  
15          going to implement the drug testing program with or  
16          without states, I think, is kind of the mindset  
17          that they have.

18          So we're trying to do as much as we can to  
19          help benefit the State of Florida as much as we  
20          can. But if we keep the agreement that says we  
21          want to send them here, frankly, they're going to  
22          say, sorry, they're not going there and that's  
23          that.

24          The discussion with HIWU on this matter was  
25          our budget has been created based on assumptions

1 about where samples are going and how many; and if  
2 we try to incorporate the University of Florida at  
3 this point, it would mess up our whole budget and  
4 we're not doing that. So there's just very little  
5 consideration for modifying and changing their  
6 implementation at this point.

7 COMMISSIONER BROWN: Yes, Commissioner.

8 COMMISSIONER DRAGO: Can I say something  
9 before we turn it over to Mr. Marshman?

10 Director Trombetta, I just have an operational  
11 question, I guess. And it was a great historical  
12 perspective and review, I guess, of everything and  
13 I appreciate that. Because I know since we started  
14 a year and a half ago, we were talking about this  
15 from day one literally of us on the Commission. So  
16 I know a lot of work has gone into this and a lot  
17 of thought by everybody.

18 What do we do now if -- you mentioned before  
19 that if quarter horses or Standardbred horses start  
20 to run, where are we going to get them tested.

21 What about if HISA and HIWU extends again in May  
22 and UF has already folded up their tents, they had  
23 to lay people off, they had to leave, we won't have  
24 anybody.

25 This is not two years away, this is this month

1 or it's ruled unconstitutional tomorrow or  
2 whatever. I know you've been thinking about it.  
3 So I'm interested to hear your thoughts on what are  
4 we going to do.

5 MR. TROMBETTA: So there's a few thoughts.  
6 Honestly, it's not a great spot. But we're going  
7 to have to -- you know, hearing Dr. Cole just say  
8 that the notices are going out this week, you know,  
9 kind of cuts into one of our -- one of the options  
10 was that if that did happen at the end of May, we  
11 thought maybe the UF lab would still be around and  
12 we could still kind of make that work.

13 The other option is we'd have to try to  
14 procure some other lab service. And, you know, we  
15 don't necessarily know where; but we'd have to, you  
16 know, follow all the normal rules in Florida law  
17 about procurement, which would take some time. But  
18 we'd have to look for another source if the UF lab  
19 is not operating.

20 COMMISSIONER DRAGO: All right.

21 COMMISSIONER BROWN: Commissioners, do you  
22 have any other questions before we turn it over to  
23 our legal counsel?

24 Okay. Mr. Marshman.

25 MR. MARSHMAN: Commissioner Brown, I think you

1 had asked about Paragraph 13 of the Anti-Doping  
2 Medication Control Program related to the sample  
3 testing; is that correct?

4 COMMISSIONER BROWN: That's right.

5 MR. MARSHMAN: Okay. And what was your  
6 specific question about that term?

7 COMMISSIONER BROWN: What if we pushed -- this  
8 is where we agree that our agency samples will be  
9 sent to be analyzed by an entity, a lab selected by  
10 the agency, i.e. not the Commission. This is the  
11 pivotal provision in the agreement that, basically,  
12 relinquishes our authority of sending it to the UF  
13 testing lab.

14 I mean, it's a very bare-bones provision. It  
15 doesn't really talk about costs even associated  
16 with the, you know, the sample testing being sent  
17 to the agency's choosing, how that's handled,  
18 whether we can discontinue or terminate the  
19 agreement before the 120 days notice that's  
20 provided at the back of the agreement if we're not  
21 satisfied with the way it's being handled by the  
22 agency's laboratory. It doesn't have a lot there.

23 What if we push back or continue negotiations  
24 past May 22nd with regard to this specific  
25 provision and try and bolster it up a little bit

1 more?

2 Again, there hasn't been a lot of transparency  
3 about this whole process of HISA/HIWU choosing  
4 their own agency up until a couple weeks ago. And  
5 this affects Floridians and their lives and their  
6 employment and, again, a longstanding 25-year  
7 relationship.

8 MR. MARSHMAN: This is the Commission's  
9 agreement. I'll advocate for whatever you direct  
10 me to advocate for.

11 With that being said, here are some roadblocks  
12 I perceive HISA and HIWU presenting to us if I were  
13 to go back to them and suggest that they make place  
14 for University of Florida Racing Lab in their  
15 plans. I don't think they would agree with that at  
16 all. And I think that would jeopardize the entire  
17 agreement, frankly.

18 Something that wasn't specifically mentioned  
19 in Lou's kind of discussion of HISA and HIWU's  
20 posture is that they do have contractual  
21 arrangements with three other labs. And there are  
22 certain guaranteed minimums in those contracts for  
23 samples. So that's another roadblock for them.

24 Even if we assume HISA and HIWU are above  
25 board and are trying to work with us as much as

1 they can, they would have to break three different  
2 contracts to incorporate the University of  
3 Florida's sample collection methodology into their  
4 overall plan. And that is something that they've  
5 repeatedly told us they are unwilling or incapable  
6 of doing.

7 Going to the lack of transparency or, let's  
8 say, lack of clear planning, tomorrow HISA is going  
9 to publish something via the FTC explaining why  
10 they're delaying until May 22nd. So that won't  
11 even be part of the record until tomorrow.

12 But I've skimmed the draft. And I don't think  
13 anything in that language changes HISA and HIWU's  
14 position on the sample collection provision. I  
15 don't think that there is any appetite on their end  
16 to modify that condition.

17 COMMISSIONER BROWN: Commission D'Aquila.

18 COMMISSIONER D'AQUILA: I understand that they  
19 have these contracts, which technically have not  
20 started yet, correct?

21 MR. MARSHMAN: They started for approximately  
22 four or five days and then they were discontinued  
23 or paused, I guess.

24 COMMISSIONER D'AQUILA: So in respect to their  
25 contracts, where does -- is there any legal

1 position here or in this negotiation where a state,  
2 an important one, State of Florida, is losing its  
3 most significant lab and will now become dependent  
4 upon an out-of-state lab by virtue of, you know,  
5 their muscle in this case or their other contract,  
6 is there -- this is a little bit of a follow-up, I  
7 think, to Commissioner Brown's point.

8 They will not accept -- and I understand, they  
9 spent a lot of time negotiating that contract. But  
10 we're talking about the entire country here. This  
11 is but one state.

12 Are you telling me that they will not accept  
13 adding one more lab, which will also maybe  
14 considerably save shipping costs and so forth; but  
15 for the reasons earlier stated, just have the  
16 ability here in the Southern part of the country to  
17 have that ability and that lab. And they're a new  
18 agency. I mean, has this lab ever handled this  
19 volume before and so forth.

20 Are there grounds for testing this? I mean,  
21 they seem to have the right to change their start  
22 date quite often. But, yet, I can't walk before I  
23 run with regard to an important service such as the  
24 health of our horses here in the State of Florida.  
25 I find it almost one-sided.

1           And I'm having a difficult -- I've had a  
2           difficult time digesting this the entire process,  
3           not to mention the fact that the most frequent  
4           acronym I've heard for the last two years is HISA.  
5           I mean, am I off track on this? I'd like your  
6           comment on that, please.

7           MR. MARSHMAN: So just to state the obvious, I  
8           am neither the Executive Director of HISA nor of  
9           HIWU. But I can convey, at least, what they've  
10          told us repeatedly, especially HIWU; which is  
11          everything that you just outlined as a concern,  
12          they have considered it and are moving on.

13          COMMISSIONER D'AQUILA: Okay.

14          MR. TROMBETTA: Can I try to add and try to  
15          help general counsel here?

16          Yeah. Essentially, you know, their opinion  
17          and their side is this federal law has passed, it  
18          is the law, and they have a duty to implement it.  
19          If states want to participate, great. If not,  
20          they're going to implement it anyway. That's kind  
21          of the mindset at this point.

22          MR. MARSHMAN: And, again, neither one of us  
23          can speak with absolute authority on their  
24          position. But I can tell you, that is what they  
25          have told us repeatedly before; you know, last

1 week, last week, the month before that, the month  
2 before that.

3 I mean, that has been the consistent drumbeat.  
4 And there is the preemption language in the law.  
5 So they're leveraged, to use Director Trombetta's  
6 phrase, so long as the law is still constitutional,  
7 it's still there.

8 And, Commissioner Drago, your point about what  
9 if this is suspended in the future and the  
10 University of Florida Racing Lab is no longer here,  
11 that's been my concern kind of drafting this as  
12 well. I can't allay some of the concerns for the  
13 other breeds of horseracing. That's not something  
14 that can just be flipped on like a switch.

15 The next time any of those permit holders  
16 would have an opportunity to notify us in advance  
17 of them running those live performances would be in  
18 the normal license application window, which is in  
19 late fall. So they would start applying then and  
20 then we would start considering their applications,  
21 just like we finished in March of this year. We  
22 issued all those licenses, right.

23 So they can't just flip the switch for the  
24 other types of horseracing. We would have some  
25 advance knowledge on that. But your concern is

1 still valid if thoroughbred racing was under the  
2 HISA regime, HISA then gets paused or killed  
3 forever, then that would be a concern.

4 COMMISSIONER BROWN: Going back to Dr. Cole's  
5 remarks about the credits that we are treating the  
6 employees at the racetrack and HIWU's disagreement,  
7 I guess, with treating the lab the same, can you  
8 just expound upon that a little bit more why we  
9 can't treat the lab similarly as we are giving  
10 credits to the staff?

11 MR. MARSHMAN: So we have sample collection  
12 personnel that work for the State of Florida in the  
13 Division of Pari-Mutuel Wagering. That's been kind  
14 of the longstanding testing arrangement. Then you  
15 have the University of Florida testing lab; which  
16 has been, as far as I know, the sole provider of at  
17 least the initial testing for samples that are  
18 collected.

19 The Commission and the State, we can control  
20 only what we can control. And what we can control  
21 is the Commission employees, the Division  
22 employees. We can control by offering  
23 reimbursement or credit the sampling process.  
24 That's something that we can offer to them. And  
25 it's, frankly, something they need, unless they

1 plan on building their program in the state  
2 separate and apart from us.

3 As we've been discussing, however, to HIWU and  
4 HISA, they have valued our sample collection  
5 personnel greater than the University of Florida  
6 Racing Lab. And, again, to hear them say it, it's  
7 because of cost per sample, whatever, their  
8 contractual arrangements. They have everything  
9 coming down to their dollars and cents.

10 And our sample collection personnel, however,  
11 is something that we can't offer them and generate  
12 either a credit for the sample collection and then  
13 have a reimbursement to us when we do certain  
14 investigations connected to the Anti-Doping  
15 Medication Control Program and, to a lesser extent,  
16 the Racetrack Safety Program.

17 COMMISSIONER BROWN: It is frustrating. It's  
18 a little disingenuous, just because it seems that  
19 they had selected the lab without disclosing it to  
20 all of the states and then backed in and put the  
21 labs, the state labs in a posture to come up with a  
22 formula that they have not previously done to get  
23 to a number that they were envisioning.

24 If we don't have an agreement by May 22nd,  
25 what effect does that have? Because there are some

1 provisions, additional provisions that I'd love to  
2 see pushed back a little bit in favor of the State  
3 a little bit. What if we do not have a solidified  
4 agreement by May 22?

5 MR. MARSHMAN: It depends, which is very  
6 lawyerly to say. But I'll explain. If we signal  
7 to them that we ultimately will enter into some  
8 agreement with them, then I imagine that they would  
9 want some sort of temporary guarantee, let's say,  
10 that our sample collection personnel would continue  
11 to collect samples on their behalf.

12 If, however, we draw our line in the sand at  
13 any one of these conditions and say unless you can  
14 agree to this term, we're not entering into an  
15 agreement, then they will have to create their own  
16 sample collection team. And I don't know if our  
17 employees would remain employed, because there  
18 would be no work to do.

19 MR. TROMBETTA: Sorry. If I can just add, I'm  
20 going to ask Liz to come up and just give an  
21 example of Arizona, what's happening in Arizona;  
22 because I think it's related to sort of the answer  
23 to that question.

24 COMMISSIONER BROWN: Thank you. Could you  
25 just state your name for the record?

1 MS. STINSON: Sure. Elizabeth Stinson. I  
2 learned on an ARCI call recently that the State of  
3 Arizona originally had decided that they did not  
4 want to opt in to have an agreement with HISA and  
5 HIWU. And HISA and HIWU said, okay, fine.

6 And they started down the path of implementing  
7 their own process; started hiring people, started  
8 figuring out how they were going to get samples,  
9 that sort of thing. And then there was a change in  
10 the leadership in Arizona, and they decided that  
11 they wanted to at that point enter into an  
12 agreement with HISA and HIWU.

13 At that point HISA and HIWU said we appreciate  
14 the offer; but remember when you said no, we're not  
15 interested, we've already invested all of this time  
16 and energy into putting together our own program  
17 using our resources; so thank you, but we're going  
18 to be controlling it from here on out.

19 So, basically, if we opt in, we will have the  
20 ability to opt out at some point, if we so choose.  
21 But if we opt out, it appears that that's it and we  
22 would no longer have control over the testing barn  
23 and that sort of thing.

24 So it was an illuminating piece of information  
25 for us to learn; and it has affected our stance and

1 posture, because we don't want to lose those  
2 resources.

3 COMMISSIONER BROWN: Going back to that word  
4 leverage that Executive Director Trombetta said, it  
5 seems very limited.

6 MR. TROMBETTA: Yeah. I mean, I think I asked  
7 Liz to share that, because I think it's the kind of  
8 situation that -- again, trying to explain -- you  
9 know, I spent a lot of time trying to think through  
10 their kind of perspective, their lens.

11 And they have a little bit of pie on their  
12 face; you know, some maybe deservedly, some not,  
13 just in how this program has been rolled out. And  
14 they're at the point now where they want to have  
15 results at the end of May.

16 So I think it -- you know, there's little, the  
17 temperature right now is that there's just little  
18 kind of negotiating room. I think they're kind of  
19 tired of trying to do that and have all these  
20 different things. You know, there are so many  
21 states that all have different laws that, you know,  
22 I think they're at the point now where they have to  
23 implement this program and they're going to do it.

24 You know, states that have been working with  
25 them -- right now we've been working with them kind

1 of from the start. As Mr. Marshman just said, they  
2 through this whole contracting process, even at the  
3 end of March when those first set of rules were  
4 going to go into place, they knew they were -- we  
5 had calls, you know, several days in a row right  
6 before that rule went into effect.

7 Because they wanted to make sure that Florida  
8 was going to be able to race and make sure the  
9 animals were tested and that samples were taken,  
10 you know, at the flip of the switch, essentially.  
11 And we kind of scrambled to make it happen. And  
12 then there was a ruling that then went back to  
13 State law rules.

14 And now I think they're -- to me, this is kind  
15 of their last -- they're looking at May 22nd as  
16 like, okay, this is it, we're done kind of playing  
17 games. So, you know, I think that there's little  
18 flexibility at this point in renegotiating some of  
19 the terms in that contract, and I don't if it's  
20 really in the best interest of us at this point.

21 COMMISSIONER BROWN: Thank you. Chair Upton,  
22 do you have any comments or questions?

23 CHAIRMAN UPTON: I do have a question  
24 whether -- and this is for the general counsel.  
25 The confidentiality provisions that are in the

1 draft contract, do those comply with our public  
2 records law?

3 COMMISSIONER BROWN: We've all asked that  
4 question.

5 CHAIRMAN UPTON: Okay. Well, what's the  
6 answer?

7 MR. MARSHMAN: The answer is, no, they do not.  
8 However, the full answer is that the Horseracing  
9 Integrity and Safety Act includes preemption  
10 language for regulations that are promulgated by  
11 the FTC on behalf of HISA and HIWU that occupy the  
12 same field as State law or State regulation.

13 So, no, these do not comply with Chapter 119.  
14 However, the Horseracing Integrity and Safety Act,  
15 by way of the regulations promulgated by the FTC on  
16 behalf of HISA, have preempted those provisions of  
17 Chapter 119.

18 I will note too, as I did in the past, that  
19 before and after this agreement, or before and  
20 after the adoption of HISA and the introduction of  
21 HIWU, to a Floridian wondering what the test  
22 results were of a particular horse of a particular  
23 race at a particular time, to that person's  
24 perspective, it will be the same.

25 In Chapter 550 there are confidentiality

1 provisions for open investigations and any ongoing  
2 cases that involve testing. So to a member of the  
3 public at a racetrack, before and after HISA and  
4 HIWU are taking over or trying to take over,  
5 they're not going to know any different.

6 The members of the public would not have  
7 access to those testing results. Under Florida law  
8 and under this proposed agreement, they would not  
9 have access to those results pursuant to this  
10 agreement either.

11 CHAIRMAN UPTON: That was the only question I  
12 had. Thank you.

13 COMMISSIONER BROWN: Thank you. Any further  
14 question before we allow -- if there are any other  
15 speakers here. Any other questions before we get  
16 into the agreement?

17 All right. I know we only had two cards. But  
18 if there's anybody in the audience that would like  
19 to speak on this item, irrespective of not filling  
20 out a comment card, you are welcome to speak before  
21 we get -- Dr. Cole, yeah, come on up. No problem.

22 DR. COLE: So I did hear from HIWU last week.  
23 One of the things I will say is not all of the  
24 contracts are in place, although they may say that.  
25 I do know that they have not been signed. They

1 said, oh, it would cost the industrial lab a  
2 million dollars; but, gee, they'd still be in  
3 business.

4 And ultimately there was a budget deficit of  
5 \$200,000 due to this offset. So I do wonder if the  
6 contract was made and the renegotiations since -- I  
7 don't recall any of the tracks being sort of -- if  
8 they had earlier supported this type of an  
9 agreement, they could have said, gosh, we could  
10 have gotten an offset.

11 I don't recall hearing from them, so maybe  
12 it's not important to them. So if a contract could  
13 be made to solve the problem of the deficit for the  
14 HISA, maybe they would consider. The difficulty  
15 is, of course, the timing.

16 COMMISSIONER BROWN: Thank you, Dr. Cole. Any  
17 other questions?

18 Okay. Commissioners, we're going to get into  
19 the actual agreement that's been kind of  
20 renegotiated by Mr. Marshman and his staff. We can  
21 go section by section, if you'd like, or you could  
22 just pull out some items that you either want  
23 clarification on or additional suggestions.

24 And I'll just note, I'm going to hold off,  
25 because I do have about six items I'd like to have

1     them look at. So I'll just defer to you all first  
2     before going into them.

3             Commissioner D'Aquila.

4             COMMISSIONER D'AQUILA: Yes. I have a  
5     question for counsel, Mr. Marshman.

6             Can you comment on the removal of 15 and 16,  
7     Additional Testing, and how that came about,  
8     please, just for my own understanding.

9             MR. MARSHMAN: So to HISA and HIWU, those  
10    additional testing provisions were not what we were  
11    trying to capture. If the state wants additional  
12    testing for an animal, that's allowed. And those  
13    are allowed under the HIWU regulations, for ease of  
14    reference.

15            What they were trying to capture here was a  
16    different type of testing that we were not  
17    interested in anyway. So nothing prevents the  
18    State of Florida from asking for additional testing  
19    within the type that HISA and HIWU have provided  
20    for in their regulations. So we just couldn't come  
21    to an agreement on what exactly they thought  
22    additional testing meant in this paragraph.

23            But their regulations, they are correct, those  
24    do provide for additional testing. So we don't  
25    have to incorporate that into an agreement. We

1 have provisions in the regulations for the State to  
2 seek additional testing.

3 COMMISSIONER D'AQUILA: Thank you for that  
4 clarification. May I ask another?

5 COMMISSIONER BROWN: Yes, please. You've got  
6 the floor.

7 COMMISSIONER D'AQUILA: With regard to 18, we  
8 had previously asked that the actions that HISA may  
9 conduct, if they hold the Commission harmless. I  
10 notice that was removed. Is that a hard request by  
11 them?

12 COMMISSIONER BROWN: I had the same question.

13 COMMISSIONER D'AQUILA: I'm specifically -- I  
14 think I have it right with 18, but maybe not.

15 COMMISSIONER BROWN: 18(b).

16 COMMISSIONER D'AQUILA: 18(b). Thank you,  
17 Commissioner Brown. But I noticed that something  
18 we had requested from a prior Commission meeting,  
19 whereby the Commission or you all being held  
20 harmless, that that was removed.

21 Can you explain why that was?

22 MR. MARSHMAN: So they see the latter  
23 provision for indemnification to cover the type of  
24 indemnification that I was describing earlier that  
25 the Commission had asked me to do. So I'm

1 referring to what is now Paragraph Number --

2 COMMISSIONER BROWN: 20.

3 MR. MARSHMAN: I believe it's actually  
4 Number 21. Well, in my draft it starts with  
5 Indemnification. And this is in the Anti-Doping  
6 Medication Control Program section.

7 COMMISSIONER D'AQUILA: Okay. Understood.  
8 Unrelated general question. I noticed that this  
9 went from being called a voluntary implementation  
10 agreement to a mutual cooperation agreement.

11 As one of the non-attorney members of the  
12 Commission, could you help me understand that line?

13 MR. MARSHMAN: The nomenclature change was  
14 based on some feedback we had received from the  
15 last meeting to change the tenor of the agreement.  
16 And this is one of the provisions that they had  
17 agreed to change.

18 COMMISSIONER D'AQUILA: Okay.

19 COMMISSIONER BROWN: Commission Drago.

20 COMMISSIONER DRAGO: Yes. One question I have  
21 on Number 17, the Information Sharing. I know  
22 we've had a lot of discussions about that. And  
23 Chair Upton brought up the Chapter 19 issues and so  
24 forth.

25 Can you explain that information sharing

1 there? Because it just seems to me to be a little  
2 bit vague in terms of -- I know we had a lot of  
3 discussions about when they would reveal positive  
4 tests and when they wouldn't and all that type of  
5 thing.

6 Explain that section to me, if you would, in  
7 terms of what are they obligated to disclose to us  
8 and when. I know it says something to the effect  
9 of as soon as possible.

10 MR. MARSHMAN: On a timely basis.

11 COMMISSIONER DRAGO: On a timely basis, yes.

12 MR. MARSHMAN: So this is going into another  
13 main component of the agreement aside from  
14 sampling, which is what sort of information will we  
15 be getting as a Commission related to the testing  
16 and the sample collection.

17 What this provision is saying is we will get  
18 access to testing results earlier than we would  
19 otherwise if we would not become an interested  
20 party. There's that phrase again we talked ad  
21 nauseam about last meeting.

22 That's really what this section is is  
23 codifying what that interested party means, which  
24 is on a timely basis they agree to share with us  
25 information related to their testing and their

1 sample collection -- well, it's not the sample  
2 collection -- the testing rather. And, again, this  
3 goes back to what we gain by being an interested  
4 party and what we wouldn't have otherwise.

5 What we gain by this is actually having  
6 information about these tests. And going back to  
7 the example, if there's four horses in a race, we  
8 get three negative test results back whether we  
9 agree to this agreement or not. So we're going to  
10 find out about the negative.

11 If we become an interested party, we're going  
12 to find out what's going on with that fourth horse.  
13 It may have been a positive, they may have  
14 requested a split, there may be other things going  
15 on with that sample. If we agree to become an  
16 interested party, we're going to know what's going  
17 on with that fourth horse.

18 If we do not agree to become an interested  
19 party, we're going to be in the same situation as  
20 anyone in the public; which is we don't know what's  
21 going on with that horse until HISA, really HIWU  
22 decides to make that information public, most  
23 likely by way of a suspension order or some sort  
24 of, their equivalent of administrative complaint or  
25 something like that to begin the formal discipline

1 process against the trainer or owner of that horse.

2 So going back to the specific language, this  
3 information sharing language is codifying that they  
4 will provide us with information that would  
5 otherwise not be available to us unless we became  
6 an interested party and more specifically unless we  
7 agree to their confidentiality provisions.

8 COMMISSIONER DRAGO: It just seems so vague to  
9 me. I mean, it doesn't say that they're going to  
10 give us, disclose the positive samples as soon as  
11 they get them or anything like that. It doesn't  
12 even say that they will disclose positive. They  
13 just say that they will provide the agency on a  
14 timely basis with any information, documentation.  
15 It sounds like whatever they feel like revealing at  
16 the time.

17 Am I just thinking too much into this, or is  
18 there a better way to close this up to hold their  
19 feet to the fire? Because we had so many  
20 discussions about the fact that, oh, if you don't  
21 agree to this, we're not going to give you any  
22 information. So it almost sounds like they're  
23 still kind of hemming and hawing about what they  
24 want to give us.

25 MR. MARSHMAN: If I can confer with my

1 colleague first.

2 COMMISSIONER DRAGO: Sure. Please.

3 MR. MARSHMAN: Miss Valentine made a good  
4 point, which is the regulations themselves account  
5 for when notification is provided. So we would be  
6 notified along when the racetrack or the covered  
7 person was also notified that there was something  
8 going on either with their own horse in the case of  
9 a trainer or an owner or the racetrack if there was  
10 a horse at that track.

11 So this agreement doesn't specifically spell  
12 that out, because those are provided for in the  
13 regulations. If you'd like it to be made clear  
14 that we're specifically incorporating the language  
15 from the regulations, we can.

16 But if we're looking for a specific date  
17 certain, within X days of the samples or things  
18 like that, they previously told us they were not  
19 agreeing to do that. And they have not agreed to  
20 do that with any other state's agreement that I've  
21 had the opportunity to review.

22 COMMISSIONER DRAGO: I just think -- well, we  
23 may just be able to incorporate it in the  
24 regulations and that might be enough. I don't  
25 know. I haven't seen those. But it just seems

1 kind of vague the way it's written here. If we can  
2 do something to tighten it up, I would feel better.

3 I don't know about the other Commissioners, if  
4 they feel the same way or not. But I would feel  
5 better, because this information sharing and  
6 transparency is an important issue. I think the  
7 tighter we can make it, the better from my  
8 perspective.

9 COMMISSIONER BROWN: I would agree. I think  
10 that's also part of the reason why we switched it  
11 from voluntary implementation, which really --  
12 well, not really. This isn't really that  
13 voluntary.

14 I mean, for the benefit and the livelihood of  
15 our employees in the racetracks, we are having to  
16 enter into this agreement. So the spirit of it is  
17 that they're going to cooperate and share  
18 information as are we. And I think mutual  
19 cooperation would convey that. So with it being  
20 vague, I would support it being more specific.

21 Do you have other?

22 COMMISSIONER DRAGO: No, I'm done. That's it.  
23 Thank you.

24 COMMISSIONER BROWN: Chair Upton or  
25 Commissioner Repp, any additional thoughts or

1 comments on the substance of the document?

2 COMMISSIONER REPP: I have no comments.

3 CHAIRMAN UPTON: No, thank you.

4 COMMISSIONER BROWN: Okay. If you don't mind,  
5 I'm just going to go really briefly into the  
6 sections regarding -- we were talking about using  
7 our best efforts at the last meeting.

8 Rather than ensuring racetrack meets their  
9 requirements and standards, under Provision 6,  
10 Emergency Warning Systems, again, it puts the onus  
11 on the Commission to ensure that the racetrack  
12 maintains the approved emergency warning system. I  
13 think it is in our best interest to use the word,  
14 to insert the words "to use" after "to", the word  
15 "to", to use its best efforts to ensure that the  
16 racetrack maintains.

17 And that's similar to the language in  
18 Paragraph 7 and 8, which states that the Commission  
19 agrees to encourage racetracks to administer tests  
20 or Section 8 regarding training opportunities.  
21 Commission agrees to provide reasonable notice.

22 I think the strong language of requiring the  
23 Commission to ensure puts a very steep burden on  
24 us. And that's found in Section 6, as well as in  
25 Section 9 regarding jockey drug and alcohol

1 testing, as well as, again, in the Concussion  
2 Management Section, Paragraph 10.

3 Again, it's just inserting the language to use  
4 our best efforts. If we don't insert that  
5 language, then we are equally liable as the  
6 racetrack is that they did not comply with those  
7 requirements.

8 MR. MARSHMAN: We have previously discussed  
9 that, us and HISA. They were resistant it to the  
10 first time. I can discuss it with them again.

11 COMMISSIONER BROWN: I would just note in  
12 similarity Paragraphs 7 and 8, which are much less  
13 stringent. I think this is a very big burden for  
14 us; because what would be our liability if the  
15 racetrack does fail those three different  
16 provisions to comply with that, those words. I  
17 don't know what would happen to us.

18 Are we liable for additional penalties other  
19 than a termination. It does say in the back, if  
20 they terminate it, they can remove credits. And it  
21 doesn't even talk about the methodology of removing  
22 credits that go to the racetracks.

23 So that's part of the reason why I would look  
24 a little bit closer. I would push further. If  
25 Commissioners have any comments on that.

1 Another area on Paragraph 9. It goes back to  
2 Information Sharing. I'm just going to cite  
3 Paragraph 9, which is the Direction and Control of  
4 State Investigative Personnel. And in my draft,  
5 it's 17 is Information Sharing.

6 So I'm just going to start with 17, which says  
7 that the Commission agrees that it will provide the  
8 agency on a timely basis, you know, with  
9 information, documentation it receives relating to  
10 the violations of the ADMC Program.

11 But then going to Section 9, it does limit how  
12 the Commission agrees that it will not be involved  
13 in any decision-making in connection with agency  
14 investigations. It goes on to state, including but  
15 not limited to instructing or directing the State  
16 investigative personnel on which covered purses  
17 and/or covered horses should be investigated  
18 regarding potential violations that fall under the  
19 jurisdiction of the language.

20 I think we have to -- it looks like it's a  
21 little bit conflating our requirements here.  
22 They're saying that we should provide them  
23 information, documentation; but then it's saying we  
24 can't get involved with instructing or directing  
25 them with violations of the Act.

1           So I would either -- I would suggest just  
2 including language, something about notwithstanding  
3 the obligations of the Commission under Paragraph  
4 17 or something to that effect. Because it does  
5 provide -- it's a little confusing. We're supposed  
6 to be providing them anything that we observe, but  
7 then we can't provide them any instructions.

8           And new Commissioners, I'm sorry. My previous  
9 background is contract attorney. So I get really  
10 excited about contracts. So sorry. I want to make  
11 sure they're nice and buckled if we're going to  
12 married to this private/public entity.

13           MR. MARSHMAN: So just to make sure, the  
14 concern really is Paragraph 18(a), which is the  
15 Commission agreeing to provide the agency with  
16 certain information and then how that may or may  
17 not work as well as it could with the previous  
18 paragraph describing the limitations on us  
19 controlling their investigations; is that fair to  
20 say?

21           COMMISSIONER BROWN: Yeah. And I'm sorry. I  
22 have it on 17. My draft is the redline version.  
23 I'm operating off that. But, yeah, you've nailed  
24 that.

25           MR. MARSHMAN: Okay.

1           COMMISSIONER BROWN: It does limit our  
2 interaction with them at the racetrack on  
3 investigations, but then it requires us to share  
4 everything.

5           And then I had the same language about the --  
6 I would push a little bit further back on the  
7 indemnification language too that was deleted, as  
8 Commissioner D'Aquila mentioned.

9           We talked a little bit about the reduction of  
10 testing credits. I know the prior version was  
11 940,000. And this one reduced it to 742. I forget  
12 why.

13          MR. MARSHMAN: This isn't something that we've  
14 discussed, I don't think, in public yet; because  
15 this was something new from them since the last  
16 time we've met.

17          So as we may recall, in December of 2022, the  
18 State of Florida received correspondence from HISA  
19 outlining what it thought its best estimate was for  
20 credit that the State could generate, either the  
21 State Racing Commission could generate or the  
22 racetracks themselves could generate.

23          And it has to do with the different types of  
24 sampling and testing. The sampling that the State  
25 will be doing for the post race sampling only would

1 generate \$742,000 of credit. The racetracks, on  
2 the other hand, will be able to generate credit, as  
3 Dr. Benson explained earlier, by performing the  
4 TCO2 testing, out of competition testing, and I'm  
5 not sure if she mentioned claims horse testing or  
6 not.

7 But that's another opportunity for the  
8 racetracks to generate credit for themselves to  
9 reduce the overall bill they owe HISA. So this  
10 number here is what HISA estimates is the portion  
11 of the credit that the State Commission, us, can  
12 generate.

13 COMMISSIONER BROWN: Thank you all for being  
14 patient in the audience too on this issue that's so  
15 important to us.

16 During our workshop last week, I think it was  
17 Mr. Powell spoke about legislation potentially  
18 providing credits or covering cost to the  
19 racetrack. Does that in any way impact this  
20 agreement whatsoever --

21 MR. MARSHMAN: No.

22 COMMISSIONER BROWN: -- under this section?

23 MR. MARSHMAN: It would -- I think it's fair  
24 to say it would decrease the out-of-pocket expenses  
25 for the racetrack, because they're going to

1 generate a tax credit for something that they would  
2 otherwise have to -- well, they're going to have to  
3 be paying HISA and that reflects as a credit, at  
4 least in the latest draft I've seen.

5 I'm not sure if that bill has actually been  
6 passed through both houses yet and then it's for  
7 the Governor's signature or not. So I can't state  
8 with specifics. But that's the goal. That's the  
9 hope. But it will not impact the specific terms.

10 COMMISSIONER BROWN: Thank you. Under General  
11 Provisions -- I'm almost done, I promise. Under  
12 General Provisions, 1(b), about being terminated  
13 with 60 days, the agreement, of course, you know,  
14 provides either party can terminate with 120 days.  
15 But it lets the agency provide a 60-day termination  
16 notice.

17 If we fail, in their opinion, to comply with  
18 the requirements of this agreement, there's no  
19 curing period anywhere provided, anywhere. There's  
20 no curing at all. And typically in an agreement  
21 like this, if there is a default provision, there  
22 should be some type of curing.

23 The reason why this is so important is it  
24 further talks about the reduction of credits  
25 further on under 1(d). And it's very unilateral.

1 It doesn't specify the amount, the reasons for  
2 reducing credit, annotating documentation of what  
3 the reduction of those credits would be for, how  
4 much they are for.

5 So I think that needs to be really cleaned up.  
6 That impacts the racetracks significantly. Because  
7 if this agreement is terminated in their sole  
8 opinion because they deem us to fail to comply,  
9 that will impact the track and our employees as  
10 well.

11 MR. MARSHMAN: Again, this is your agreement.  
12 I will go back and advocate accordingly. However,  
13 they have struck those provisions once already,  
14 almost twice at this point. So no other state has  
15 those provisions in there for the chance to cure.

16 You can see where I had incorporated that  
17 after feedback from the last meeting, and then they  
18 struck it again and we had a conversation about  
19 that. So I can again go back and express to them  
20 how important this is for the Commission and see  
21 where that gets us.

22 COMMISSIONER BROWN: What about the reduction  
23 of credits too under Paragraph 1(d) towards the end  
24 of the agreement? It's on a pro rata -- state  
25 testing credits will be reduced on a pro rata

1 basis. It doesn't -- what's pro rata in their  
2 opinion?

3 And then the same thing. I think it's on 1(e)  
4 as well. Both sections need to document specific  
5 reasons and what that pro rata reduction is. What  
6 does that mean, pro rata, how are they determining  
7 that the credits will be reduced?

8 MR. MARSHMAN: My understanding was that it  
9 was the way they've been doing the pro rata  
10 calculations so far, which is how many months of  
11 their operating calendar year will we be providing  
12 a service.

13 So if we default on month 6 out of 12, then we  
14 see a 50 percent reduction in the credit that is  
15 eligible for the State. That's how it's been  
16 handled so far. But if we would like to spell that  
17 out differently, I can explore with them specifying  
18 in a different way how that's defined.

19 COMMISSIONER BROWN: Commissioners, those are  
20 my only comments. I think some of them we should  
21 take some note and push back a little bit. But I  
22 defer to you all.

23 COMMISSIONER D'AQUILA: I'm okay with the  
24 pro rata comment. Commissioner Drago.

25 COMMISSIONER DRAGO: I think we should --

1           COMMISSIONER D'AQUILA: Let me clarify. I  
2 understand the pro rata. I interpret it that way.  
3 So if we leave that alone, I'm okay with it is what  
4 I wanted to say. Go ahead.

5           COMMISSIONER DRAGO: What I was going to say  
6 is I think we should look into all the issues that  
7 have been brought up by all the Commissioners here  
8 and do whatever research we need to do, do whatever  
9 further discussions we need to do in order to be  
10 able to come to some answers.

11           Because I think everything brought up here is  
12 a legitimate question and I don't have the answers.  
13 I'm not a lawyer, but I sit next to one. So I  
14 think I'm qualified to start talking about  
15 contracts here. So from my opinion, I think as a  
16 Commission that we should ask that all these issues  
17 are discussed and that we get some response to them  
18 one way or another.

19           I know time constraints are a killer right  
20 now. Again, we're facing UF laying off their  
21 people and we don't have an agreement, where do we  
22 go, and so forth. But I think that they're all  
23 legitimate questions that I'd like to hear the  
24 answers to.

25           MR. MARSHMAN: Director Trombetta is chomping

1 at the bit to address you again. So I'll close by  
2 saying this is your agreement. I'm your attorney.  
3 I'll advocate as zealously as I can to incorporate  
4 all the provisions we've discussed today. Just  
5 bear in mind that I've been there before with these  
6 folks, and we'll see how it goes this time.

7 In terms of timing, Commissioner Drago, the  
8 go-live date for the Anti-Doping Medication Control  
9 Program is May 22nd, which is 20 days. We could  
10 have perhaps a special meeting to address this  
11 again. But there is also the option that we were  
12 operating on before, which was kind of an informal  
13 handshake on our sample collection personnel will  
14 collect the samples on behalf of HISA and HIWU.

15 And I think they're comfortable agreeing with  
16 that in the future so long as they know that  
17 eventually we will enter into some agreement with  
18 them. So with that, with your permission, I turn  
19 it over to Director Trombetta.

20 COMMISSIONER BROWN: Okay.

21 MR. TROMBETTA: Thank you. And I guess I'd  
22 just like to, reminder might be -- big picture,  
23 essentially, just looking at the big picture. So  
24 this drug testing program is likely to go into  
25 effect May 22nd. We've seen in Arizona that

1 there's a limit to how much they're willing to work  
2 with states.

3 I think what you've asked Mr. Marshman to do,  
4 I don't think there's anything wrong with any of  
5 the comments that you've made. I just want to  
6 emphasize the fact that we've brought some of these  
7 things up to them and been told no, with  
8 indemnification particularly and curing. We're  
9 happy to do it again.

10 I just want you to be aware that if the answer  
11 is no, I just want you to start thinking through  
12 the reality of that situation and the idea of, as  
13 you just mentioned, that if we want to have this  
14 contract done ahead of the implementation date, it  
15 will necessitate another meeting, which is fine.  
16 But, again, I just want everybody to be on the same  
17 page while we're here and can talk about it.

18 COMMISSIONER BROWN: Okay.

19 COMMISSIONER DRAGO: Thank you. Appreciate  
20 that.

21 COMMISSIONER BROWN: Thank you. Just one  
22 second, Doctor. We are still in our discussion  
23 mode.

24 Commissioners, any comments on that? We  
25 appreciate our staff continuing to work with them

1 and understand the negotiations and the posture  
2 that you're in. I think -- my opinion is this  
3 keeps getting pushed further back, and they  
4 continue to work with us with good faith as we  
5 continue to work with them in good faith.

6 Rather than being rushed to get an agreement  
7 in place, I think we continue the negotiations with  
8 that understanding that we're moving forward with  
9 an agreement. But some of these provisions are  
10 really not as big as the curing.

11 I think it will help protect us a little bit  
12 better. And I think those should be pushed as  
13 well. But I don't think we should be rushed and  
14 put in a bind since they continue to push the date  
15 back. Those are my thoughts. If anybody  
16 disagrees.

17 COMMISSIONER DRAGO: I agree.

18 COMMISSIONER D'AQUILA: I agree.

19 COMMISSIONER BROWN: Well, if it's your  
20 inclination, I'd love to have Dr. Cole, out of  
21 respect you can give -- come up here. We have not  
22 voted yet, by the way. We have not voted or taken  
23 formal action.

24 DR. COLE: I truly appreciate your time and  
25 consideration on this important issue, obviously,

1 to me and my staff.

2 I guess the one thing I would say throughout  
3 as a suggestion would be one of the Commissioners  
4 and the Executive Director get a call with Lisa  
5 Lazarus, who is the CEO, and Jim Gates, who is  
6 their CFO, and say, we'd like to keep our lab open,  
7 what would it take to do that.

8 They're going to give you an answer and you  
9 may say, well, we can't do that; or they may throw  
10 something out that is amenable. But I think that's  
11 the only course of action that would be, have at  
12 all a hope at this point.

13 COMMISSIONER BROWN: Thank you.

14 DR. COLE: Thank you again.

15 COMMISSIONER BROWN: Thank you very much.  
16 Thank you again for coming, and for the additional  
17 speaker as well for coming.

18 Any comment? Commissioner D'Aquila.

19 COMMISSIONER D'AQUILA: Dr. Cole, may I ask  
20 you a question?

21 DR. COLE: Absolutely.

22 COMMISSIONER D'AQUILA: I think you alluded to  
23 this earlier. And it's a follow-up to the point  
24 that you just raised.

25 Are you saying that in that instance that your

1 lab is as competitive, both on a monetary and  
2 qualitative basis, as what they are proposing?

3 DR. COLE: I think if they are transparent  
4 with how they arrived at that, yes, we were -- all  
5 of the labs were fairly competitive in their final  
6 cost per sample when we were adjusted for sample  
7 load, et cetera.

8 COMMISSIONER D'AQUILA: Hypothetical question.  
9 If Miss Lazarus or the gentleman that is the CFO  
10 says, can they come to this price -- maybe it won't  
11 come up -- are you telling me that --

12 DR. COLE: I've told them that I can do the  
13 work that they've required for 1.9 million.  
14 Originally I said I couldn't do that. We've  
15 reevaluated some of the testing methods. They've  
16 actually opened up some of the options for how they  
17 wanted the samples tested that lowered our cost and  
18 what we're able to do.

19 I would also say that we're having a site  
20 visit in two weeks from Jamaica Racing Commission.  
21 That will be an additional \$200,000. I think  
22 that's a really good chance that we'll get that,  
23 unless we tell them not to come.

24 And we've also made a very competitive bid to  
25 New Mexico for their quarter horses and racing out

1 there -- which, again, is not subject to HISA --  
2 all of which will add to the stability and  
3 long-term longevity of the laboratory.

4 COMMISSIONER D'AQUILA: So if I may,  
5 originally it was they thought that your lab was  
6 more expensive.

7 DR. COLE: Well --

8 COMMISSIONER D'AQUILA: They were told that.

9 DR. COLE: Originally we were asking for  
10 2.7 million to do the testing that they required,  
11 which is much more extensive than what Florida is  
12 doing now. Maybe not extensive, it's just very  
13 different. And they wanted a 10-day turnaround  
14 time, where we have a 20 some odd day turnaround  
15 time.

16 And, of course, obviously, in the busy season  
17 where we're getting 600 samples a month, that  
18 really drove needing to add people. My response to  
19 them was yes; but at 2.7 million, I can receive 600  
20 samples every month and that drives our costs per  
21 sample down to a reasonable number.

22 I know for a fact that Kentucky was a very,  
23 very similar situation. The choice was made that  
24 the samples would go to Kentucky, which then made  
25 that approximately 3 million sample, 10,000 samples

1 per month all in the same ballpark.

2 Does that make sense?

3 COMMISSIONER D'AQUILA: So I think you've  
4 answered my question. If I understand correctly,  
5 the answer is yes, you are as competitive, if not  
6 more competitive, than the lab in Kentucky on both  
7 comparing apples and apples as far as the  
8 extensiveness of the test and the price per sample.

9 DR. COLE: Yes.

10 COMMISSIONER D'AQUILA: That was my question.  
11 Thank you so much.

12 DR. COLE: Thank you.

13 COMMISSIONER BROWN: Thank you. All right.  
14 If there are no other comments or questions by the  
15 Commissioners, can I please get a motion to have  
16 staff continue the negotiations on the HISA/HIWU  
17 agreement based on our discussion here today?

18 COMMISSIONER DRAGO: So moved.

19 COMMISSIONER D'AQUILA: I will second.

20 COMMISSIONER BROWN: All those in favor,  
21 please signify by saying "aye". Aye.

22 COMMISSIONER D'AQUILA: Aye.

23 COMMISSIONER DRAGO: Aye.

24 COMMISSIONER REPP: Aye.

25 COMMISSIONER BROWN: Opposed.

1 CHAIRMAN UPTON: Aye.

2 COMMISSIONER BROWN: Thank you. Chair, we  
3 heard you. And that motion passes. If we do need  
4 to conduct a special meeting before there is an  
5 agreement in place, I'm sure we're all amenable.

6 Okay. Thank you all for participating. We're  
7 going to move through these agenda items. We're  
8 going back to Item 2, Discussion of Final Orders.  
9 2.1.

10 Miss Alvarado, this is your show right now.

11 MS. ALVARADO: This is Emily Alvarado. Item  
12 2.1 is Motyk Anthony Scott versus FGCC in Case  
13 Number 2022-024620. This came before the informal  
14 hearing officer on February 27th, and a recommended  
15 order was issued on April 28th, 2023.

16 The recommended order is asking to deny  
17 Mr. Scott's card room employee occupational  
18 license. A Notice of Intent to Deny was issued on  
19 September 16th, 2022. This was based on the  
20 applicant's felony offenses, which included several  
21 burglary, theft charges ranging from 2011 to 2014.

22 Prior to the hearing, the applicant provided  
23 16 witness letters. He also had six witnesses at  
24 the informal hearing. And after the hearing, the  
25 Division recommended denying his card room employee

1 occupational license, and the hearing officer also  
2 recommended denying the card room license.

3 COMMISSIONER BROWN: Thank you. Appreciate  
4 the character witnesses and all of the information  
5 that the applicant applied. But I would agree.  
6 And I think that we should adopt the hearing  
7 officer's recommendation based on the extensive  
8 list of offenses and crimes involved.

9 If the Commissioners agree, can we get a  
10 motion to that effect?

11 COMMISSIONER DRAGO: So moved.

12 COMMISSIONER D'AQUILA: I will second the  
13 motion.

14 COMMISSIONER BROWN: All those in favor say  
15 "aye". Aye.

16 COMMISSIONER D'AQUILA: Aye.

17 COMMISSIONER DRAGO: Aye.

18 COMMISSIONER REPP: Aye.

19 CHAIRMAN UPTON: Aye.

20 COMMISSIONER BROWN: Opposed. All right. The  
21 motion passes unanimously. On to Item 2.2.

22 MS. ALVARADO: This is FGCC versus Edgar David  
23 Diaz in Case Number 2022-040422. This came before  
24 the informal hearing officer on February 27th,  
25 2023.

1           It was regarding a three-count administrative  
2           complaint alleging that Respondent was convicted of  
3           a felony. He failed to inform the Commission of  
4           this felony within 48 hours and failed to inform  
5           the Division of his arrest five days following the  
6           arrest. This Respondent was convicted on July  
7           12th, 2022 of aggravated battery upon a pregnant  
8           victim.

9           Therefore, the Division asked that the hearing  
10          officer recommend revoking the Respondent's card  
11          room occupational license, and the hearing officer  
12          recommended revoking the card room employee  
13          occupational license as well.

14          COMMISSIONER BROWN: Thank you, Miss Alvarado.

15          Commissioners, any questions on this? The  
16          offense is pretty onerous. And I understand the  
17          applicant was 18 when he applied. He had no  
18          knowledge that he had to report the crime within 48  
19          hours.

20          I think this is something we may be working on  
21          on our forms, maybe reemphasizing the requirement  
22          to inform the Commission of any crime on their  
23          form. And we may explore that a little bit further  
24          in the future.

25          This applicant, would he be prohibited from

1 reapplying in the future?

2 MS. ALVARADO: No, he could reapply.

3 COMMISSIONER BROWN: Okay. Commissioners, if  
4 there's no questions, can we get a motion to  
5 approve the hearing officer's recommended order?

6 COMMISSIONER DRAGO: So moved.

7 COMMISSIONER BROWN: Is there a second?

8 COMMISSIONER D'AQUILA: I will second.

9 COMMISSIONER BROWN: Any discussion? All  
10 those in favor say "aye". Aye.

11 COMMISSIONER D'AQUILA: Aye.

12 COMMISSIONER DRAGO: Aye.

13 COMMISSIONER REPP: Aye.

14 CHAIRMAN UPTON: Aye.

15 COMMISSIONER BROWN: Opposed. Okay. Moving  
16 on to 2.3.

17 MS. ALVARADO: This is FGCC versus Cynthia  
18 Fernandes in Case Number 2022-052835. This came  
19 before the informal hearing officer on February  
20 27th, 2023 regarding a two-county administrative  
21 complaint alleging the Respondent was convicted of  
22 a felony and failed to inform the Commission of the  
23 felony within 48 hours.

24 Respondent was convicted October 6th, 2022 of  
25 possession of a controlled substance with intent to

1 distribute. The Division had recommended revoking  
2 the Respondent's license, but the hearing officer  
3 here actually recommended a probationary period  
4 until October of 2027, which is when her criminal  
5 probation ends as well.

6 COMMISSIONER BROWN: Thank you.

7 Commissioners, do you have questions? This is an  
8 interesting one.

9 COMMISSIONER DRAGO: It is, yeah. I guess the  
10 obvious question is why the difference in decisions  
11 on this one, I guess, between the hearing officer  
12 and the Division. What was different about this  
13 one, I guess?

14 MS. ALVARADO: I can't speak for the hearing  
15 officer. I can say that I spoke with the director  
16 after. I did address what was presented at the  
17 hearing. And he still was under the understanding  
18 that he would like to revoke the license. The  
19 hearing officer made a different suggestion, but  
20 I'm not sure exactly why she did.

21 COMMISSIONER BROWN: If it's not conventional  
22 or unconventional, is the hearing officer, she's  
23 not allowed to speak at --

24 MR. MARSHMAN: This is Ross Marshman, for the  
25 record. No, the hearing officer can't address the

1 panel in this way at this time. I think her  
2 thoughts are best encapsulated by the recommended  
3 order.

4 COMMISSIONER BROWN: I think so too. Thank  
5 you. This is the first time we've had this type of  
6 scenario. So appreciate that clarification. I  
7 thought she was pretty articulate in her rationale,  
8 especially since the employer, Best Bet, quoted,  
9 "She's one of the most reliable employees, high  
10 level of compliance."

11 And Section 550.105, Subsection 5(c) of the  
12 Florida Statutes really talks about showing good  
13 moral character, being rehabilitated. It's not a  
14 crime related to PMW. It's not a capital offense.  
15 I think the hearing officer articulated her reasons  
16 for deviating from the overall in allowing her to  
17 have her license is sufficient for me. So I would  
18 agree with her.

19 COMMISSIONER DRAGO: Just one comment, I  
20 guess, is the fact that -- we've ruled up here many  
21 times on people who committed felonies. And the  
22 main reason many of us felt that the license should  
23 be denied was because they failed to disclose it in  
24 the 48 hours.

25 So I don't really know why this is any

1 different than the other ones. We can look at the  
2 crime itself, which is a serious crime. But in  
3 addition to that, it was failure to disclose --

4 MS. ALVARADO: I can speak to that.

5 COMMISSIONER DRAGO: -- which has kind of been  
6 the nail in the coffin in many cases.

7 MS. ALVARADO: She did disclose the arrest  
8 when she applied for her license. But at that  
9 point she wasn't convicted. And then she did  
10 contact us after the conviction, but it was past  
11 the 48 hours. I believe it was one day past the 48  
12 hours. So she was aware that she had to do that.  
13 But by the time she got the paperwork, it was  
14 already a day past the 48 hours.

15 COMMISSIONER DRAGO: I see.

16 COMMISSIONER D'AQUILA: Question.

17 COMMISSIONER BROWN: Commissioner D'Aquila.

18 COMMISSIONER D'AQUILA: She did disclose the  
19 arrest?

20 MS. ALVARADO: The arrest originally, yes.  
21 But she was granted a license and then convicted  
22 following.

23 COMMISSIONER D'AQUILA: The conviction  
24 followed the arrest?

25 MS. ALVARADO: Right.

1           COMMISSIONER BROWN:  There's additional  
2   extenuating factors here.  I mean, she paid her  
3   fine, restitution.  She's done over half of her  
4   community service hours.  There's just a lot of  
5   evidence that this character is, really did not  
6   intend to violate the provision of the requirement.

7           COMMISSIONER D'AQUILA:  I've read through  
8   everything also.  I don't see any priors of any  
9   sort.

10          MS. ALVARADO:  No, there was no priors.

11          COMMISSIONER D'AQUILA:  Also, my understanding  
12   is that this individual was in the food service  
13   area of the Best Bet --

14          MS. ALVARADO:  Yes.

15          COMMISSIONER D'AQUILA:  -- Casino, if my  
16   memory serves correct.

17          I'm prepared to make a motion to follow the  
18   hearing officer's recommendation.

19          COMMISSIONER BROWN:  Is there a second?  Can  
20   we get a second?

21          CHAIRMAN UPTON:  I will second it.

22          COMMISSIONER BROWN:  Thank you, Chair.  And I  
23   support the motion too.  All those in favor signify  
24   by saying "aye".  Aye.

25          CHAIRMAN UPTON:  Aye.

1 COMMISSIONER D'AQUILA: Aye.

2 COMMISSIONER DRAGO: Aye.

3 COMMISSIONER REPP: Aye.

4 COMMISSIONER BROWN: It passes unanimously.

5 Thank you. Thank you for the work on this.

6 Appreciate it. I know that some thought went into  
7 this too and time.

8 We're going to move swiftly through Items 3.  
9 These are Discussion of Consent Orders. We'll  
10 start with 3.1 and see if we can move swiftly.

11 MS. ALVARADO: This is FGCC versus Melbourne  
12 Greyhound Park in Case Number 2022-043151. This  
13 case was a one-count administrative complaint  
14 alleging that Respondent failed to have a working  
15 device that audibly signaled when the count room  
16 door was open.

17 They have no priors. In this case, the  
18 consent order is for \$250. Therefore, the Division  
19 would ask that the Commission adopt the consent  
20 order in this case.

21 COMMISSIONER BROWN: Thank you. If there are  
22 no questions, can we get a motion to approve the  
23 consent order?

24 COMMISSIONER DRAGO: Motion to approve.

25 COMMISSIONER BROWN: Is there a second?

1 COMMISSIONER D'AQUILA: I will make a second.

2 COMMISSIONER BROWN: All those in favor say  
3 "aye". Aye.

4 COMMISSIONER D'AQUILA: Aye.

5 COMMISSIONER DRAGO: Aye.

6 COMMISSIONER REPP: Aye.

7 CHAIRMAN UPTON: Aye.

8 COMMISSIONER BROWN: Opposed. So it passes  
9 unanimously. 3.2, please.

10 MS. ALVARADO: This is FGCC versus Sarasota  
11 Kennel Club in Case Number 2022-055132. This was a  
12 one-count administrative complaint alleging that  
13 Respondent failed to suspend play in a card room  
14 and placed a sign indicating that the card room was  
15 closed.

16 They have no prior violations of this rule.  
17 And the Division has a signed consent order with a  
18 fine of \$1,000. Therefore, the Division would ask  
19 the Commission to adopt the settlement final  
20 consent order in this case.

21 COMMISSIONER BROWN: Are there any questions  
22 on this item? If not, can we get a motion to  
23 approve the consent order?

24 COMMISSIONER D'AQUILA: I would like to make a  
25 motion to approve the consent order.

1 COMMISSIONER BROWN: Is there a second?

2 COMMISSIONER DRAGO: Second.

3 COMMISSIONER BROWN: Any discussion? All  
4 those in favor say "aye." Aye.

5 COMMISSIONER D'AQUILA: Aye.

6 COMMISSIONER DRAGO: Aye.

7 COMMISSIONER REPP: Aye.

8 CHAIRMAN UPTON: Aye.

9 COMMISSIONER BROWN: Opposed. It passes  
10 unanimously. 3.3, please.

11 MR. MARSHMAN: This is FGCC versus Washington  
12 County Kennel Club in Case Number 2023-000965.

13 This case was a one-count administrative complaint  
14 alleging the Respondent was providing a designated  
15 player game that was not approved by the Division  
16 Director prior to allowing this game.

17 Respondent has no prior violations of this  
18 rule. There is a signed consent order for \$250.  
19 Therefore, the Division would ask the Commission to  
20 adopt this consent order.

21 COMMISSIONER BROWN: Are there any questions  
22 on this item?

23 COMMISSIONER D'AQUILA: I have a question.

24 COMMISSIONER BROWN: Commissioner D'Aquila.

25 COMMISSIONER D'AQUILA: This is an entirely

1 different game that is not approved?

2 MS. ALVARADO: Right. The description seemed  
3 like it was similar to almost like a roulette, but  
4 it wasn't approved prior. The specifics of the  
5 game had different rules and a different name.

6 COMMISSIONER D'AQUILA: So what is our usual  
7 -- where do they go about just introducing a game  
8 that is new? We've authorized certain games in  
9 advance or the permits indicate such.

10 This game just came up from them, they  
11 introduced an entirely new game that has not  
12 previously been approved by the Commission,  
13 correct?

14 MS. ALVARADO: Yes. I think either the  
15 Director or the Executive Director can probably  
16 answer that better than I can.

17 COMMISSIONER D'AQUILA: Please.

18 COMMISSIONER BROWN: Mr. Dillmore.

19 MR. DILLMORE: Good afternoon. Joe Dillmore,  
20 for the record.

21 So the games then with the designated player  
22 games recently went in the statute. And the only,  
23 to kind of keep a kind of bubble around the types  
24 of games that were being played, designated player  
25 games were those that were listed in their

1 applications going to a specific the year. I think  
2 it was 2021.

3 So that's kind of the universe of designated  
4 player games we look at. And they are authorized  
5 to play those games in a similar manner. So the  
6 name of the game could be different. But the big  
7 thing is that the game is played in a similar  
8 manner as those identified in their application.

9 Washington County Kennel Club in this -- and  
10 it's different from their other poker games; which  
11 are kind of, they can do new games as long as  
12 they're not played in a designated player manner  
13 with new types of games. But these have to go in  
14 that.

15 So our inspector was on site, saw that they  
16 had a velvet out playing this designated player  
17 game that was not on the list of their approved  
18 games and applications in that prior year, or  
19 notified games, I should say. And as that, they  
20 reported an open investigation and recommended a  
21 fine.

22 COMMISSIONER D'AQUILA: The reason I raise the  
23 question, this strikes me as something more serious  
24 than a folded card or some of the other violations  
25 we typically see. And I believe it is \$250 is what

1 was recommended?

2 MS. ALVARADO: Yes.

3 COMMISSIONER D'AQUILA: I'm going to default  
4 to my other Commissioners, but I don't believe that  
5 is sufficient. I might ask you to go back on that.  
6 This strikes me as something different than your  
7 common mistake for the reasons you just stated and  
8 what's listed in the statute. But I'm going to  
9 default to my other Commissioners.

10 COMMISSIONER BROWN: Mr. Dillmore, does this  
11 -- I don't recall us having dealt with -- have we  
12 dealt with a consent order of this nature  
13 previously?

14 MR. DILLMORE: We have not, to my  
15 recollection. This is a first regarding this type  
16 of violation.

17 COMMISSIONER BROWN: Do you have additional  
18 thoughts based on Commissioner D'Aquila's comments?

19 MR. DILLMORE: We can go back and certainly  
20 look. I thought the question was more about how  
21 the game operated or how they get into the card  
22 room. But we can certainly go back and talk to  
23 them about a different fine.

24 COMMISSIONER D'AQUILA: The spirit of the  
25 statute is they have to get the games approved,

1 right? No? Am I misunderstanding it? The  
2 specific games, there's poker, there's --

3 MR. DILLMORE: The types of games are  
4 authorized, but not they're preapproved by --

5 COMMISSIONER D'AQUILA: Types of games.

6 MR. DILLMORE: Types of games.

7 COMMISSIONER D'AQUILA: This is a different  
8 type of game?

9 MR. DILLMORE: It's a designated player game  
10 that is not on that list that was on their  
11 applications in fiscal year 2021.

12 COMMISSIONER D'AQUILA: In your experience, if  
13 I'm running a card room and I decide -- I  
14 understand with the tables. But if I'm going to  
15 now start offering different types of designated  
16 player games, is it typical that our applicants ask  
17 us about that?

18 MR. DILLMORE: Again, I think this is the  
19 first time we've come across this incident. So  
20 this is kind of unique since that law went into  
21 effect two years ago.

22 COMMISSIONER BROWN: Commissioner, I  
23 appreciate you inquiring further about it as well.  
24 And I don't know if we have the appropriate number  
25 really of a fine and a significance of the

1 violation. So, I mean, I'm also at a loss here.

2 MR. DILLMORE: And to be fair, like once our  
3 investigator notified them and questioned them, you  
4 know, they pulled the velvet off, shut the game off  
5 immediately, and did all the immediate things they  
6 needed to do to shut the game down that was in  
7 question.

8 COMMISSIONER D'AQUILA: It seems to me a  
9 different type of, for lack of a better term, a  
10 violation of the statute. I might ask executive  
11 staff to go back and reconsider the penalty on  
12 this, because I think the message being sent with  
13 the \$250 might not be a good measure as to what's  
14 transpired.

15 Because this is the first time, I think I'm  
16 more concerned about other variations of games that  
17 might be coming. Because just logically I would  
18 think I might want it run that by my regulator, at  
19 least make a phone call, right. I don't think we  
20 got a phone call in advance --

21 MS. ALVARADO: Not on the record, no.

22 COMMISSIONER D'AQUILA: -- on this. We work  
23 together. And the statute is fair. And if it's  
24 vague, I think if I were operating a card room, if  
25 there was anything vague and the regulators were

1 mine, I might just make a phone call. And I know  
2 Mr. Trombetta is very knowledgeable on these games,  
3 as well as you, Mr. Dillmore.

4 COMMISSIONER BROWN: Commissioners, if you  
5 don't have any comments or questions, let's just  
6 defer this item and have staff go back and explore,  
7 investigate a little further, and come back with a  
8 recommendation later. Sound good?

9 COMMISSIONER D'AQUILA: Works for me.

10 COMMISSIONER BROWN: We will move on to 3.4.

11 MS. ALVARADO: This is FGCC versus Tampa Bay  
12 Downs in Case Number 2023-001300. This case was an  
13 administrative complaint alleging that Respondent  
14 allowed an employee that was not on the authorized  
15 list for their surveillance room to observe the  
16 count.

17 They do have one prior violation in this case,  
18 and it was a \$250 fine for the prior. This one  
19 they sent a signed consent order for \$500. So the  
20 Division would ask that the Commission enter an  
21 order adopting this consent order.

22 COMMISSIONER BROWN: Commissioners, any  
23 questions on this item? If not, can we get a  
24 motion to approve the consent order?

25 COMMISSIONER DRAGO: So moved.

1 COMMISSIONER D'AQUILA: I'll second.

2 COMMISSIONER BROWN: All those in favor say  
3 "aye". Aye.

4 COMMISSIONER D'AQUILA: Aye.

5 COMMISSIONER DRAGO: Aye.

6 COMMISSIONER REPP: Aye.

7 CHAIRMAN UPTON: Aye.

8 COMMISSIONER BROWN: Thank you. It passes  
9 unanimously. Next, 3.5.

10 MS. ALVARADO: This is FGCC versus Tampa Bay  
11 Downs in Case Number 2023-001314. This was a  
12 two-count administrative complaint alleging that  
13 Respondent failed to comply with their internal  
14 controls two different ways, first by not putting a  
15 closing slip in the tray when the table was closed,  
16 and they failed to leave a plastic notecard when  
17 removing chips from the cage.

18 They have no prior violations of these  
19 internal controls. I did a settlement final  
20 consent order for a \$500 fine per count, so \$1,000  
21 total. So the Division would ask the Commission  
22 enter an order adopting this consent order.

23 COMMISSIONER BROWN: Thank you. If there are  
24 no questions, can we get a motion to approve the  
25 consent order?

1           COMMISSIONER D'AQUILA: Motion to approve the  
2 consent order.

3           COMMISSIONER BROWN: Is there a second?

4           COMMISSIONER DRAGO: Second.

5           COMMISSIONER BROWN: All those in favor say  
6 "aye". Aye.

7           COMMISSIONER D'AQUILA: Aye.

8           COMMISSIONER DRAGO: Aye.

9           COMMISSIONER REPP: Aye.

10          CHAIRMAN UPTON: Aye.

11          COMMISSIONER BROWN: Thank you. 3.6. You  
12 know what, is there a way that we can combine 3.6,  
13 3.7, and 3.8, which all involved a \$1,000 fine and  
14 returning the purse?

15          MS. ALVARADO: Sure. 3.6 is FGCC versus  
16 Gerald Samuel Bennett in 2023-009295. Here there  
17 was a one-count complaint for an overage of  
18 Methocarbamol.

19          There was a \$1,000 fine and return of purse,  
20 and the owner has already sent in the signed  
21 consent order that he will return the purse to  
22 Tampa Bay Downs.

23          3.7 is Ramon Edgardo Minguet in Cases  
24 2023-009301 and 2023-009304. This was two  
25 different cases of two different drugs. It was

1 Hydroxylidocaine and Phenylbutazone.

2 For the Hydroxylidocaine it was a Class B, so  
3 that is a \$500 fine and a 15-day suspension and  
4 return of purse; and Phenylbutazone over the  
5 amount, it was 5, which requires a \$1,000 penalty  
6 and return of purse as well.

7 This is their first offense as well. And they  
8 sent in -- the owner sent in a signed page that he  
9 will return the purse to the facility as well.

10 And then Item 3.8 is FGCC versus Diley Anthony  
11 Dakin in Case Number 2023-013155. This was a  
12 Dexamethasone overage, which is a Class C drug. It  
13 requires a \$1,000 penalty and return of purse. And  
14 they also sent in -- the owners will make sure that  
15 they will return the purse to Gulfstream Park.

16 Therefore, the Division asks that we adopt the  
17 consent order for Items 3.6 to 3.8.

18 COMMISSIONER BROWN: Very good, Miss Alvarado.  
19 You did very good on all of those in pronouncing  
20 those drugs as well.

21 If there are any questions on any of those  
22 items, 3.6, 3.7, 3.8. If not, can we get a motion  
23 to approve all those item consent orders?

24 COMMISSIONER DRAGO: Make a motion to approve  
25 all three items.

1           COMMISSIONER D'AQUILA: I second the motion on  
2 all three items.

3           COMMISSIONER BROWN: Any discussion? Seeing  
4 none, all those in favor say "aye". Aye.

5           COMMISSIONER D'AQUILA: Aye.

6           COMMISSIONER DRAGO: Aye.

7           COMMISSIONER REPP: Aye.

8           CHAIRMAN UPTON: Aye.

9           COMMISSIONER BROWN: Thank you. That motion  
10 passes. 3.9, last one under 3.

11           MS. ALVARADO: FGCC versus Nestor Alfredo  
12 Cascallares in Case Number 2023-015414. This is a  
13 Phenylbutazone overage. It was under the 5, it was  
14 between 2 and 5 milligrams.

15           So the ARCI guidelines require a written  
16 warning to a maximum fine to a consent order with a  
17 written warning. Therefore, the Division would ask  
18 that we adopt the consent order for Item 3.9.

19           COMMISSIONER BROWN: Thank you. If there are  
20 no questions, can we get a motion to approve the  
21 consent order with a written warning?

22           COMMISSIONER D'AQUILA: Can you just clarify  
23 again why the written warning versus a fine? It  
24 was within a range, if I heard you?

25           MS. ALVARADO: Right.

1 COMMISSIONER D'AQUILA: I just misunderstood.

2 MS. ALVARADO: If it's between 2 and 5 -- I  
3 think it's micrograms actually. I said milligrams.

4 COMMISSIONER D'AQUILA: Right.

5 MS. ALVARADO: It's a written warning to a  
6 \$500 fine in the ARCI guidelines. If it's over 7,  
7 it's a Class 5, Class C, which is return of purse  
8 and a \$1,000 fine.

9 COMMISSIONER D'AQUILA: Okay. I understand.  
10 Thank you for the clarification.

11 COMMISSIONER BROWN: Any questions? If not,  
12 can we get a motion to approve the consent order?

13 COMMISSIONER D'AQUILA: I'd like to make a  
14 motion to approve the consent order.

15 COMMISSIONER BROWN: Is there a second?

16 COMMISSIONER DRAGO: Second.

17 COMMISSIONER BROWN: All those in favor say  
18 "aye". Aye.

19 COMMISSIONER D'AQUILA: Aye.

20 COMMISSIONER DRAGO: Aye.

21 COMMISSIONER REPP: Aye.

22 CHAIRMAN UPTON: Aye.

23 COMMISSIONER BROWN: The motion passes. We're  
24 almost at the two-hour mark. I just want to check  
25 with our court reporter to see if he wants a quick

1 break. If not, we're going to motor through for a  
2 little bit longer.

3 Okay. We're moving on to Item 4, Discussion  
4 of Default Final Orders.

5 MS. ALVARADO: Item 4.1 is FGCC versus Cormier  
6 Rocco in Case Number 2020-001631. This was a  
7 one-count administrative complaint excluding  
8 Respondent from all pari-mutuels for stealing \$25  
9 in poker chips.

10 This case was originally opened on March 11th  
11 of 2020. The Division attempted service, but they  
12 were unsuccessful at that time. We dismissed the  
13 case with the intent to reopen if we found a new  
14 address.

15 On July 13th of 2022, we found a new address  
16 and an amended AC was filed in this case. The  
17 Division attempted service again by USPS certified  
18 mail on two occasions. They then attempted hand  
19 service and were unable to achieve service that  
20 way.

21 The Division then requested that a notice be  
22 placed in the Villages Daily Sun News in Villages,  
23 Florida, which is the news in the area of his last  
24 known address. It was published on four  
25 consecutive weeks and he had until April 7th to

1 respond. He failed to respond.

2 Therefore, the Division would ask that the  
3 Commission enter an order finding that Respondent  
4 was properly given notice of the administrative  
5 complaint; that they failed to respond by the  
6 stated deadline; that the facts in the  
7 administrative complaint are accepted as the facts  
8 in this case; and concluding that Respondent be  
9 added to the permanent exclusion list for all  
10 pari-mutuel facilities.

11 COMMISSIONER BROWN: Thank you. Does he also  
12 have an occupational license?

13 MS. ALVARADO: He does. Typically it would be  
14 a two-count complaint where we would try to revoke  
15 his license. When I amended this complaint  
16 originally, he did not have an active license. But  
17 I checked recently and he does. However, he would  
18 be excluded from all pari-mutuels.

19 I'm happy to go back and amend the complaint  
20 again. But at this time I didn't do a two-count.

21 COMMISSIONER BROWN: Because the next item  
22 we're going to have, we're going to see the  
23 revocation of the license, similar exclusion,  
24 similar facts too.

25 MS. ALVARADO: Yes.

1           COMMISSIONER BROWN: Are you going to come  
2 back potentially?

3           MS. ALVARADO: I can open a new case to revoke  
4 the license as well, yes.

5           COMMISSIONER BROWN: I would just --

6           MS. ALVARADO: At this point I can't,  
7 because --

8           COMMISSIONER BROWN: Just for consistency  
9 purposes, if this would be something, which I think  
10 it would, to revoke a license or suspend a license  
11 potentially for stealing chips, I think that would  
12 be something for us to consider with a new case. I  
13 don't know if revocation is, if that's the process  
14 that we've had in the past, of a license or  
15 suspension.

16          MS. ALVARADO: Typically it's revocation, if  
17 they're excluded and they steal or do something  
18 that they're terminated from a property.

19          COMMISSIONER BROWN: Okay. Well, I would  
20 support that too.

21          Commissioners, any thoughts? If not, could we  
22 get a motion to approve at least this order?

23          COMMISSIONER D'AQUILA: I'll make a motion to  
24 approve this order.

25          COMMISSIONER BROWN: Is there a second?

1 COMMISSIONER DRAGO: Second.

2 COMMISSIONER BROWN: Any discussion? All  
3 those in favor say "aye". Aye.

4 COMMISSIONER D'AQUILA: Aye.

5 COMMISSIONER DRAGO: Aye.

6 COMMISSIONER REPP: Aye.

7 CHAIRMAN UPTON: Aye.

8 COMMISSIONER BROWN: All right. 4.2, please.

9 MS. ALVARADO: This is FGCC versus Somphone  
10 Pon Manivong in Case Number 2022-007916. This was  
11 a two-count administrative complaint alleging the  
12 Respondent was terminated and excluded from  
13 Sarasota Kennel Club for stealing \$35 in poker  
14 chips.

15 The Division attempted service by USPS mail  
16 and hand service and neither were successful. They  
17 requested that a notice be placed in the Pinellas  
18 County, Florida Business Observer. And it was  
19 published on four consecutive weeks, and they were  
20 given until March 31st to respond. Respondent  
21 failed to respond.

22 Therefore, the Division would ask the  
23 Commission to enter an order finding that  
24 Respondent was given notice of the administrative  
25 complaint; they failed to respond by the stated

1 deadline; that the facts in the administrative  
2 complaint are accepted as the facts in this case;  
3 and concluding that Respondent shall be added to  
4 the permanent exclusion list for all pari-mutuels  
5 and revoking his card room employee occupational  
6 license.

7 COMMISSIONER BROWN: What a shame. Thank you.  
8 Is there any discussion or questions? Can I get a  
9 motion to approve the recommended order?

10 COMMISSIONER D'AQUILA: I'd like to make a  
11 motion to approve the recommended order.

12 COMMISSIONER BROWN: Is there a second?

13 COMMISSIONER DRAGO: Second.

14 COMMISSIONER BROWN: All those in favor say  
15 "aye". Aye.

16 COMMISSIONER D'AQUILA: Aye.

17 COMMISSIONER DRAGO: Aye.

18 COMMISSIONER REPP: Aye.

19 CHAIRMAN UPTON: Aye.

20 COMMISSIONER BROWN: Thank you. Motion  
21 passes. 4.3, please.

22 MS. ALVARADO: 4.3 is FGCC versus Omar Alvarez  
23 Cala in Case Number 2022-024885. This was a  
24 one-count administrative complaint alleging that  
25 Respondent was excluded from Casino Miami for

1 manipulating a slot machine roulette wheel.

2 The Division attempted service by USPS and  
3 hand service and were unsuccessful. They then  
4 requested that notice be placed in the Miami-Dade  
5 County Daily Business Review. It was published on  
6 four consecutive weeks, and they were given a  
7 deadline of April 7th to respond and he never  
8 responded.

9 Therefore, the Division would ask the  
10 Commission to enter an order finding that  
11 Respondent was properly given notice of the  
12 administrative complaint; they failed to respond by  
13 the stated deadline; that the facts in the  
14 administrative complaint are accepted as the facts  
15 in this case; and concluding that Respondent is  
16 added to the permanent exclusion list for all  
17 pari-mutuel and slot machine facilities.

18 COMMISSIONER BROWN: Thank you. And I know  
19 you're taking the lion's share of a lot of these  
20 order right now with Mark being gone. And the next  
21 item is very similar and on a similar date, and I  
22 just want to thank you for bringing it for us. I  
23 know there was a little bit of lag getting this to  
24 us, but I support it.

25 Are there any questions?

1 COMMISSIONER DRAGO: No.

2 COMMISSIONER BROWN: Can we get a motion to  
3 approve the recommended order?

4 COMMISSIONER DRAGO: I make a motion to  
5 approve the staff recommendation.

6 COMMISSIONER D'AQUILA: Second.

7 COMMISSIONER BROWN: Any discussion. All  
8 those in favor say "aye". Aye.

9 COMMISSIONER D'AQUILA: Aye.

10 COMMISSIONER DRAGO: Aye.

11 COMMISSIONER REPP: Aye.

12 CHAIRMAN UPTON: Aye.

13 COMMISSIONER BROWN: Thank you. 4.4, please.

14 MS. ALVARADO: This is FGCC versus Lazaro  
15 Pablo Hernandez-Valdes in Case Number 2022-024908.  
16 This case was similar to the last. It's an  
17 exclusion from Casino Miami for manipulating a slot  
18 machine roulette wheel.

19 We tried USPS and hand service and were  
20 unsuccessful. It was published in the Miami-Dade  
21 County Daily Business Review on four consecutive  
22 weeks. Respondent was given a deadline of  
23 April 7th to respond and he never responded.

24 Therefore, the Division asks the Commission to  
25 enter an order finding that Respondent was given

1 notice of the administrative complaint; he failed  
2 to respond by the stated deadline; that the facts  
3 in the AC are accepted as the facts in this case;  
4 and concluding that he will be added to the  
5 permanent exclusion list for all pari-mutuels and  
6 slot machine facilities.

7 COMMISSIONER BROWN: Thank you. If there are  
8 no questions, could we get a motion to approve the  
9 final order, default final order?

10 COMMISSIONER DRAGO: So moved.

11 COMMISSIONER D'AQUILA: Second.

12 COMMISSIONER BROWN: Any discussion? All  
13 those in favor say "aye". Aye.

14 COMMISSIONER D'AQUILA: Aye.

15 COMMISSIONER DRAGO: Aye.

16 COMMISSIONER REPP: Aye.

17 CHAIRMAN UPTON: Aye.

18 COMMISSIONER BROWN: Thank you. 4.5, please.

19 MS. ALVARADO: This is FGCC versus Eduardo  
20 Azpuru in Case Number 2022-030016. This was a  
21 one-count administrative complaint seeking to  
22 suspend Respondent's pari-mutuel wagering  
23 professional individual occupational license due to  
24 an outstanding debt related to horseracing in the  
25 State of Florida.

1           We attempted service by USPS mail and hand  
2           service and were unsuccessful. The Division  
3           requested that notice be placed with the Miami-Dade  
4           County Daily Business Review. It was published on  
5           four consecutive weeks, and they were given a  
6           deadline of April 7th to respond.

7           Therefore, the Division would ask that the  
8           Commission enter an order finding that Respondent  
9           was properly given notice; that they did not  
10          respond by the stated deadline; that the facts in  
11          the administrative complaint are accepted as the  
12          facts in this case; and that Respondent's  
13          pari-mutuel wagering professional individual  
14          occupational license is suspended until the  
15          Commission receives confirmation that the payment  
16          has been satisfied in this case.

17          COMMISSIONER BROWN: Thank you. Makes sense.  
18          Any questions? If not, could I get a motion to  
19          approve the final order?

20          COMMISSIONER D'AQUILA: Motion to approve the  
21          final order as stated.

22          COMMISSIONER DRAGO: Second.

23          COMMISSIONER BROWN: Any discussion? All  
24          those in favor say "aye". Aye.

25          COMMISSIONER D'AQUILA: Aye.

1 COMMISSIONER DRAGO: Aye.

2 COMMISSIONER REPP: Aye.

3 CHAIRMAN UPTON: Aye.

4 COMMISSIONER BROWN: Thank you. Can we please  
5 take up 4.6 and 4.7 since it's the same date of the  
6 drug transaction and the transaction.

7 MS. ALVARADO: Yes. FGCC versus Ryan Charles  
8 Calvin in Case Number 2022-040813 and FGCC versus  
9 Lonnit Edwards Cave, which is 2022-041261. Both of  
10 these were one-count administrative complaints  
11 seeking to exclude the Respondent based on an  
12 exclusion from the Casino at Dania Beach for  
13 conducting a drug transaction on the casino floor.

14 In both cases, we attempted USPS and hand  
15 service and they were unsuccessful. The Division  
16 requested that notice be placed with the Miami-Dade  
17 County Daily Business Review. It was published on  
18 four consecutive weeks, and they were given until  
19 April 7th to respond to the notice. Both  
20 Respondents did not respond.

21 Therefore, the Division would ask to enter an  
22 order in both 4.6 and 4.7 finding that Respondent  
23 was properly served or properly given notice of the  
24 administrative complaint; that they failed to  
25 respond by the stated date; that the factual

1 allegations in the administrative complaint are  
2 accepted as the finding of facts in this case; and  
3 concluding that both Respondents will be added to  
4 the permanent exclusion list for all pari-mutuel  
5 and slot machine facilities.

6 COMMISSIONER BROWN: Thank you. Can we get a  
7 motion to approve the final order on 4.6 and 4.7?

8 COMMISSIONER D'AQUILA: I'll make a motion to  
9 approve both 4.6 and 4.7 as stipulated.

10 COMMISSIONER BROWN: Thank you. Is there a  
11 second?

12 COMMISSIONER DRAGO: Second.

13 COMMISSIONER BROWN: All those in favor say  
14 "aye". Aye.

15 COMMISSIONER D'AQUILA: Aye.

16 COMMISSIONER DRAGO: Aye.

17 COMMISSIONER REPP: Aye.

18 CHAIRMAN UPTON: Aye.

19 COMMISSIONER BROWN: Opposed. Both items  
20 pass.

21 We are going to move through the rest of these  
22 and then take a break before we get to Item 5, just  
23 to give everyone a heads-up. Item 4.8, please.

24 MS. ALVARADO: FGCC versus Jonathan Ferber in  
25 Case Number 2022-043586. This was a one-count

1 administrative complaint alleging that Respondent  
2 was excluded from Magic City Casino for engaging in  
3 a fight with another patron.

4 We attempted service by USPS certified mail  
5 and hand service, but we were unsuccessful. We  
6 requested that notice be placed in the Miami-Dade  
7 County Daily Business Review. It was published on  
8 four consecutive weeks. Respondent was given until  
9 April 7th to respond.

10 Therefore, the Division would ask that the  
11 Commission enter an order finding that Respondent  
12 was properly given notice of the administrative  
13 complaint; that they failed to respond by the  
14 stated date; that the factual allegations in the  
15 administrative complaint are accepted as the  
16 finding of facts in this case; and concluding that  
17 Respondent will be added to the permanent exclusion  
18 list for all pari-mutuel and slot machine  
19 facilities.

20 COMMISSIONER BROWN: Thank you. If there are  
21 no questions, can we get a motion to approve the  
22 recommended order?

23 COMMISSIONER DRAGO: So moved.

24 COMMISSIONER BROWN: Second.

25 COMMISSIONER D'AQUILA: Second.

1 COMMISSIONER BROWN: Any discussion? All  
2 those in favor say "aye". Aye.

3 COMMISSIONER D'AQUILA: Aye.

4 COMMISSIONER DRAGO: Aye.

5 COMMISSIONER REPP: Aye.

6 CHAIRMAN UPTON: Aye.

7 COMMISSIONER BROWN: We are moving on. 4.9.

8 MS. ALVARADO: This is FGCC versus Joel Orozco  
9 Rodriguez in Case Number 2022-047909. This was a  
10 one-count administrative complaint alleging that  
11 Respondent was excluded from Magic City Casino on  
12 September 17th, 2022 for switching cards and  
13 cheating with another patron.

14 The Division attempted service by USPS  
15 certified mail and by hand service and were  
16 unsuccessful. There was a notice placed in the  
17 Miami-Dade County Daily Business Review. It was  
18 published on four consecutive weeks, and Respondent  
19 was given until April 7th to respond. He did not  
20 respond.

21 Therefore, the Division would ask the  
22 Commission enter an order finding that Respondent  
23 was given proper notice; that the Respondent failed  
24 to respond by the stated date; that the facts in  
25 the administrative complaint are the finding of

1 facts in this case; and concluding that Respondent  
2 will be added to the permanent exclusion list for  
3 all pari-mutuel and slot machine facilities.

4 COMMISSIONER BROWN: Thank you. If there are  
5 no questions, can we get a motion to approve the  
6 recommended order on 4.9?

7 COMMISSIONER D'AQUILA: Motion to approve the  
8 recommended order on 4.9.

9 COMMISSIONER BROWN: And a second, please.

10 COMMISSIONER DRAGO: Second.

11 COMMISSIONER BROWN: Any discussion? All  
12 those in favor say "aye". Aye.

13 COMMISSIONER D'AQUILA: Aye.

14 COMMISSIONER DRAGO: Aye.

15 COMMISSIONER REPP: Aye.

16 CHAIRMAN UPTON: Aye.

17 COMMISSIONER BROWN: Motion passes. Moving on  
18 to 4.10.

19 MS. ALVARADO: This is FGCC versus Nagib  
20 Cardozo in Case Number 2023-005131. This was a  
21 one-count administrative complaint alleging that  
22 Respondent was excluded from Big Easy Casino for  
23 cheating at a poker table. You were also provided  
24 the USPS tracking and the USPS delivery  
25 confirmation. Respondent failed to respond.

1           Therefore, the Division would ask that the  
2 Commission enter an order finding that Respondent  
3 was properly served; he failed to respond within 21  
4 days; that the facts in this administrative  
5 complaint are accepted as the facts in this case;  
6 and that he is added to the permanent exclusion  
7 list for all pari-mutuel facilities and slot  
8 machine facilities.

9           COMMISSIONER BROWN: Thank you.

10          Commissioners, are there any questions on this?

11          This is the designated player, Mr. Cardozo.  
12 He does not have an occupational license.

13          MS. ALVARADO: No.

14          COMMISSIONER BROWN: That's very interesting.

15          Commissioners, if you don't have any  
16 questions, can we get a motion to approve the  
17 recommended order?

18          COMMISSIONER DRAGO: I make a motion to  
19 approve.

20          COMMISSIONER D'AQUILA: I second.

21          COMMISSIONER BROWN: Any discussion? All  
22 those in favor say "aye". Aye.

23          COMMISSIONER D'AQUILA: Aye.

24          COMMISSIONER DRAGO: Aye.

25          COMMISSIONER REPP: Aye.

1 CHAIRMAN UPTON: Aye.

2 COMMISSIONER BROWN: Moving on to 4.11. This  
3 is another designated player issue.

4 MS. ALVARADO: This is FGCC versus Yoan Perez  
5 Jimenez in Case Number 2023-005439. This was a  
6 one-count administrative complaint alleging that  
7 Respondent was excluded from the Casino at Dania  
8 Beach for engaging in theft with another patron  
9 while he was working as the designated player.  
10 Respondent was served via USPS mail. He failed to  
11 respond within 21 days.

12 Therefore, the Division would ask the  
13 Commission to enter an order finding that  
14 Respondent was properly served; that he failed to  
15 respond within 21 days; that the facts in the  
16 administrative complaint are accepted as the facts  
17 in this case; and adding Respondent to the  
18 permanent exclusion list for all pari-mutuel and  
19 slot machine facilities.

20 COMMISSIONER BROWN: Thank you. This is just  
21 a sidebar question. In Florida, what other  
22 requirements are there to be a designated player,  
23 any licensures or nothing?

24 MS. ALVARADO: They don't have a license with  
25 us.

1           COMMISSIONER BROWN: Do you know what entity  
2 they do?

3           MS. ALVARADO: No. I don't know who has an  
4 answer.

5           COMMISSIONER BROWN: This is more for the new  
6 Commissioners as well.

7           MR. TROMBETTA: Lou Trombetta, Executive  
8 Director. Yeah, they do not receive a license from  
9 the Florida Gaming Control Commission.

10           Essentially, the way the law works, there's a  
11 rule in the card room rules that provides that  
12 there's requirements -- it kind of works the  
13 opposite way -- that the card room cannot create  
14 certain requirements to prohibit people from  
15 becoming designated players. So we don't add a  
16 licensing component to that. We want people to be  
17 able to be designated players, if they so choose.

18           COMMISSIONER BROWN: Thank you.  
19 Commissioners, if there are any questions on this  
20 item. If not, can we get a motion to approve the  
21 recommended order?

22           COMMISSIONER D'AQUILA: Motion to approve the  
23 recommended order.

24           COMMISSIONER DRAGO: Second.

25           COMMISSIONER BROWN: Any discussion? All

1 those in favor say "aye". Aye.

2 COMMISSIONER D'AQUILA: Aye.

3 COMMISSIONER DRAGO: Aye.

4 COMMISSIONER REPP: Aye.

5 CHAIRMAN UPTON: Aye.

6 COMMISSIONER BROWN: All right. Two more  
7 under here. 4.12.

8 MS. ALVARADO: This is FGCC versus David  
9 Majella Fisher in Case Number 2023-007020. This  
10 was a one-count administrative complaint alleging  
11 that Respondent violated 75-6.008(2)(s) by racing a  
12 horse with an impermissible amount of Omeprazole  
13 Sulfide. The ARCI guidelines classify this as a  
14 Class D and recommend a written warning.

15 Therefore, the Division would ask -- well, he  
16 was served. He did not respond within 21 days.  
17 Therefore, the Division would ask that you enter an  
18 order finding that Respondent was properly served;  
19 the Respondent failed to respond within 21 days;  
20 that the facts in the AC are accepted as the facts  
21 in the case; and concluding that Respondent will be  
22 issued a written warning.

23 COMMISSIONER BROWN: Thank you.

24 Commissioners, any questions?

25 New Commissioners, you guys will learn all of

1 these drugs and why they are designated a certain  
2 way. It's very interesting and there's lots of  
3 information out there, and we've got a lot of  
4 resources to understand the guidelines in the  
5 statute.

6 If there are no questions, can we get a motion  
7 to approve the recommended final order?

8 COMMISSIONER DRAGO: Make a motion to approve.

9 COMMISSIONER D'AQUILA: Second that motion.

10 COMMISSIONER BROWN: All those in favor say  
11 "aye". Aye.

12 COMMISSIONER D'AQUILA: Aye.

13 COMMISSIONER DRAGO: Aye.

14 COMMISSIONER REPP: Aye.

15 CHAIRMAN UPTON: Aye.

16 COMMISSIONER BROWN: Last item under 4, 4.13.

17 MS. ALVARADO: FGCC versus Bradley Taylor  
18 Cooper in Case Number 2023-009468. In this case,  
19 Respondent was excluded from the Casino at Dania  
20 Beach for violating an automated customer service  
21 kiosk. He was served via USPS mail and failed to  
22 respond within 21 days.

23 Therefore, the Division would ask that the  
24 Commission enter an order finding that Respondent  
25 was properly served; he failed to respond within 21

1 days; that the facts in the administrative  
2 complaint are the facts in this case; and  
3 concluding that Respondent will be added to the  
4 permanent exclusion list for all pari-mutuel and  
5 slot machine facilities.

6 COMMISSIONER BROWN: Thank you.  
7 Commissioners, any questions on this one? If not,  
8 can we get a motion to approve?

9 COMMISSIONER D'AQUILA: Make a motion to  
10 approve.

11 COMMISSIONER DRAGO: Second.

12 COMMISSIONER BROWN: All those in favor say  
13 "aye". Aye.

14 COMMISSIONER D'AQUILA: Aye.

15 COMMISSIONER DRAGO: Aye.

16 COMMISSIONER REPP: Aye.

17 CHAIRMAN UPTON: Aye.

18 COMMISSIONER BROWN: The motion passes. The  
19 time is 3:11. We are going to just take a brief  
20 recess and reconvene at 3:20.

21 (Thereupon, a recess was taken from  
22 3:11 p.m. until 3:23 p.m., after which the following  
23 proceedings were held:)

24 COMMISSIONER BROWN: We are looking good right  
25 now. Chairman, if you're back on, unmute it just

1 to let you know. And we are going on to Item 5.1.

2 Miss Alvarado.

3 MS. ALVARADO: This is Lisa Ledonne, Case  
4 Number 2023-000559. We received an application for  
5 a pari-mutuel wagering professional individual  
6 occupational license on December 20th, 2022.

7 Upon review of her application, the applicant  
8 had several felony convictions, including  
9 aggravated trafficking of drugs, grand theft,  
10 escape, felony DUI, five counts of forgery, making  
11 false statements to an officer, willful obstruction  
12 of an officer. They range from 1994 to 2016.

13 She did disclose these on her application.  
14 She submitted a request for a waiver of the felony  
15 offenses and the Executive Director declined to  
16 waive them on March 21st, 2023. The Division would  
17 ask that the Commission authorize the issuance of a  
18 Notice of Intent to Deny in this case.

19 COMMISSIONER BROWN: Thank you. All right.  
20 Commissioners, any questions on this?

21 These date back, a lengthy list of crimes,  
22 including forgery and things that are very  
23 counterproductive for a license.

24 If no questions, can we please get a motion.

25 COMMISSIONER D'AQUILA: I will make a motion

1 for issuance of Notice of Intent to Deny the  
2 application.

3 COMMISSIONER BROWN: Is there a second?

4 COMMISSIONER DRAGO: Second.

5 COMMISSIONER BROWN: All those in favor say  
6 "aye". Aye.

7 COMMISSIONER D'AQUILA: Aye.

8 COMMISSIONER DRAGO: Aye.

9 COMMISSIONER REPP: Aye.

10 CHAIRMAN UPTON: Aye.

11 COMMISSIONER BROWN: Okay. The motion passes.  
12 We are on to 5.2.

13 MS. ALVARADO: 5.2 is Carlos Martinez, Case  
14 Number 2023-008505. We received a license  
15 application on February 8th, 2023 for a pari-mutuel  
16 wagering general individual occupational license.

17 Upon review of the application, he was  
18 convicted of grand theft and dealing in stolen  
19 property in 2014. He did disclose these  
20 convictions on his application.

21 He submitted a request for a waiver of his  
22 felony offenses and they were declined by the  
23 Executive Director on April 10th, 2023. Therefore,  
24 the Division would ask the Commission to authorize  
25 the issuance of a Notice of Intent to Deny.

1           COMMISSIONER BROWN: Thank you. I would also  
2 support that. If there are no questions, can we  
3 get a motion of issuance of a Notice of Intent to  
4 Deny?

5           COMMISSIONER DRAGO: So moved.

6           COMMISSIONER BROWN: Is there a second?

7           COMMISSIONER D'AQUILA: Second.

8           COMMISSIONER BROWN: Any discussion? Seeing  
9 none, all those in favor say "aye". Aye.

10          COMMISSIONER D'AQUILA: Aye.

11          COMMISSIONER DRAGO: Aye.

12          COMMISSIONER REPP: Aye.

13          CHAIRMAN UPTON: Aye.

14          COMMISSIONER BROWN: The motion passes. On to  
15 5.3.

16          MS. ALVARADO: 5.3 is Anthony Jaqson in Case  
17 Number 2023-009161. We received a license  
18 application for a card room employee occupational  
19 license on January 7th, 2023.

20                Upon review of his application, he was  
21 convicted of grand theft in 2020. He did disclose  
22 the convictions on his application. He submitted a  
23 request for a waiver, which was declined by the  
24 Executive Director on April 10th, 2023.

25                Therefore, the Division would ask the

1 Commission to authorize the issuance of a Notice of  
2 Intent to Deny in this case.

3 COMMISSIONER BROWN: If there are no  
4 questions, can we please get a motion of the  
5 issuance of a Notice of Intent to Deny.

6 COMMISSIONER D'AQUILA: I'd like to make a  
7 motion for Intent to Deny.

8 COMMISSIONER BROWN: Is there a second?

9 COMMISSIONER DRAGO: Second.

10 COMMISSIONER BROWN: Any discussion? Seeing  
11 none, all those in favor say "aye". Aye.

12 COMMISSIONER D'AQUILA: Aye.

13 COMMISSIONER DRAGO: Aye.

14 COMMISSIONER REPP: Aye.

15 CHAIRMAN UPTON: Aye.

16 COMMISSIONER BROWN: The motion passes.

17 Moving on to 5.4.

18 MS. ALVARADO: This is Christopher Brown, Case  
19 Number 2023-017967. On March 27th, 2023, we  
20 received an application for a slot machine/card  
21 room/pari-mutuel wagering combination occupational  
22 license.

23 Upon review of the application, he was  
24 convicted of battery of a police officer in 2017  
25 and resisting an officer in 2017. He failed to

1 disclose these convictions on his application.

2 He did not apply for a waiver, because 551  
3 does not authorize the Executive Director to waive  
4 criminal convictions for slot machine licenses.  
5 Therefore, the Division would ask the Commission to  
6 authorize a Notice of Intent to deny in this case.

7 COMMISSIONER BROWN: Thank you.

8 Commissioners, are there any questions?

9 COMMISSIONER D'AQUILA: None.

10 COMMISSIONER BROWN: If not, can we please get  
11 a motion on this item.

12 COMMISSIONER D'AQUILA: Motion to issue an  
13 Intent to Deny.

14 COMMISSIONER BROWN: Is there a second?

15 COMMISSIONER DRAGO: Second.

16 COMMISSIONER BROWN: Any discussion? All  
17 those in favor say "aye". Aye.

18 COMMISSIONER D'AQUILA: Aye.

19 COMMISSIONER DRAGO: Aye.

20 COMMISSIONER REPP: Aye.

21 CHAIRMAN UPTON: Aye.

22 COMMISSIONER BROWN: Thank you. The motion  
23 passes. 5.5, please.

24 MS. ALVARADO: This is Mary Ann Manganiello in  
25 Case Number 2023-018311. On March 28th, 2023, the

1 Commission received an application for a slot  
2 machine/card room/pari-mutuel combination  
3 occupational license.

4 Upon review of the application, applicant was  
5 convicted of several offenses such as fraud,  
6 forgery, grand theft, petty theft, and  
7 fraud/impersonation from 1990 to 1999. She failed  
8 to disclose these convictions on her application.

9 She did not apply for a waiver, because  
10 Section 551 does not authorize the Executive  
11 Director to waive these offenses for slot machine  
12 licenses. Therefore, the Division would ask the  
13 Commission to authorize a Notice of Intent to Deny.

14 COMMISSIONER BROWN: Thank you. I know these  
15 items stem from late '90s. But, I mean, even the  
16 arrest record talks about just a habitual offender.  
17 And given the nature of the crime, theft  
18 repeatedly, I'm inclined to support the motion of  
19 the issuance of a Notice of Intent to Deny.

20 COMMISSIONER D'AQUILA: Make a motion for  
21 issuance of Notice of Intent to Deny.

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

24 COMMISSIONER DRAGO: Second.

25 COMMISSIONER BROWN: Any discussion? All

1 those in favor say "aye". Aye.

2 COMMISSIONER D'AQUILA: Aye.

3 COMMISSIONER DRAGO: Aye.

4 COMMISSIONER REPP: Aye.

5 CHAIRMAN UPTON: Aye.

6 COMMISSIONER BROWN: Thank you. 5.6.

7 MS. ALVARADO: Miguel Joseph in Case Number  
8 2023-018983. On March 29th, the Gaming Commission  
9 received a license application seeking a slot  
10 machine/card room/pari-mutuel wagering combination  
11 occupational license.

12 Upon review of the application, applicant was  
13 convicted of grand theft, unlicensed carry of a  
14 concealed firearm and discharge of a firearm from a  
15 vehicle in 2010. He failed to disclose these on  
16 his application.

17 He did not apply for a waiver, because 551  
18 does not permit the Executive Director to waive  
19 felony offenses. The Division would ask the  
20 Commission to enter an order authorizing issuance  
21 of a Notice of Intent to Deny.

22 COMMISSIONER BROWN: Thank you. If there are  
23 no questions on this, can we get a motion of  
24 issuance of Intent to Deny?

25 COMMISSIONER DRAGO: So moved.

1 COMMISSIONER BROWN: Is there a second?

2 COMMISSIONER D'AQUILA: There is a second.

3 COMMISSIONER BROWN: All those in favor say  
4 "aye". Aye.

5 COMMISSIONER D'AQUILA: Aye.

6 COMMISSIONER DRAGO: Aye.

7 COMMISSIONER REPP: Aye.

8 CHAIRMAN UPTON: Aye.

9 COMMISSIONER BROWN: The motion passes.

10 Before we get to 5.7, just for the new  
11 Commissioners too, can you just give a brief  
12 overview of what is an issuance of a Notice of  
13 Intent to Deny and then the due process rights that  
14 the applicant has thereafter?

15 MS. ALVARADO: Sure. After the meeting, we  
16 issue a letter called the Notice of Intent to Deny  
17 informing the applicants that they have a felony,  
18 that we are not granting them a license based on  
19 their felony offenses.

20 The second page of that is a Notice of Right  
21 page that has the way they can request a hearing.  
22 They have 21 days after the Notice of Intent to  
23 Deny to request a hearing. If they don't, then  
24 their application is denied 21 days following that.

25 COMMISSIONER BROWN: Thank you. So it's just

1 the first kind of bite of the apple here.

2 Thank you. On to 5.7.

3 MS. ALVARADO: Sharon Cortes in Case Number  
4 2023-019361. On April 3rd, the Gaming Commission  
5 received an application for a slot machine/card  
6 room/pari-mutuel wagering combination occupational  
7 license.

8 Upon review of the application, applicant was  
9 convicted of resisting an officer with violence in  
10 2000. She failed to disclose this on her  
11 application.

12 She did not apply for a waiver, because 551  
13 does not allow the Executive Director to waive  
14 felony convictions. The Division would ask the  
15 Commission to authorize the issuance of a Notice of  
16 Intent to Deny in this case.

17 COMMISSIONER BROWN: Thank you. This one I  
18 just was -- again, it's a dated case that goes back  
19 to 2000. But looking at it, it looked like there  
20 were more charges that were associated in there,  
21 including burglary.

22 So that withstanding, I would -- I was a  
23 little bit more open, except for the fact that she  
24 did not disclose and there's a burglary on there as  
25 well and there's an aggressive battery in there.

1           So with that, Commissioners, if you don't have  
2 any other comments or questions, can we get a  
3 motion here?

4           COMMISSIONER DRAGO: Make a motion to issue a  
5 Notice of Intent to Deny.

6           COMMISSIONER BROWN: Is there a second?

7           COMMISSIONER D'AQUILA: I will second the  
8 motion.

9           COMMISSIONER BROWN: Any discussion? All  
10 those in favor say "aye". Aye.

11           COMMISSIONER D'AQUILA: Aye.

12           COMMISSIONER DRAGO: Aye.

13           COMMISSIONER REPP: Aye.

14           CHAIRMAN UPTON: Aye.

15           COMMISSIONER BROWN: Thank you. The last one  
16 under Item 5, 5.8.

17           MS. ALVARADO: Jamil Watson in Case Number  
18 2023-021423. The Commission received a license  
19 application on April 12th, 2023 for a slot  
20 machine/card/room pari-mutuel combination  
21 occupational license.

22           Upon review of the application, he was  
23 convicted of fleeing or attempting to allude  
24 officer in 2011. He failed to disclose this on his  
25 application.

1 He did not apply for a waiver, because 551  
2 does not allow the Executive Director to waive  
3 criminal convictions for slot machine licenses.  
4 Therefore, the Division would ask the Commission to  
5 enter an order authorizing the issuance of a Notice  
6 of Intent to Deny.

7 COMMISSIONER BROWN: Thank you.  
8 Commissioners, any questions on this item? If not,  
9 can we get a motion of issuance of Notice of Intent  
10 to Deny?

11 COMMISSIONER D'AQUILA: Make a motion for  
12 issuance of Notice of Intent to Deny.

13 COMMISSIONER BROWN: Is there a second?

14 COMMISSIONER DRAGO: Second.

15 COMMISSIONER BROWN: Any discussion? Seeing  
16 none, all those in favor say "aye". Aye.

17 COMMISSIONER D'AQUILA: Aye.

18 COMMISSIONER DRAGO: Aye.

19 COMMISSIONER REPP: Aye.

20 CHAIRMAN UPTON: Aye.

21 COMMISSIONER BROWN: The motion passes. Thank  
22 you so much. You did a great job, Miss Alvarado.

23 MS. ALVARADO: Thank you.

24 COMMISSIONER BROWN: Thank you for all the  
25 work that you're doing.

1           We already went over Item 6. So we are going  
2 on to Item 7, Discussion of Rule-Making.

3           MR. TROMBETTA: Thank you, Commissioner Brown.  
4 Lou Trombetta to touch on Item Number 7, Discussion  
5 of Rule-Making.

6           At previous meetings, I had asked the  
7 Commission to delegate the authority to initiate --

8           COMMISSIONER BROWN: You're sounding a little  
9 worse, by the way.

10          MR. TROMBETTA: Just when I'm speaking. I'll  
11 try to be quick and not let you suffer with my  
12 voice too long.

13          You guys had delegated the authority to  
14 initiate rule-making. We initiated three rules.  
15 And 120 requires that as we move forward, the  
16 Commission, as the agency head, signs off on moving  
17 for the next steps in rule-making, essentially.

18          So what we have in front of you is draft  
19 language for which we'd like to request the  
20 authority to file a Notice of Proposed Rule-Making.  
21 This item is included in the supplemental meeting  
22 materials. Let me pull it up right now.

23          And I'm asking the Commission to authorize me  
24 to file a Notice of Proposed Rule-Making on what is  
25 looking like Rule 75-15.001, what we prefer to make

1 it. And this is a rule dealing with public comment  
2 at the meetings. So according to the rule -- the  
3 rule covers time limitations and notice, notice  
4 being like the comment card, essentially.

5 In my individual meetings with Commissioners,  
6 there was a question about the timeline. Right now  
7 in the draft rule, we've identified five-minute  
8 period. That can be extended. There was a  
9 proposal to reduce that to three minutes. And I  
10 think it's probably a good idea. So I wanted to  
11 bring that up and discuss that with you.

12 But really what I'm asking for is the ability  
13 to initiate -- or sorry -- to file a Notice of  
14 Proposed Rule. Once we do that, we will be moving  
15 forward with likely a rule hearing. And then we  
16 would ultimately be filing for adoption; which  
17 again, we would come before you before we actually  
18 move to file for adoption.

19 So it's kind of the middle step. When we file  
20 the Notice of Proposed Rule-Making, just for  
21 background, it's sort of a more formal step in the  
22 process towards adoption. The earlier portion, the  
23 earlier step was really just kind of getting the  
24 rule together. So at this point we have a draft.

25 And, again, I'm not asking -- if you have any

1 questions to discuss the draft as it is, we can do  
2 that too. But that's sort of Item 7.

3 COMMISSIONER BROWN: Thank you. Before I get  
4 to the Commissioners, Chair, do you have anything  
5 you want to add on this?

6 CHAIRMAN UPTON: I agree with the Executive  
7 Director on reducing the time to three minutes. I  
8 think while there's nothing at issue, it's better  
9 to set the policy at the right number than have a  
10 problem later on and find out that we set it too  
11 long. Most local governments, I've appeared before  
12 several, are right around the three-minute mark. I  
13 know some of the other commissions and agencies in  
14 the state are at five minutes.

15 But I just think, given the discretion that it  
16 can be extended, that three minutes is plenty of  
17 time to get up and make your point and explain what  
18 you're saying. You know, five minutes you start to  
19 get into just general grievances with everything.  
20 So that's the only thing I had to add.

21 COMMISSIONER BROWN: Thank you. I had made a  
22 comment similar to the Executive Director,  
23 somewhere between three and five. And, of course,  
24 the Chair has discussion or the Commission has  
25 discussion, if they are inclined and there's time

1 available, to allow more. But I agree.

2 Commissioners, do you have any --

3 COMMISSIONER DRAGO: That's the same point I  
4 was going to make. I agree with what's been said  
5 so far. And I think the three minutes is where we  
6 should go; because we have the ability to extend  
7 it, if we need to, when we have a meeting.

8 So as the Chair said, better off having it a  
9 little bit lower and then having the ability to  
10 extend it, if we need to, than get caught with a  
11 higher number. So I think three minutes is the  
12 right way to go.

13 COMMISSIONER D'AQUILA: I concur,  
14 Commissioner.

15 COMMISSIONER BROWN: Awesome. Question under  
16 this Public Comment portion. Do we want to  
17 consider taking up public decorum guidelines and  
18 giving the Chair the opportunity to immediately  
19 interrupt, eject a speaker for certain reasons as  
20 enumerated?

21 And local governments have rules all over the  
22 place of, you know, disruptive behavior, offensive,  
23 insulting, different requirements that comply with  
24 legalities and stuff like that. I think public  
25 decorum is a big -- right when we started our

1 rule-making when we have these, I think that should  
2 be included in there as well.

3 MR. TROMBETTA: Sure. I'm going to ask  
4 Elizabeth Stinson to also just add some context.

5 MS. STINSON: Elizabeth Stinson. So the good  
6 news is that right now if someone were to come into  
7 the meeting and start screaming at you and  
8 yelling --

9 COMMISSIONER BROWN: That has happened in a  
10 lifetime past.

11 MS. STINSON: You have the ability to remove  
12 someone who is being disruptive right now. There  
13 is case law that backs it up. I believe that it  
14 went up to the Florida Supreme Court or DCA where  
15 you are allowed to eject someone who's being  
16 disruptive. So that's the good news.

17 I do think that it is perfectly fine for us to  
18 adopt rules relating to decorum. The way that all  
19 of the other commissions and boards that I've  
20 looked at set it up is they have public comment as  
21 its own section, as its own rule, its own rule  
22 number.

23 And then they have decorum or adopting  
24 Robert's Rules of Order, those sorts of things as  
25 other parts, other rules. So we can do it, if that

1 is a good idea. I don't know if it necessarily  
2 belongs in 15.001. But it could be 15.002,  
3 something along those lines.

4 COMMISSIONER BROWN: That sounds good.

5 COMMISSIONER DRAGO: That makes sense.

6 COMMISSIONER BROWN: Yeah. I mean, it's  
7 something for the Commissioners to consider to,  
8 you know, at least delineate the professional  
9 nature of these proceedings.

10 MS. STINSON: Absolutely.

11 COMMISSIONER BROWN: Thank you. Miss Stinson,  
12 while we have you up there, also, do you think then  
13 the public that wants to speak via phone or  
14 participate via technology that that should be  
15 included in here?

16 There's some language that I've seen before  
17 that authorizes the Commission, as a convenience to  
18 the public, to allow it, but they can't guarantee  
19 technological failure; you know, it may occur, but  
20 just give them notice.

21 MS. STINSON: Sure.

22 COMMISSIONER BROWN: Again, it's discussion  
23 though.

24 MS. STINSON: Yes. That would be perfectly  
25 fine for us to add to the Public Comment part.

1 COMMISSIONER D'AQUILA: I don't know if I --

2 COMMISSIONER BROWN: I'll read you exact  
3 language. Virtual attendance/participation by the  
4 public can be authorized at FGCC's Commission, if  
5 available, as a convenience to the public, but is  
6 not required.

7 But the point is that it can't guarantee  
8 participation or technological capabilities.

9 COMMISSIONER D'AQUILA: So must we have that  
10 in writing? I mean, considering the nature of the  
11 things we've discussed, the purpose of these public  
12 forums is really if you're passionate about it, you  
13 can have a representative come, counsel or so  
14 forth.

15 But putting the onus of responsibility for us  
16 to have the proper technical channels and do it  
17 right, is it not working that day, is it better to  
18 leave it silent and we can always add it, or must  
19 we have it as a policy in there?

20 MS. STINSON: If we are silent about it, I  
21 believe that it would make the requirement fall on  
22 us; instead of saying that the Commission is going  
23 to try and do this; but if there's a technical  
24 issue, then we tried our best, but we are unable to  
25 do it.

1           COMMISSIONER D'AQUILA: So your point is we  
2 have more latitude by having the policy versus  
3 silence in this case the way it's --

4           MS. STINSON: Yes.

5           COMMISSIONER D'AQUILA: Interesting.  
6 Thank you.

7           MS. STINSON: Sure.

8           COMMISSIONER BROWN: It is. It's kind of the  
9 trend in rules, the technology. And it's to kind  
10 of exonerate and put them on notice of that  
11 failure. And, again, if we have the capabilities  
12 like here, we don't have it livestreamed for  
13 participation. Thank you. I just wanted to see if  
14 that would be appropriate here as well.

15           Also, just one more follow-up. Is it  
16 appropriate to put in the Public Comment, people  
17 that wish to speak, how they identify themselves  
18 and whether they want to speak under Public Comment  
19 portion or whether they want to speak on a posted  
20 agenda item?

21           Does that need to be delineated in a rule that  
22 when they present, you know, how -- it's not here  
23 about writing on a card, giving notice, or at the  
24 discretion of the Commission or the Chair giving  
25 them an opportunity to speak in public. But should

1 they also write on there what they're speaking  
2 about? Because there's --

3 MS. STINSON: Sure. Give me one -- I'm going  
4 to grab the rule.

5 COMMISSIONER BROWN: And just for  
6 clarification, because public comment is a separate  
7 section than all of the agenda items.

8 MS. STINSON: So in here on sub 3, A member of  
9 the public shall notify Commission staff in writing  
10 of his or her interest to be heard on a proposition  
11 or matter. So that would be the agenda items or  
12 anything else.

13 So it would be -- but I'm happy to clarify  
14 that to say agenda item and then if they want to  
15 just make general public comment, making public  
16 comment. But that is the way that a lot of other  
17 commissions and boards refer to delineating  
18 between, I think, an actual agenda item and public  
19 comment in general.

20 COMMISSIONER BROWN: Okay. And then also,  
21 lastly, just speaker and visual aids, folks from  
22 the public that provide, you know, a visual aid or  
23 a document like this, we've seen it in some of our  
24 dockets where they haven't provided documentation  
25 to the other party, for example.

1 Or if the public wants to present something,  
2 we have to put it in the record, of course; so they  
3 have to provide, at least give copies to the  
4 Commission or the Commission Clerk or the  
5 Commissioners, it would be nice have visual aids,  
6 something to cover.

7 MS. STINSON: Sure. I can absolutely look  
8 into drafting that as well.

9 COMMISSIONER BROWN: Thank you so much.  
10 Commissioners, that's just some thoughts from here.  
11 If you guys have some --

12 COMMISSIONER D'AQUILA: I agree.

13 MR. TROMBETTA: Lou Trombetta again. So just  
14 to recap then, one, I guess we're going to edit the  
15 rule to address the telephonic or like satellite  
16 appearances; the speaker cards specific to the  
17 items or just generally about what they're going to  
18 be speaking about; and then visual aids, the  
19 timing, who gets it, that type of stuff, things  
20 like that.

21 COMMISSIONER D'AQUILA: Did you say the three  
22 minutes?

23 COMMISSIONER DRAGO: And the three minutes.

24 MR. TROMBETTA: Yes, three minutes. That's  
25 where we should have started.

1           Okay. And then with those sort of -- do you  
2 authorize me and my staff then to file Notice of  
3 Proposed Rule-Making with a draft of the rule that  
4 includes some of the changes that we've discussed  
5 today?

6           COMMISSIONER BROWN: Commissioners, Chair, I  
7 don't think it's a problem with the discussion that  
8 we had today for the draft rule. Does that sound  
9 amenable?

10          COMMISSIONER D'AQUILA: Yes.

11          COMMISSIONER DRAGO: Yes.

12          COMMISSIONER REPP: Yes.

13          COMMISSIONER BROWN: We're all saying yes  
14 here. Chair says yes, it sounds like.

15          MR. TROMBETTA: Okay. Perfect. Thank you.  
16 That's Item 7.

17          COMMISSIONER BROWN: Good job. I think you're  
18 still back up here. We're going to Item 8,  
19 Executive Director Update.

20          MR. TROMBETTA: Okay. So there's a few items  
21 for the Executive Director Update, and then I  
22 wanted to just be available to answer any questions  
23 from the new Commissioners.

24          But if we can start with the policies, we have  
25 three policies that we've prepared. They've gone

1 through the proper procedures internally as  
2 provided in our other policy. The first one is the  
3 FMLA policy. This is Family Medical Leave. In  
4 general, this will provide employees that have been  
5 here for a year with the ability to be out to  
6 assist family members. The draft has been provided  
7 and I'm happy to discuss.

8 COMMISSIONER BROWN: Commissioners, this is a  
9 very straightforward FMLA policy. I don't see any  
10 deviations or concerns. But do you have any  
11 questions?

12 COMMISSIONER DRAGO: No.

13 COMMISSIONER BROWN: Can we get a motion to  
14 approve this policy as presented?

15 COMMISSIONER D'AQUILA: I'll make a motion to  
16 approve the policy as presented by staff.

17 COMMISSIONER BROWN: Is there a second?

18 COMMISSIONER DRAGO: Second.

19 COMMISSIONER BROWN: All those in favor say  
20 "aye". Aye.

21 COMMISSIONER D'AQUILA: Aye.

22 COMMISSIONER DRAGO: Aye.

23 COMMISSIONER REPP: Aye.

24 CHAIRMAN UPTON: Aye.

25 COMMISSIONER BROWN: Thank you. That motion

1 passes on the FMLA policy.

2 MR. TROMBETTA: Thank you. The next policy  
3 is -- I struggle to pronounce this word -- is the  
4 perquisites policy, the perk policy. So this was  
5 actually kind of news to me.

6 So this policy is in place, well, will be in  
7 place to help us assist or to help us provide perks  
8 to our employees; things like shirts, hats, you  
9 know, things that would help us stand out. And,  
10 again, it's going towards sort of making us look a  
11 little bit more official.

12 This policy, essentially, covers how those  
13 things are accounted for. And similar to the FMLA  
14 policy, you've been provided a copy of this policy  
15 and I'm happy to try to answer any questions.

16 COMMISSIONER BROWN: Commissioner D'Aquila.

17 COMMISSIONER D'AQUILA: Yes, I have a  
18 question. With regard to how an accountable plan  
19 works, has the policy either been approved by  
20 another agency or by company tax counsel to comply  
21 with the IRS rules as it pertains to what is  
22 taxable, how much one can provide to an employee  
23 before it hits their W-2 and such, how an  
24 accountable plan works with W-2 reporting?

25 MR. TROMBETTA: So I don't have a specific

1 answer to that. I believe that where we got this  
2 from is from like a DMS-based, a policy we kind of,  
3 you know, copied from there. I do not know if it's  
4 been independently verified.

5 COMMISSIONER D'AQUILA: Do we know if -- I'm  
6 sorry. You said DMS.

7 MR. TROMBETTA: Department of Management  
8 Services.

9 COMMISSIONER D'AQUILA: Okay. So I take it  
10 the Department of Management Services policy has  
11 been properly written.

12 MR. TROMBETTA: You know, it's an assumption  
13 and you know what happens with assumptions. But  
14 yeah --

15 COMMISSIONER D'AQUILA: That's where it came  
16 from. That's our Department of Management  
17 Services, right?

18 MR. TROMBETTA: Yes, Florida DMS.

19 COMMISSIONER D'AQUILA: Okay. And my other  
20 question on that is with regard to clothing. Are  
21 we specifically referring to uniform clothing here?

22 I understand like, for example, you know, our  
23 law enforcement group, even there is special  
24 clothing required in unique situations. That is  
25 what we are referring to here, not clothing as in

1 gifts or such, correct?

2 MR. TROMBETTA: Well, this policy will apply  
3 to all employees and right now the law enforcement.  
4 But where I'd like to see this go, honestly, is if  
5 you watch the Kentucky Derby, you'll see State  
6 employees on TV, they'll be wearing some type of  
7 standard vest. I think it's like usually green or  
8 it stands out.

9 I'd like our investigators -- I think there's  
10 room for our investigators, for our people at the  
11 tracks, for our auditors, some of the people that  
12 we have in and out of the facilities; I'd like to  
13 work with my team, Joe's team to try to get some  
14 type of, not necessarily a uniform, but something  
15 like an identifying piece of clothing, essentially,  
16 a hat, a jacket, a polo.

17 COMMISSIONER D'AQUILA: Which falls under the  
18 definition of a uniform versus, you know, we've all  
19 done a great job, we've got these great golf  
20 shirts.

21 MR. TROMBETTA: Right.

22 COMMISSIONER D'AQUILA: That was the question.  
23 Thank you.

24 COMMISSIONER BROWN: Commissioners, any other  
25 questions on Rule 8.2? Or I guess it's not a rule,

1 is it? 3. whatever. I'm getting tired.

2 MR. TROMBETTA: The perk policy.

3 COMMISSIONER BROWN: The policy, the perk. If  
4 not, can we get a motion to approve the proposed  
5 perk policy as presented under Item 8.2?

6 COMMISSIONER DRAGO: So moved.

7 COMMISSIONER BROWN: Is there a second?

8 COMMISSIONER D'AQUILA: Second.

9 COMMISSIONER BROWN: Any discussion on this  
10 item? Seeing none, all those in favor say "aye".  
11 Aye.

12 COMMISSIONER D'AQUILA: Aye.

13 COMMISSIONER DRAGO: Aye.

14 COMMISSIONER REPP: Aye.

15 CHAIRMAN UPTON: Aye.

16 COMMISSIONER BROWN: The motion passes. The  
17 last one.

18 MR. TROMBETTA: Thank you. The last one is  
19 another policy. This is form management. So the  
20 goal of this policy is just to have a standard set  
21 of expectations regarding how forms are created,  
22 maintained, and drafted.

23 So you'll see a lot of this one is somewhat  
24 technical. But it can kind of have specifications  
25 for formatting, you know, font, just so we have a

1 standard set of forms, essentially.

2 COMMISSIONER BROWN: And just for the  
3 Commissioner's forms that are available to the  
4 public, those type of forms?

5 MR. TROMBETTA: Yes, ma'am. Yes.

6 COMMISSIONER BROWN: Okay. Thank you. If  
7 there are no questions.

8 COMMISSIONER DRAGO: No.

9 COMMISSIONER BROWN: It's pretty  
10 straightforward. Can we get a motion to approve  
11 this item?

12 COMMISSIONER D'AQUILA: I'll make a motion to  
13 approve this item as presented by the Executive  
14 Director.

15 COMMISSIONER BROWN: Is there a second?

16 COMMISSIONER DRAGO: Second.

17 COMMISSIONER BROWN: Any discussion? Seeing  
18 none, all those in favor say "aye". Aye.

19 COMMISSIONER D'AQUILA: Aye.

20 COMMISSIONER DRAGO: Aye.

21 COMMISSIONER REPP: Aye.

22 CHAIRMAN UPTON: Aye.

23 COMMISSIONER BROWN: The motion passes.

24 Are there any other items under the Executive  
25 Director Update?

1 MR. TROMBETTA: Yes, please. I'd like to  
2 recognize Joe Dillmore for a final item.

3 MR. DILLMORE: Thank you. Joe Dillmore, for  
4 the record. I just want to take a moment to  
5 recognize an employee, Steve Kogan, who's with us  
6 here today, our Chief of Investigations. This is  
7 his last day with us.

8 COMMISSIONER BROWN: No.

9 MR. DILLMORE: Yes. It's bittersweet to say  
10 that he is retiring. Steve started his law  
11 enforcement career in New York, 21 years service  
12 there in law enforcement and then another eight  
13 years with the Attorney General in the State of New  
14 York; then retired, came to Florida in 1993, joined  
15 the Auditor General here in Florida investigating  
16 Medicaid and health care fraud.

17 And fortunate enough, he came to the Division  
18 of Pari-Mutuel Wagering in 2004; which is actually  
19 perfect timing, because that was when card rooms  
20 were, I still think had \$10 pot limits or \$50 pot  
21 limits. We didn't have slot machines yet. We had  
22 a smaller arm of an investigation unit, and we got  
23 him just at the right time.

24 So he subsequently became Chief of  
25 Investigations when slots came into effect. He

1 built up our whole investigative unit as to what we  
2 have today and that great work you see every day.  
3 And I would like to give thanks for him. And he  
4 has really done so much to protect the integrity of  
5 wagering in Florida, the public. And the racing  
6 animals, that was one of his big things too of  
7 ensuring all that was taken care of.

8 So our thanks again to Steve for your hard  
9 work. And it's not just his hard work. He's such  
10 a great friend to all of us here at the Commission.

11 COMMISSIONER BROWN: And a legend and what a  
12 pedigree too. And you've left an incredible  
13 imprint on the State. Thank you so much. We're  
14 going to miss you.

15 MR. TROMBETTA: That's kind of all I have. I  
16 also just want to kind of thank Dixie and Brandi.  
17 They've done a ton to make this meeting happen.  
18 You know, there's just a lot of stuff to get  
19 together, as you can imagine. They've been super  
20 helpful.

21 Thank you. That's all I have. I'm also here  
22 for any questions or anything else that's come up.

23 COMMISSIONER BROWN: Thank you. Before we get  
24 to public comment, are there any other matters that  
25 the Commissioners have to raise?

1 COMMISSIONER DRAGO: None for me, no.

2 COMMISSIONER D'AQUILA: No.

3 COMMISSIONER REPP: No.

4 COMMISSIONER BROWN: Thank you. And now to  
5 public comment. Anybody here to speak on just in  
6 general publicly?

7 All right. With that, safe travels to  
8 everybody wherever your journeys may be. And this  
9 meeting is adjourned. Thank you so much.

10 (Thereupon, the proceedings concluded at  
11 3:57 p.m.)

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REPORTER CERTIFICATE

STATE OF FLORIDA

COUNTY OF BROWARD

I, THOMAS N. SEVIER, Registered Professional Reporter, Florida Professional Reporter, 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 24th day of May, 2023.



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THOMAS N. SEVIER, RPR, FPR-C