

Florida Gaming Control Commission

DBPR Florida Gaming Control Commission

August 04, 2022

PHIPPS REPORTING

Raising the Bar!

1 Proceedings began via telephone at 9:34 a.m.

2 CHAIRMAN MacIVER: Good morning, everyone, and
3 welcome to the August 4 regular meeting of the
4 Florida Gaming Control Commission.

5 Let's start off by giving a warm welcome, and
6 forgive me if I don't get the nomenclature or
7 protocol perfect, but I understand this is Troop 23
8 from the Boy Scouts who are going to lead us in our
9 Pledge of Allegiance.

10 (Pledge of Allegiance)

11 CHAIRMAN MacIVER: Thank you all so very much.
12 It makes our -- it makes our day a little bit
13 warmer to be able to have y'all come here and do
14 that and take some time out of your day to lead us
15 in the Pledge. We really appreciate having you
16 here today. Thank you.

17 With that, folks, I guess we will jump into
18 the business of the commission. We have a not
19 terribly long agenda for today. I will say I was
20 advised as far as approving the meeting minutes
21 from our last meeting and our last interim meeting.
22 We do not have the minutes ready for review and
23 adoption yet, so we'll add that to the next agenda.
24 And we move right into the discussion of actual
25 business of the commission.

1 Mr. Trombetta or Mr. -- okay. Good.

2 MR. TROMBETTA: Thank you, Chair. Good
3 morning. So I guess if you'd like, I can run
4 through the first item.

5 CHAIRMAN MacIVER: The first item appears to
6 be Dania Entertainment Center, application for
7 amendment to the cardroom license.

8 MR. TROMBETTA: Yes. So this is an
9 application for a cardroom license amendment to add
10 one table to their existing license. They provided
11 all necessary documentation and made payment for
12 the additional table and the recommendation is that
13 the amendment be approved.

14 CHAIRMAN MacIVER: Any discussion?

15 COMMISSIONER BROWN: I would move approval of
16 the item as presented by Mr. Trombetta.

17 CHAIRMAN MacIVER: Do we have a second?

18 (Second made)

19 CHAIRMAN MacIVER: Any opposition?

20 Seeing none, show the application approved.

21 Item Number 2, West Flagler Associates'
22 application for a slot machine license.

23 MR. TROMBETTA: Thank you, Mr. Chair. So this
24 is an application for a renewal of a slot machine
25 license. Slot machine licenses are issued -- they

1 are renewed annually based on the date the initial
2 slot machine was granted. They come up
3 sporadically through the year. This is the first
4 one the Gaming Commission has had, just a little
5 bit of background on that.

6 Similar to the cardroom amendment, there are
7 various statutory and rule requirements that must
8 be satisfied with the renewal. My staff has
9 received all of the necessary forms. The applicant
10 has made payment as requested, and the
11 recommendation is that the slot machine license be
12 renewed.

13 CHAIRMAN MacIVER: Is there any discussion?

14 I will just make one short comment, and this
15 would apply to all of these license applications.

16 For the public that's watching, it probably
17 seems like we jump through these pretty quickly and
18 that there's not much consideration. We of course
19 have read the applications ahead of time and what
20 we are considering when we approve these is, one,
21 have they met the statutory requirements, and, two,
22 is there any concern that there would be an affect
23 on the health, safety, welfare of the people of
24 Florida when we issue or don't issue these.

25 So that's -- that's what's being taken into

1 consideration, what is being summarily sort of
2 briefed to us at the meeting and what we end up
3 voting on.

4 Did we have a motion yet or -- okay. Is there
5 a motion?

6 (Motion made)

7 CHAIRMAN MacIVER: Second?

8 (Second made)

9 CHAIRMAN MacIVER: Any opposition?

10 Show the slot machine license approved.

11 Item Number 3, RB Jai Alai, LLC application
12 for amendment to a Jai Alai license.

13 MR. TROMBETTA: Thank you, Mr. Chair. I'm
14 going to provide sort of the factual background on
15 this one and then I'm going to hand it over to
16 Mr. Marshman to provide some legal analysis.

17 RB Jai Alai is a Jai Alai permit holder that
18 has applied to amend their scheduled performances.
19 Performances are part of the annual operating
20 license application. So when a permit holder
21 submits an annual operating license and -- they
22 have a window between December and January, they
23 have to include the dates at which they're going to
24 perform. This is an application to go from zero
25 dates to 40 performances.

1 With that, I'm going to turn it over to
2 Mr. Marshman, the general counsel.

3 MR. MARSHMAN: Good morning. For the record,
4 this is Ross Marshman appearing.

5 As Mr. Trombetta indicated, the license holder
6 has to apply between December and January for the
7 following year's performance dates. Performance is
8 an umbrella term that's used in Chapter 550 that is
9 designed to capture all of the pari-mutuel
10 activity, be it live races or games.

11 When a license holder applies to amend its
12 schedule, the statute at issue, 550.01215(3) uses
13 the more specific terms, races or games, and the
14 commission has the authority to approve minor
15 changes to the schedule of live races. The statute
16 is not the same with games.

17 Later on that same subsection of the statute
18 distinguishes between live races and games by
19 indicating that if another license holder or permit
20 holder within 50 miles of the applicant trying to
21 amend his schedule that runs races or games try --
22 has an objection, then the applicant's application
23 should be denied or at least that should be
24 something the commission should consider.

25 So for those reasons based on the plain

1 language of Section 550.01215(3), it is my opinion
2 that the commission has the authority to approve
3 minor changes to a schedule of races, but it does
4 not have the authority to approve minor changes to
5 a schedule of games.

6 CHAIRMAN MacIVER: Commissioners, so this
7 particular issue, if you'll indulge me for just a
8 moment, I kind of view our commission a little bit
9 bifurcated between our new law enforcement function
10 and our regulatory function.

11 As a principal, I generally think that the
12 people in the state who are trying to follow the
13 rules and are trying to do it right deserve as much
14 help and assistance as possible from us on the
15 regulatory side of things. This is one of those
16 cases.

17 However, in interpreting what the statute is
18 telling us to do, I don't think our desired policy
19 outcome can be a guide in how we interpret what
20 that statute says. As Mr. Marshman said, the plain
21 language of the statute says races. A Jai Alai
22 event is not a race, and that means that according
23 to the statute, we don't have the authority to
24 approve this.

25 And if we did approve it without that

1 authority, we would be authorizing what is then
2 illegal gambling. Gambling is as a -- as a
3 baseline not legal in Florida, except in the very
4 narrow circumstances where we under our authority
5 have licensed and regulated it. If we give
6 approval outside of our authority, we've basically
7 told someone that they can commit illegal activity.

8 Now, if we look at the statute, does our
9 gut-check say they probably met race as an event
10 and they probably meant to include it, yeah, I
11 think probably so, but we're not allowed to
12 second-guess the legislature and do that.

13 So this is one of those instances where I
14 think the law dictates an outcome that at least I
15 would not prefer. If I had my druthers, today we
16 would be approving this application. They're going
17 from zero events to 40 events at a licensed
18 facility that is highly regulated, but they have to
19 do that during the time of year that the law
20 dictates they have to do that.

21 So thank you for your indulgence. That's sort
22 of just the way I look at this one. I think it's a
23 bad outcome, but it's a bad outcome that we are
24 forced to make because of the authority we have.

25 Any further discussion?

1 COMMISSIONER BROWN: I agree with you
2 wholeheartedly and I struggled with this as well,
3 because I would love to assist this particular
4 event here. Jai Alai is one of those sports that
5 you'd like to continue to see thriving in the
6 state. And this particular permit holder is one of
7 the only ones that is applying for this.

8 So I just wanted to ask Mr. Marshman, what is
9 the recourse that this permit holder has with a
10 denial?

11 MR. MARSHMAN: So I would advise that the
12 commission authorize the director and staff to
13 issue a notice of intent to deny. Once the notice
14 of intent to deny is served on the applicant,
15 they'll have 21 days to contest the commission's
16 decision.

17 They can elect a formal hearing which will be
18 resolved at the Division of Administrative
19 Hearings. If there are genuine disputes of
20 material fact, there could be an informal hearing
21 if the issues only involve interpretations of the
22 law or they may elect not to contest the
23 commission's decision at all.

24 COMMISSIONER BROWN: And have we heard from
25 the permit holder at all other than what is

1 provided in -- before us?

2 MR. MARSHMAN: If we have, I think
3 Mr. Trombetta would be best to speak about that.

4 MR. TROMBETTA: After receiving the
5 application, we did reach out and speak to people
6 at RB Jai Alai and kind of provide an overview of
7 what the process could potentially be. So they're
8 aware there's a meeting today. They're aware that
9 they -- that this was going to be before the
10 commission and there were potential issues.

11 COMMISSIONER BROWN: Mr. Trombetta, how many
12 permit holders currently are actively having Jai
13 Alai performances in the state?

14 MR. TROMBETTA: I apologize. I don't have the
15 exact number, but one of the amendments to the
16 recent bills allowed Jai Alai to be coupled, so
17 there's far fewer than there were. I think there
18 might be four or five active. Jai Alai permit
19 holders active being ones that have chosen to run
20 or conduct to conduct live performances like games.

21 COMMISSIONER BROWN: Thank you.

22 CHAIRMAN MacIVER: Further discussion or
23 questions?

24 Is there a motion to allow the director and
25 staff to issue a notice of intent to deny?

1 I'll make the motion. Is there a second?

2 (Second made)

3 CHAIRMAN MacIVER: Any objection? Show that
4 the motion carries.

5 Mr. Trombetta, please issue a notice of intent
6 to deny.

7 Item Number 4 is the legal case of
8 Ivan Francisco Arias Garcia (ph).

9 MS. ALVARDO: Good morning. My name is
10 Emily Alvardo. I'm the deputy chief attorney for
11 the Florida Gaming Control Commission, Office of
12 General Counsel.

13 I'm actually here to present two cases. It's
14 Ivan Francisco Arias Garcia, which is Case Number
15 2022-0007927 and Natalie Shaw (ph), 2022-012184,
16 and they're both legally the same. The cases are
17 obviously different factually. You've been
18 provided all the case materials beforehand.

19 I'm prepared to do them together, but if you'd
20 like me to do them separate, that's up to you guys.

21 CHAIRMAN MacIVER: Let's touch on the first
22 one. I might have just a short comment about the
23 second one.

24 MS. ALVARDO: The first one in your case
25 packet, there's a filed administrative complaint.

1 It alleges that they were excluded from a
2 pari-mutuel and slot -- slot machine facility. In
3 that particular case, they were excluded on
4 April 22nd at Magic City Casino.

5 They were excluded for capping a bet. That is
6 not included in the administrative complaint. They
7 were served by USPS certified mail. You can also
8 see that there the tracking number as well as the
9 green card that was received that they received
10 this. They did not respond within 21 days, which
11 is required.

12 They're required to respond within 21 days.
13 If they don't respond within 21 days, they waive
14 their right to a hearing. So in that particular
15 case, I would ask that the commission enter an
16 order finding that they were properly served, that
17 they waived their days -- they waived their right
18 to a hearing, because they did not respond within
19 21 days. And that the factual allegations in the
20 administrative complaint are accepted as the
21 findings of fact in this case, and also concluding
22 that the subject be permanently excluded from all
23 pari-mutuels and slot machine facilities within the
24 state of Florida.

25 CHAIRMAN MacIVER: So I -- I know just

1 anecdotally that service of process in
2 administrative cases by mail is okay, but do you
3 have just a cite of authority just so we can cross
4 that T and dot that I?

5 MS. ALVARDO: Sure. So Section 120.569
6 requires that an agency send notice to an
7 individual when their substantial interests are
8 being affected. There's nowhere specifically in
9 120 for this type of case that requires USPS
10 certified mail or specific type of service, it just
11 requires that we give notice.

12 CHAIRMAN MacIVER: Any discussion, members?

13 COMMISSIONER D'AQUILA: Just real quick. For
14 the -- for the record, can you describe what
15 capping the bet means?

16 MS. ALVARDO: Sure. It's a form of cheating
17 that occurs when a player in a cardroom alters
18 their bet after they know the end results of the
19 round.

20 CHAIRMAN MacIVER: Any debate? Do I have a
21 motion to approve the request to add Mr. Garcia to
22 the statewide prohibited list.

23 (Motion made)

24 CHAIRMAN MacIVER: A second?

25 (Second made)

1 CHAIRMAN MacIVER: Any opposition?

2 Seeing none, show that carries.

3 Legal case against Ms. Natalie Shaw.

4 MS. ALVARDO: That is Case Number 2022-012184.

5 This case similar to the last, she was a patron at
6 Calder Casino. The administrative complaint
7 alleges that she was excluded from -- from the
8 casino. It is a pari-mutuel slot machine facility.

9 We served her with the administrative
10 complaint stating that she is subject to exclusion
11 under 550.0251(6) and 551.112 Florida statutes.

12 She was served via USPS certified mail and she
13 waived her right to a hearing, because she did not
14 respond within 21 days. So similar to the last,
15 we'd ask that you make a finding that the
16 respondents were properly served with the
17 administrative complaint and she failed to respond
18 within 21 days, therefore waiving her right to a
19 hearing; that the factual allegations in the
20 administrative complaint are accepted as the
21 finding of facts in both cases; and that she's
22 subject to exclusion from all pari-mutuels and slot
23 machine facilities.

24 CHAIRMAN MacIVER: Commissioners, in this
25 case, much like the last case where we have a

1 complaint, proper service, and a failure to respond
2 to it, we are given with what we could refer to as
3 the easy button. They've -- they've waived their
4 right to contest the complaint, so we can hit the
5 easy button, say done, legal did their job, and we
6 approve it.

7 In this instance we have that scenario -- the
8 complaint in this case basically says that she was
9 excluded from a facility and for that, it triggers
10 our ability to add them to the statewide prohibited
11 list. If we hit the easy button in a case like
12 this, then what we've done is delegated not our
13 discretion, but our responsibility to look behind
14 the facts to see if by depriving of this person of
15 the liberty in other facilities, we would be
16 protecting the health, safety, and welfare of the
17 people of the Florida, including the health,
18 safety, and welfare of the complainant.

19 And for that one, this one gave me a little
20 bit of pause. The -- the charge for the reason she
21 was pushed out of Calder was enough that I think it
22 should give us all pause. She left a child in a
23 vehicle while she went inside to gamble and was
24 charged with child neglect.

25 Now, on one end of the spectrum that could be

1 someone who is addicted to gaming who we should be
2 helping by not allowing them into facilities who is
3 leaving a small child in danger. On the other end
4 of the spectrum, the charge of child neglect has a
5 prudent person element to it. Is it a closer call
6 if this is a minor under the age of 18 who mom
7 said, hey, just stay in the car for a little bit,
8 watch your iPad, I'll be back out in a few minutes
9 and then I'm going to take you to your, you know,
10 sleepover or something like that, it might be a
11 little bit of a closer call.

12 So I had asked staff to take a look a little
13 bit closer behind the facts and I want to thank
14 them for the -- the extra look that they did. In
15 this instance, yes, it was a younger child.

16 The mother was on the gaming floor for about
17 45 minutes. Ostensibly would have been there
18 longer if she hadn't come out to see what the
19 police lights were going on in the parking lot for.
20 So it does seem like this is the type of case where
21 since we have the ability to exercise the
22 discretion, it seems also warranted that we should
23 exercise that discretion and keep someone who has
24 all indicia of a gambling problem from
25 participating in that regulated activity in our

1 state.

2 Any further discussion, I'm happy to
3 entertain.

4 COMMISSIONER DRAGO: Yes, just a few things.
5 I think I want us to be cautious in terms of how we
6 make our decisions as it relates to these types of
7 offenses and exclusions and have to spend time -- a
8 lot of effort trying to dig down into the specifics
9 of the violation in each case and make a
10 determination as to whether or not they should be
11 excluded.

12 I'm very interested in ensuring that we're
13 consistent in however we do this that I -- when we
14 make exclusions as a commission, that we're being
15 consistent in the way that we do it and the way we
16 dig through the investigation and so forth and make
17 a determination as to what we believe is serious
18 enough to be excluded or not serious enough to be
19 excluded.

20 It gets really difficult when you start
21 getting into that and making a determination
22 specifically. Or if we just have a system whereby
23 if the casino excludes them, we exclude them from
24 everywhere. That would be easier for us for sure
25 and we'd certainly be consistent that way.

1 So I just want us to think about how we want
2 to do this, because we'll obviously be getting more
3 of these throughout the year. And whether or not
4 we want to be consistent by saying these are our
5 rules, basically if they're excluded from a casino
6 they will be excluded from all of them or we're
7 going to take case by case by case and make our own
8 decisions as to whether or not this particular
9 violation is serious enough or if this particular
10 violation is serious enough.

11 So I just think -- and I know we all are, but
12 I just want to make the public aware that we're
13 going to seriously consider the consistency here
14 and not just be all over the place in terms of how
15 we make these decisions I hope.

16 I also want to say I appreciate the
17 investigations that were done on these. I thought
18 they were very thorough, I thought they were very
19 complete. They had the information that I needed
20 if I was -- in terms of trying to make a decision
21 as to a particular case. So the investigations
22 were good and valid for our intentions.

23 However we decide we want to go forward with
24 this, at least we have this process established as
25 to how we're going to -- how we're going to do it.

1 Thank you, Mr. Chairman.

2 COMMISSIONER BROWN: I appreciate the
3 sentiment too. Personally I like to look at each
4 case by case rather than just agreeing to put an
5 individual on a complete ban statewide.

6 So this particular case, though, is -- is
7 problematic and onerous and on so many levels, not
8 just the child neglect, but that the -- the fact
9 that the individual felt compelled to go in and
10 participate in gambling knowingly when she had a
11 very significant young, young minor in the car
12 alone.

13 Other than putting the individual on a
14 statewide ban list, do we have authority to compel
15 the individual to undergo counseling for compulsive
16 gambling or what are our options other than as
17 presented?

18 MS. ALVARDO: So because they're not a
19 licensee, the only thing we really can do is put
20 them on the exclusion list. I know there was a
21 criminal case opened as well. I'm not sure the end
22 result of the criminal case, but on our end the
23 permanent exclusion list would be most that we can
24 do.

25 COMMISSIONER BROWN: Thank you. If there are

1 no other comments, Mr. Chairman, I would move to
2 put this individual on the do not -- final order
3 permitting -- excluding Natalie Shaw from all
4 pari-mutuel slot machines in the state.

5 CHAIRMAN MacIVER: Do I have a second?

6 Any debate? Any objection?

7 Seeing none, the motion carries.

8 Item Number 4, Mr. Trombetta is a discussion
9 of default final orders.

10 MR. TROMBETTA: Sorry, Mr. Chair, I believe
11 that might include the two that were just
12 discussed.

13 CHAIRMAN MacIVER: Understood. That was
14 referencing what we just did. Sorry. Then Item
15 Number 5, updates from the executive director.
16 That's you.

17 MR. TROMBETTA: Yes. And I do have a few.
18 Thank you, Mr. Chair.

19 So I'd like to start sort of the hiring.
20 Since our last sort of regularly scheduled business
21 meeting, we've been able to get several people in.
22 Most of the hiring is focused on filling out some
23 of the support areas, so our division of admin and
24 our division of IT, but I'll start first on
25 following up on what you guys did last -- last week

1 at the hearing.

2 So the -- Mr. Herrell (ph), the selected
3 candidate for the director of law enforcement has
4 accepted the offer letter. His first day will be
5 August 16, so looking forward to making that
6 happen. We've met. I think you guys made a good
7 pick and I'm looking forward to working with
8 Mr. Harold.

9 On our admin side, our division of admin,
10 we've hired four positions. We've hired -- and
11 we're starting sort of at the higher levels and
12 working down.

13 So we've hired a chief of finance and
14 accounting, a chief of purchasing and contracts, a
15 budget manager, and we've hired someone under the
16 purchasing contracts side to kind of manage the --
17 manage the contracts.

18 So we have four hires on the admin side to
19 help Lisa, the director, and she has been working
20 extremely hard the last few weeks, few months to
21 kind of make the transition (inaudible). Really
22 everybody in PMW and our team has been doing a
23 fantastic job this last month.

24 The General Counsel's Office, we were
25 successful to bring three people over that were

1 with the DBPR. So as of July 1st, the essentially
2 OGC/PMW team. So in DBPR there's a group of
3 attorneys and administrative assistants that assist
4 the PMW. We've brought all them on board, so they
5 help Ross out in the General Counsel's Office.

6 Additionally on the IT side, we've hired
7 three -- three positions. We've hired a help desk
8 manager, a CTO that's kind of focused on
9 application management, and we're in the process of
10 hiring a project manager who will start August 16
11 as well as Carl (ph). And those are sort of the
12 updates on hiring.

13 Any questions on sort of hiring or how things
14 have been going on that end?

15 Moving on, on Tuesday of this week, the
16 general counsel, myself went to Jacksonville to the
17 Jacksonville City Land Use and Zoning Committee
18 meeting to voice our opposition to the ordinance
19 that has been proposed.

20 This follows a letter that was submitted to
21 them that provided a little bit more of the details
22 of why we're opposing this ordinance. Essentially
23 the ordinance it appears could potentially legalize
24 activity that otherwise would be illegal in terms
25 of slot machine gaming.

1 I think our -- the message was we're here to
2 help. Gaming Commission exists. We are here to
3 help, not just the city of Jacksonville, but anyone
4 in the state that's kind of going through a similar
5 kind of trouble with some of these devices.

6 And I'm looking forward to kind of working
7 with Carl, working with you to kind of help build
8 out the law enforcement side and really kind of
9 work with local municipalities and law enforcement
10 organizations to help respond to some of the issues
11 that are facing the state.

12 Additionally, we've -- I just want to make
13 sure everybody's aware, we have a complaint section
14 on our website now. So the public -- anybody that
15 wants to can file a complaint with us. There's a
16 button right on our website when they -- it brings
17 up a form. They fill out the form. They can do it
18 anonymously if they want. It's now going to a
19 database and we're going to be making our way
20 through that.

21 We already received a complaint that I think
22 Mr. Marshman (inaudible) discuss it a little bit.

23 MR. MARSHMAN: Before I discuss the individual
24 complaint, I would be remiss if I didn't thank our
25 CIO, Susan Whitmire, for her work putting together

1 this form, but also the Department of Business and
2 Professional Regulations IT team as well for
3 helping us modify our website but also modifying
4 their website, the former home for the Division of
5 Pari-Mutuel Wagering. Both of them were very
6 helpful in getting this live. And as Director
7 Trombetta has already indicated, we have gotten
8 some complaints.

9 Recently an individual reached out to us about
10 the town of White Springs, Florida. I have not
11 heard of this, but is in Hamilton County just on
12 the border with Columbia County. And apparently
13 they were considering and eventually passed a town
14 ordinance that may have authorized something
15 similar to what the city of Jacksonville is
16 considering authorizing now.

17 I believe the parlance in White Springs was an
18 internet cafe. And I think that those in the
19 industry and Director Trombetta know that those are
20 kind of code words for what may be illegal
21 activity.

22 So once that complaint was received earlier
23 this week, I reached out first to the town's Clerk
24 to get copies of the ordinance and I started
25 reaching out to other stakeholders in the area,

1 both in law enforcement and the State Attorney's
2 Office. So in the coming week, I will have more
3 contact with them and be able to provide you with
4 an update at our next meeting.

5 But, of course, if you have any questions now,
6 I'm available to answer as much as I know now.

7 CHAIRMAN MacIVER: Just one small thing, the
8 complaint when we use the term form, we are using
9 that colloquially, not in the Florida
10 Administrative Procedures Act since if someone
11 wants to file a complaint by the commission, we of
12 course can receive those by telephone, by email, by
13 any normal means you would communicate with a state
14 agency.

15 However, if you use the colloquial form that
16 is provided, then it's much easier for us to
17 process the complaint that someone is making and
18 the results will be much more efficient. If it
19 were a form in the APA sense, we would be adopting
20 that going through all of that rigmarole, but we
21 are not.

22 Secondly -- no, I'll save it for later.

23 Anything further?

24 VICE CHAIR YAWORSKY: Just real quick.

25 Mr. Trombetta or Mr. Marshman, one thing that was

1 mentioned I just want to make sure there's clarity
2 on this topic.

3 I think the word was -- otherwise would
4 illegal, but I think the -- I think the -- is it
5 correct to say that the correct way to phrase what
6 would happen if a local jurisdiction enabled some
7 sort of ordinance that legalized these activities,
8 the regardless of state law, would -- would
9 generally speaking prevail on that space and the
10 Gaming Commission would with full force and effect
11 pursue such activity.

12 MR. MARSHMAN: That's correct, Vice Chair.
13 The powers of the municipality are limited in that
14 they cannot legalize what is otherwise made illegal
15 by Florida law or particular the Florida
16 Constitution.

17 COMMISSIONER BROWN: I have a question for
18 Mr. Trombetta. With Mr. Harold starting in
19 mid-August and not knowing if we're going to have a
20 meeting before that time and we don't have a
21 communications hire yet, but I assume we're going
22 -- that's in the hopper soon, would it be something
23 that this commission would entertain having
24 Mr. Harold send a letter to all of the
25 municipalities and counties around the state just

1 letting them know that the Gaming Commission
2 exists, that there is this -- they can contact us,
3 they can file a complaint online, and here are the
4 ways -- because we are a new state agency, so many
5 cities and counties don't even know about us.

6 Is that something that this commission and
7 also, Mr. Trombetta, you would be -- you would be
8 amenable to?

9 MR. TROMBETTA: Mr. Chair, if you guys
10 authorize it, we can -- I think we can make that
11 happen.

12 CHAIRMAN MacIVER: From my part I think it's a
13 good idea. I think that we do need to get the word
14 out to the municipalities so that they know we
15 exist as a resource.

16 The thing that I had said I was going to save
17 for later, but I think I will address at this point
18 is as those complaints come in, they can certainly
19 trigger our regulatory investigative activities
20 immediately.

21 As we have in coyet (ph) law enforcement
22 section, I think, Mr. Marshman, do a little bit of
23 research into what an active criminal investigation
24 entails. We're going to need to kind of -- if
25 we're not -- if we're not sending those out to

1 another law enforcement agency to look into and if
2 the other law enforcement agencies have the
3 capacity or will to do that, we probably wouldn't
4 exist at this point.

5 So more likely, we're going to have to keep
6 those in the hopper waiting until we have the
7 resources to be able to criminally investigate
8 them.

9 While we do that, that criminal investigation
10 information needs to be kept confidential. So
11 please take a double look at what it means to be an
12 active investigation for the purpose of public
13 records.

14 MR. TROMBETTA: Thank you, Mr. Chair. Just a
15 little bit more information on it. So the -- the
16 complaint is not limited to criminal activity, so
17 to support -- to what you just said, if there's any
18 issues anywhere in the state, we -- there's a
19 drop-down box that we can identify if it's at a
20 licensed pari-mutuel cardroom, if it's off -- off a
21 licensed pari-mutuel cardroom, if it's another, if
22 somebody doesn't even know.

23 So really we've tried to make it as -- as easy
24 as possible for someone to file a complaint. And
25 additionally like you said, the phone line is

1 always open to that. There's more than just this
2 way for people to file and contact us.

3 CHAIRMAN MacIVER: But it will be much better
4 if they go through the form.

5 MR. TROMBETTA: Yes, sir.

6 CHAIRMAN MacIVER: Any further discussion
7 else, Commissioners?

8 VICE CHAIR YAWORSKY: I would just follow up
9 on what commissioner just said earlier. I think
10 that is a good idea. I would be very amenable to
11 it if there was.

12 COMMISSIONER DRAGO: I agree and I was just
13 going to ask if we could come to a consensus, so
14 however we want to do it -- do it so that we can
15 ask Director Trombetta to go ahead and do that. I
16 think it's a great idea.

17 I think reaching out to law enforcement
18 agencies throughout the state is going to be a big
19 part of what Mr. Harold needs to do, especially in
20 the beginning to build that contact. So if we
21 could come to a consensus (inaudible) -- to do that
22 I think would be appropriate.

23 CHAIRMAN MacIVER: Mr. D'Aquila, I --

24 COMMISSIONER D'AQUILA: Yeah, I have a
25 question, Mr. Trombetta. Is there somewhere nearby

1 where the complaint is filed or some ease for the
2 public or the naive person or town or governance on
3 just what is gambling and what is not gambling,
4 specifically as it pertains to, you know, these
5 electronic games of chance and so forth?

6 There is -- you know, what is a fund -- a game
7 versus what is gambling in electronic format and so
8 forth and is such written in layman's terms
9 anywhere that can be referenced easily for those
10 that are perhaps walking a fine line, so to
11 speak -- to speak figuratively?

12 MR. TROMBETTA: I guess the -- the answer is
13 the layman's term is what's throwing me off.
14 Essentially I think part of the -- not getting into
15 some of the legal merits of the argument.

16 One, this is a problem not unique to Florida.
17 It's a -- it's a problem across the country. The
18 president of the American Gaming Association has
19 sent a letter in April to the Attorney General of
20 the United States asking for help in this area.

21 However, in Florida, as Mr. Marshman already
22 said, I think the way the law works is that
23 gambling in general is prohibited. What gambling
24 is, I'd suggest if -- if they kind (inaudible)
25 municipality that they kind of try to use their

1 staff attorneys, but -- but we -- not aware of
2 anywhere that the Gaming Commission at least has.
3 There's nothing like that on our website that says
4 -- that tries to break it down.

5 COMMISSIONER D'AQUILA: Is there any --
6 putting our website aside and our agency aside, is
7 there anything out there for the public? It would
8 seem as though this is going to be a chronic
9 problem and there's -- and there's some confusion
10 out there.

11 MR. TROMBETTA: Potentially, but I would
12 suggest the problem is exacerbated by a few things
13 and I think the legislature, the governor I think
14 creating this body is going to help address the
15 problem.

16 CHAIRMAN MacIVER: If I may add to that, and,
17 Commissioner Brown, I did see you have a comment,
18 but if I may add to that.

19 There's also the -- the fact that gambling in
20 itself exists as a highly regulated field. And if
21 you're going to tip your toe into that pool, it's
22 probably incumbent upon you to talk to your own
23 attorney and figure out what you can and can't do.

24 Commissioner Brown.

25 COMMISSIONER BROWN: I was going to say I'm

1 inclined to make a motion to the same effect of
2 what we're talking about, specifically just to the
3 municipalities and the counties and then maybe have
4 Mr. Harold reach -- at a later -- once he gets
5 acclimated have him also, you know, reach out
6 directly to law enforcement around the state.

7 So this would just be directed specifically to
8 the municipals in the counties if you all are so
9 inclined as well.

10 My motion would be to have Mr. Trombetta and
11 Mr. Marshman work with our chair in preparing a
12 letter to go out to the counties informing them of
13 who we are, what we are, and all of our contact
14 information.

15 CHAIRMAN MacIVER: Do I hear any opposition?
16 Seeing none, show that motion carry.

17 Mr. Trombetta, let's put together a letter
18 and -- and let our local sheriffs and -- and
19 municipal police departments know here we are.

20 I'm sorry. I assume when you said
21 municipalities, you meant municipal law enforcement
22 and not city councils, but I could have
23 misinterpreted that.

24 COMMISSIONER BROWN: Again, I'll let
25 Mr. Harold reach out at a later date, but I --

1 whatever you want.

2 CHAIRMAN MacIVER: Clarifying the motion that
3 just passed, we're talking about reaching out to
4 county government and city government?

5 COMMISSIONER BROWN: That's right.

6 CHAIRMAN MacIVER: Perfect.

7 COMMISSIONER BROWN: For now.

8 CHAIRMAN MacIVER: Mr. Trombetta, anything
9 else?

10 MR. TROMBETTA: Thank you, Mr. Chair, no.
11 Those are -- those are my updates, and I don't have
12 anything on the next item as well.

13 CHAIRMAN MacIVER: But also the other item,
14 Item Number 6, other matters, Commissioners, is
15 there anything else that you all have for the good
16 (inaudible) or that you want to bring to the
17 attention of the commission, anything burning in
18 your minds that we need to be addressing
19 immediately?

20 COMMISSIONER BROWN: I wanted to ask
21 Mr. Trombetta kind of like -- I know the hiring,
22 and I appreciate the updates, just the priorities
23 of the next hires that we're going to have.

24 I know at the end of the year we have to
25 provide a report to the legislature, the governor

1 on legislative recommendations, so obviously
2 legislative issues and we have an LBR that's going
3 to be coming up and due and then of course
4 communications at that poll is pretty important
5 too, and then just an update on the org chart and
6 where we are on that.

7 MR. TROMBETTA: Sure. So as you mentioned,
8 the big targets coming up from us from -- from kind
9 of the operational side is getting ready for the
10 LBR, for the legislative recommendations, and then
11 annual report in December.

12 So we are working to fill out staff to help
13 support the new areas to -- to make that, to
14 make -- to accomplish the goals needed to -- to hit
15 those targets.

16 We have positions out. We're in the process
17 of trying to hire an HR chief to help assist in HR,
18 then we're going to fill out the HR side to make --
19 right now Lisa is essentially doing almost
20 everything in admin. So she I know would be very
21 appreciative when that happens.

22 We additionally are trying to fill out the
23 General Counsel's Office to add some attorneys to
24 help with rule-making with some of the admin side,
25 some of the criminal side that's going to be coming

1 up.

2 Mr. Harold has an idea on what he'd like to
3 do. I want to help him try to get some help right
4 away as well. And then on the IT side, we are
5 trying to get people in to help separate from DBPR
6 so we can get our own network up, so that requires
7 a network infrastructure person, a network security
8 person. I'm missing a few. We have -- we have
9 several ads out right now and we're hoping to get
10 some good candidates in.

11 CHAIRMAN MacIVER: Sort of joining in on that
12 and focusing specifically on the law enforcement
13 side, on that subpart of our agency that we are
14 building from scratch, if during our next regularly
15 scheduled meeting under the executive director
16 updates if you could include specifically an update
17 on the time line we would have for hiring our law
18 enforcement officers.

19 There are some delays that go into building a
20 law enforcement agency, the background checks you
21 have to do for good moral character, the new
22 employee orientation high liability training before
23 they're actually out on the street doing their job,
24 and just having some target dates set to those
25 goalposts would be very helpful for us.

1 MR. TROMBETTA: Yes, sir. Yes, Mr. Chair.

2 CHAIRMAN MacIVER: Any other discussion or
3 questions?

4 All right. Item Number 7, public comment, any
5 comment from the public for the commission?

6 Mr. Dunbar.

7 MR. DUNBAR: Thank you, Mr. Chair, and I don't
8 mean to extend the meeting, but to
9 Commissioner D'Aquila's question, there actually is
10 some pretty simple information that's out there,
11 and this is for your benefit as well as the general
12 public.

13 Florida laws are actually -- they're old, but
14 they're fairly easy to categorize game, right. We
15 unlike a lot of other states have specific statutes
16 that say games of chance are prohibited, lotteries
17 are prohibited, games of skill are prohibited,
18 pari-mutuel wagering can only occur this way.

19 And what happens in gray market land is they
20 try to obscure some of these things and one of --
21 what I would encourage you to do is go through 849
22 and -- and you might be able to very simply lay
23 that out so that you can say, oh, well, so and so
24 says it's a game of skill, therefore it is okay.
25 Well, that might work in North Carolina. That

1 doesn't work in Florida, because we have 849.14
2 which prohibits any type of wagering or holding
3 of -- of consideration involving a game of skill,
4 so it really didn't matter that the slot machine
5 may have a skill-based element.

6 When the internet cafe scandal of 2014-ish
7 happened, we lost a lieutenant governor. We
8 rewrote our statutes, and even further updated the
9 slot machine statute to have this omnibus catch-all
10 so that any machine-based game that has skill or
11 chance is prohibited and is -- the exclusive
12 purview of this body if it's going to be legalized.

13 So from a Gaming 101, we -- Florida actually
14 has the ability to lay out in very simple sentences
15 when we interact with local law enforcement. It
16 really doesn't matter, because our laws again, even
17 though they're old, are -- are very comprehensive
18 in what it prohibits.

19 And the other thing I would encourage you to
20 look at and staff is from 1930s through today, the
21 Attorney General was very active in interpreting
22 these statutes when they first went on the books.
23 And some of them are easy to find, some of them are
24 not. There's a volume of about this thick of
25 Attorney General opinions that further interpret

1 what's a lottery, what is consideration for the
2 purpose of the lottery, and things like that.

3 So you -- you could assemble it pretty easily,
4 but I will tell you as you go back and you interact
5 with law enforcement, as commissioners, I can
6 pretty much tell you any gaming of any kind in
7 which consideration is exchanged between parties on
8 a game of chance or game of skill is your purview
9 and is -- is prohibited under the Constitution,
10 under the statutes only to the extent (inaudible)
11 by the legislature. So however that helps you, I
12 wanted to give you that benefit for the record.

13 CHAIRMAN MacIVER: That's very helpful. Thank
14 you.

15 VICE CHAIR YAWORSKY: Mr. Chair, could I just
16 -- I know we haven't established or even determined
17 if we need them, but speaker cards for example, but
18 if there is a member of the public speaking, I do
19 think it would be helpful for the purposes of the
20 record to -- for them to indicate if they're -- if
21 they're representing or compensated by any party.

22 CHAIRMAN MacIVER: Noted, and we'll take -- we
23 will hammer out a procedure for the next meeting.

24 MR. DUNBAR: I apologize. For the record, I'm
25 Mark Dunbar and I'm not here representing anybody.

1 I'm here -- you'll find that I'm a bit a
2 (inaudible) gaming as everybody knows (laughter) at
3 the law school, so I plan to be interacting with
4 you quite a bit as you all come up to speed. So
5 I'm not here on behalf of anybody, I'm just here on
6 behalf of myself.

7 CHAIRMAN MacIVER: Any other public comment
8 today? Seeing none, do I have a motion to adjourn
9 the meeting?

10 (Second made)

11 CHAIRMAN MacIVER: I see no objection. Show
12 the meeting adjourned.

13 (Proceedings concluded at 10:19 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF WAKULLA

I, JUDY LYNN MARTIN, do hereby certify that I was authorized to and did stenographically report the foregoing telephonic proceedings and that the transcript, pages 1 through 39, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Dated this 22nd day of August, 2021.

Judy Lynn Martin

JUDY LYNN MARTIN

<hr/> 1 <hr/>	<hr/> 3 <hr/>	<hr/> 8 <hr/>	activity
101	3	849	6:10 8:7
37:13	5:11	36:21	16:25 22:24
10:19	<hr/> 4 <hr/>	849.14	24:21 26:11
39:13	4	37:1	28:16
120	4	<hr/> 9 <hr/>	actual
13:9	2:3 11:7 20:8	9:34	2:24
120.569	40	2:1	add
13:5	5:25 8:17	<hr/> A <hr/>	2:23 3:9
16	45	a.m.	13:21 15:10
21:5 22:10	16:17	2:1 39:13	31:16,18
18	<hr/> 5 <hr/>	ability	34:23
16:6	5	15:10 16:21	addicted
1930s	20:15	37:14	16:1
37:20	50	accepted	additional
1st	6:20	12:20 14:20	3:12
22:1	550	21:4	additionally
<hr/> 2 <hr/>	6:8	acclimated	22:6 23:12
2	550.01215(3)	32:5	28:25 34:22
3:21	6:12 7:1	accomplish	address
2014-ish	550.0251(6)	34:14	27:17 31:14
37:6	14:11	accounting	addressing
2022-0007927	551.112	21:14	33:18
11:15	14:11	Act	adjourn
2022-012184	<hr/> 6 <hr/>	25:10	39:8
11:15 14:4	6	active	adjourned
21	33:14	10:18,19	39:12
9:15 12:10,	<hr/> 7 <hr/>	27:23 28:12	admin
12,13,19	7	37:21	20:23 21:9,18
14:14,18	36:4	actively	34:20,24
22nd		10:12	administrative
12:4		activities	9:18 11:25
23		26:7 27:19	12:6,20 13:2
2:7			14:6,9,17,20
			22:3 25:10
			adopting
			25:19
			adoption
			2:23

ads 35:9	allowing 16:2	appears 3:5 22:23	areas 20:23 34:13
advise 9:11	alters 13:17	applicant 4:9 6:20 9:14	argument 30:15
advised 2:20	Alvarado 11:9,10,24	applicant's 6:22	Arias 11:8,14
affect 4:22	13:5,16 14:4	application 3:6,9,20,22,	assemble 38:3
affected 13:8	19:18	24 5:11,20,24	assist 9:3 22:3
age 16:6	amenable 27:8 29:10	6:22 8:16	34:17
agencies 28:2 29:18	amend 5:18 6:11,21	applications 4:15,19	assistance 7:14
agency 13:6 25:14	amendment 3:7,9,13 4:6	applied 5:18	assistants 22:3
27:4 28:1	5:12	applies 6:11	Associates' 3:21
31:6 35:13,20	amendments 10:15	apply 4:15 6:6	Association 30:18
agenda 2:19,23	American 30:18	applying 9:7	assume 26:21 32:20
agree 9:1 29:12	analysis 5:16	appreciative 34:21	attention 33:17
agreeing 19:4	anecdotally 13:1	approval 3:15 8:6	attorney 11:10 30:19
ahead 4:19 29:15	annual 5:19,21 34:11	approve 4:20 6:14	31:23 37:21,
Alai 5:11,12,17	annually 4:1	7:2,4,24,25	25
7:21 9:4	anonymously 23:18	13:21 15:6	Attorney's 25:1
10:6,13,16,18	APA 25:19	approved 3:13,20 5:10	attorneys 22:3 31:1
allegations 12:19 14:19	apologize 10:14 38:24	approving 2:20 8:16	34:23
alleges 12:1 14:7	apparently 24:12	April 12:4 30:19	August 2:3 21:5
Allegiance 2:9,10	appearing 6:4	area 24:25 30:20	22:10
allowed 8:11 10:16			authority 6:14 7:2,4,23
			8:1,4,6,24

13:3 19:14	bifurcated	31:17,24,25	card
authorize	7:9	32:24 33:5,7,	12:9
9:12 27:10	big	20	cardroom
authorized	29:18 34:8	budget	3:7,9 4:6
24:14	bills	21:15	13:17 28:20,
authorizing	10:16	build	21
8:1 24:16	bit	23:7 29:20	cards
aware	2:12 4:5 7:8	building	38:17
10:8 18:12	15:20 16:7,	35:14,19	Carl
23:13 31:1	11,13 22:21	burning	22:11 23:7
	23:22 27:22	33:17	Carolina
	28:15 39:1,4	business	36:25
<hr/> B <hr/>	board	2:18,25 20:20	carries
back	22:4	24:1	11:4 14:2
16:8 38:4	body	button	20:7
background	31:14 37:12	15:3,5,11	carry
4:5 5:14	books	23:16	32:16
35:20	37:22		case
bad	border	<hr/> C <hr/>	11:7,14,18,24
8:23	24:12	cafe	12:3,15,21
ban	box	24:18 37:6	13:9 14:3,4,
19:5,14	28:19	Calder	5,25 15:8,11
based	Boy	14:6 15:21	16:20 17:9
4:1 6:25	2:8	call	18:7,21 19:4,
baseline	break	16:5,11	6,21,22
8:3	31:4	candidate	cases
basically	briefed	21:3	7:16 11:13,16
8:6 15:8 18:5	5:2	candidates	13:2 14:21
began	bring	35:10	casino
2:1	21:25 33:16	capacity	12:4 14:6,8
beginning	brings	28:3	17:23 18:5
29:20	23:16	capping	catch-all
behalf	brought	12:5 13:15	37:9
39:5,6	22:4	capture	categorize
benefit	Brown	6:9	36:14
36:11 38:12	3:15 9:1,24	car	cautious
bet	10:11,21	16:7 19:11	17:5
12:5 13:15,18	19:2,25 26:17		Center
			3:6

certified 12:7 13:10 14:12	cheating 13:16	colloquial 25:15	Committee 22:17
chair 3:2,23 5:13 20:10,18 25:24 26:12 27:9 28:14 29:8 32:11 33:10 36:1,7 38:15	checks 35:20	colloquially 25:9	communicate 25:13
Chairman 2:2,11 3:5, 14,17,19 4:13 5:7,9 7:6 10:22 11:3,21 12:25 13:12, 20,24 14:1,24 19:1 20:1,5, 13 25:7 27:12 29:3,6,23 31:16 32:15 33:2,6,8,13 35:11 36:2 38:13,22 39:7,11	chief 11:10 21:13, 14 34:17	Columbia 24:12	communications 26:21 34:4
chance 30:5 36:16 37:11 38:8	child 15:22,24 16:3,4,15 19:8	comment 4:14 11:22 31:17 36:4,5 39:7	compel 19:14
Chapter 6:8	chosen 10:19	comments 20:1	compelled 19:9
character 35:21	chronic 31:8	commission 2:4,18,25 4:4 6:14,24 7:2,8 9:12 10:10 11:11 12:15 17:14 23:2 25:11 26:10, 23 27:1,6 31:2 33:17 36:5	compensated 38:21
charge 15:20 16:4	CIO 23:25	commission's 9:15,23	complainant 15:18
charged 15:24	circumstances 8:4	commissioner 3:15 9:1,24 10:11,21 13:13 17:4 19:2,25 26:17 29:9,12,24 31:5,17,24,25 32:24 33:5,7, 20 36:9	complaint 11:25 12:6,20 14:6,10,17,20 15:1,4,8 23:13,15,21, 24 24:22 25:8,11,17 27:3 28:16,24 30:1
chart 34:5	cite 13:3	commissioners 7:6 14:24 29:7 33:14 38:5	complaints 24:8 27:18
	cities 27:5		complete 18:19 19:5
	city 12:4 22:17 23:3 24:15 32:22 33:4		comprehensive 37:17
	Clarifying 33:2		compulsive 19:15
	clarity 26:1		concern 4:22
	Clerk 24:23		concluded 39:13
	closer 16:5,11,13		concluding 12:21
	code 24:20	commit 8:7	conduct

10:20	Counsel's	Dania	deny
confidential	21:24 22:5	3:6	9:13,14 10:25
28:10	34:23	database	11:6
confusion	counseling	23:19	Department
31:9	19:15	date	24:1
consensus	counties	4:1 32:25	departments
29:13,21	26:25 27:5	dates	32:19
consideration	32:3,8,12	5:23,25 6:7	depriving
4:18 5:1 37:3	country	35:24	15:14
38:1,7	30:17	day	deputy
consistency	county	2:12,14 21:4	11:10
18:13	24:11,12 33:4	days	describe
consistent	coupled	9:15 12:10,	13:14
17:13,15,25	10:16	12,13,17,19	deserve
18:4	coyet	14:14,18	7:13
Constitution	27:21	DBPR	designed
26:16 38:9	creating	22:1,2 35:5	6:9
contact	31:14	debate	desired
25:3 27:2	criminal	13:20 20:6	7:18
29:2,20 32:13	19:21,22	December	desk
contest	27:23 28:9,16	5:22 6:6	22:7
9:15,22 15:4	34:25	34:11	details
continue	criminally	decide	22:21
9:5	28:7	18:23	determination
contracts	cross	decision	17:10,17,21
21:14,16,17	13:3	9:16,23 18:20	determined
Control	CTO	decisions	38:16
2:4 11:11	22:8	17:6 18:8,15	devices
copies	<hr/>	default	23:5
24:24	D	20:9	dictates
correct	D'AQUILA	delays	8:14,20
26:5,12	13:13 29:23,	35:19	difficult
councils	24 31:5	delegated	17:20
32:22	D'Aquila's	15:12	dig
counsel	36:9	denial	17:8,16
6:2 11:12	danger	9:10	directed
22:16	16:3	denied	32:7
		6:23	

directly 32:6	8:15	35:22	everybody's 23:13
director 9:12 10:24 20:15 21:3,19 24:6,19 29:15 35:15	due 34:3	enabled 26:6	exacerbated 31:12
discretion 15:13 16:22, 23	Dunbar 36:6,7 38:24, 25	encourage 36:21 37:19	exact 10:15
discuss 23:22,23	<hr/> E <hr/>	end 5:2 13:18 15:25 16:3 19:21,22 22:14 33:24	exchanged 38:7
discussed 20:12	earlier 24:22 29:9	enforcement 7:9 21:3 23:8,9 25:1 27:21 28:1,2 29:17 32:6,21 35:12,18,20 37:15 38:5	exclude 17:23
discussion 2:24 3:14 4:13 8:25 10:22 13:12 17:2 20:8 29:6 36:2	ease 30:1	ensuring 17:12	excluded 12:1,3,5,22 14:7 15:9 17:11,18,19 18:5,6
disputes 9:19	easier 17:24 25:16	entails 27:24	excludes 17:23
distinguishes 6:18	easily 30:9 38:3	entertainment 3:6	excluding 20:3
division 9:18 20:23,24 21:9 24:4	easy 15:3,5,11 28:23 36:14 37:23	enter 12:15	exclusion 14:10,22 19:20,23
documentation 3:11	effect 26:10 32:1	entertain 17:3 26:23	exclusions 17:7,14
dot 13:4	efficient 25:18	Essentially 22:1,22 30:14 34:19	exclusive 37:11
double 28:11	effort 17:8	established 18:24 38:16	executive 20:15 35:15
DRAGO 17:4 29:12	elect 9:17,22	event 7:22 8:9 9:4	exercise 16:21,23
drop-down 28:19	electronic 30:5,7	events 8:17	exist 27:15 28:4
druthers	element 16:5 37:5	eventually 24:13	existing 3:10
	email 25:12		exists 23:2 27:2 31:20
	Emily 11:10		
	employee		

extend 36:8	felt 19:9	Florida 2:4 4:24 8:3	26:10
extent 38:10	fewer 10:17	11:11 12:24	function 7:9,10
extra 16:14	field 31:20	14:11 15:17	fund 30:6
extremely 21:20	figuratively 30:11	24:10 25:9	<hr/>
<hr/>	figure 31:23	26:15 30:16, 21 36:13	<hr/> G <hr/>
F <hr/>	file 23:15 25:11	37:1,13	
facilities 12:23 14:23 15:15 16:2	filled 11:25 30:1	focused 20:22 22:8	gamble 15:23
facility 8:18 12:2 14:8 15:9	fill 23:17 34:12, 18,22	focusing 35:12	gambling 8:2 16:24 19:10,16 30:3,7,23 31:19
facing 23:11	filling 20:22	folks 2:17	game 30:6 36:14,24 37:3,10 38:8
fact 9:20 12:21 19:8 31:19	final 20:2,9	follow 7:12 29:8	games 6:10,13,16, 18,21 7:5 10:20 30:5 36:16,17
facts 14:21 15:14 16:13	finance 21:13	force 26:10	gaming 2:4 4:4 11:11 16:1,16 22:25 23:2 26:10 27:1 30:18 31:2 37:13 38:6 39:2
factual 5:14 12:19 14:19	find 37:23 39:1	forced 8:24	Garcia 11:8,14 13:21
factually 11:17	finding 12:16 14:15, 21	forgive 2:6	gave 15:19
failed 14:17	findings 12:21	form 13:16 23:17 24:1 25:8,15, 19 29:4	general 6:2 11:12 21:24 22:5,16 30:19,23 34:23 36:11 37:21,25
failure 15:1	fine 30:10	format 30:7	
fairly 36:14	Flagler 3:21	forms 4:9	
fantastic 21:23	floor 16:16	forward 18:23 21:5,7 23:6	
		Francisco 11:8,14	
		full	

generally 7:11 26:9	30:12	14:13,19 21:1	holders 10:12,19
genuine 9:19	guide 7:19	Hearings 9:19	holding 37:2
give 8:5 13:11 15:22 38:12	gut-check 8:9	helpful 24:6 35:25 38:13,19	home 24:4
giving 2:5	guys 11:20 20:25 21:6 27:9	helping 16:2 24:3	hope 18:15
goalposts 35:25	<hr/> H <hr/>	helps 38:11	hoping 35:9
goals 34:14	Hamilton 24:11	Herrell 21:2	hopper 26:22 28:6
good 2:2 3:1,2 6:3 11:9 18:22 21:6 27:13 29:10 33:15 35:10,21	hammer 38:23	hey 16:7	HR 34:17,18
governance 30:2	hand 5:15	high 35:22	<hr/> I <hr/>
government 33:4	happen 21:6 26:6 27:11	higher 21:11	idea 27:13 29:10, 16 35:2
governor 31:13 33:25 37:7	happened 37:7	highly 8:18 31:20	identify 28:19
granted 4:2	happy 17:2	hire 26:21 34:17	illegal 8:2,7 22:24 24:20 26:4,14
gray 36:19	hard 21:20	hired 21:10,13,15 22:6,7	immediately 27:20 33:19
great 29:16	Harold 21:8 26:18,24 29:19 32:4,25 35:2	hires 21:18 33:23	important 34:4
green 12:9	health 4:23 15:16,17	hiring 20:19,22 22:10,12,13 33:21 35:17	inaudible 21:21 23:22 29:21 30:24 33:16 38:10 39:2
group 22:2	hear 32:15	hit 15:4,11 34:14	inclined 32:1,9
guess 2:17 3:3	heard 9:24 24:11	holder 5:17,20 6:5, 11,19,20 9:6, 9,25	include 5:23 8:10 20:11 35:16

included 12:6	intent 9:13,14 10:25	issue 4:24 6:12 7:7	jurisdiction 26:6
including 15:17	11:5	9:13 10:25	<hr/>
incumbent 31:22	intentions 18:22	11:5	K <hr/>
indicating 6:19	interact 37:15 38:4	issued 3:25	kind 7:8 10:6
indicia 16:24	interacting 39:3	issues 9:21 10:10	21:16,21 22:8
individual 13:7 19:5,9, 13,15 20:2 23:23 24:9	interested 17:12	23:10 28:18	23:4,5,6,7,8
indulge 7:7	interests 13:7	34:2	24:20 27:24
indulgence 8:21	interim 2:21	item 3:4,5,16,21	30:24,25
industry 24:19	internet 24:18 37:6	5:11 11:7	33:21 34:8
informal 9:20	interpret 7:19 37:25	20:8,14	38:6
information 18:19 28:10, 15 32:14 36:10	interpretations 9:21	33:12,13,14	knowing 26:19
informing 32:12	interpreting 7:17 37:21	36:4	knowingly 19:10
infrastructure 35:7	investigate 28:7	Ivan 11:8,14	<hr/>
initial 4:1	investigation 17:16 27:23 28:9,12	J <hr/>	L <hr/>
inside 15:23	investigations 18:17,21	Jacksonville 22:16,17 23:3 24:15	land 22:17 36:19
instance 15:7 16:15	investigative 27:19	Jai 5:11,12,17 7:21 9:4	language 7:1,21
instances 8:13	involve 9:21	10:6,12,16,18	laughter 39:2
	involving 37:3	January 5:22 6:6	law 7:9 8:14,19 9:22 21:3 23:8,9 25:1 26:8,15 27:21 28:1,2 29:17 30:22 32:6,21 35:12,17,20 37:15 38:5 39:3
	ipad 16:8	job 15:5 21:23 35:23	laws 36:13 37:16
		joining 35:11	lay 36:22 37:14
		July 22:1	
		jump 2:17 4:17	

layman's 30:8,13	license 3:7,9,10,22, 25 4:11,15 5:10,12,20,21 6:5,11,19	16:19 17:8 36:15	Magic 12:4
LBR 34:2,10	licensed 8:5,17 28:20, 21	lotteries 36:16	mail 12:7 13:2,10 14:12
lead 2:8,14	licensee 19:19	lottery 38:1,2	make 4:14 8:24 11:1 14:15 17:6,9,14,16 18:7,12,15,20 21:21 23:12 26:1 27:10 28:23 32:1 34:13,14,18
leaving 16:3	licenses 3:25	love 9:3	makes 2:12
left 15:22	lieutenant 37:7	<hr/> M <hr/>	making 17:21 21:5 23:19 25:17
legal 5:16 8:3 11:7 14:3 15:5 30:15	lights 16:19	machine 3:22,24,25 4:2,11 5:10 12:2,23 14:8, 23 22:25 37:4,9	manage 21:16,17
legalize 22:23 26:14	limited 26:13 28:16	machine-based 37:10	management 22:9
legalized 26:7 37:12	Lisa 21:19 34:19	machines 20:4	manager 21:15 22:8,10
legally 11:16	list 13:22 15:11 19:14,20,23	Maciver 2:2,11 3:5, 14,17,19 4:13 5:7,9 7:6 10:22 11:3,21 12:25 13:12, 20,24 14:1,24 20:5,13 25:7 27:12 29:3,6, 23 31:16 32:15 33:2,6, 8,13 35:11 36:2 38:13,22 39:7,11	Mark 38:25
legislative 34:1,2,10	live 6:10,15,18 10:20 24:6	made 3:11,18 4:10 5:6,8 11:2 13:23,25 21:6 26:14 39:10	market 36:19
legislature 8:12 31:13 33:25 38:11	LLC 5:11		Marshman 5:16 6:2,3,4 7:20 9:8,11 10:2 23:22,23 25:25 26:12 27:22 30:21 32:11
letter 21:4 22:20 26:24 30:19 32:12,17	local 23:9 26:6 32:18 37:15		material 9:20
letting 27:1	long 2:19		
levels 19:7 21:11	longer 16:18		
liability 35:22	lost 37:7		
liberty 15:15	lot		

materials 11:18	16:6 19:11	municipal 32:19,21	number 3:21 5:11
matter 37:4,16	minutes 2:20,22 16:8, 17	municipalities 23:9 26:25 27:14 32:3,21	10:15 11:7,14 12:8 14:4 20:8,15 33:14 36:4
matters 33:14	misinterpreted 32:23	municipality 26:13 30:25	<hr/>
means 7:22 13:15 25:13 28:11	missing 35:8	municipals 32:8	<hr/> O <hr/>
meant 8:10 32:21	modify 24:3	<hr/>	objection 6:22 11:3 20:6 39:11
meeting 2:3,20,21 5:2 10:8 20:21 22:18 25:4 26:20 35:15 36:8 38:23 39:9,12	modifying 24:3	N <hr/>	obscure 36:20
member 38:18	mom 16:6	naive 30:2	occur 36:18
members 13:12	moment 7:8	narrow 8:4	occurs 13:17
mentioned 26:1 34:7	month 21:23	Natalie 11:15 14:3 20:3	offenses 17:7
merits 30:15	months 21:20	nearby 29:25	offer 21:4
message 23:1	moral 35:21	needed 18:19 34:14	Office 11:11 21:24 22:5 25:2 34:23
met 4:21 8:9 21:6	morning 2:2 3:3 6:3 11:9	neglect 15:24 16:4 19:8	officers 35:18
mid-august 26:19	mother 16:16	network 35:6,7	OGC/PMW 22:2
miles 6:20	motion 5:4,5,6 10:24 11:1,4 13:21, 23 20:7 32:1, 10,16 33:2 39:8	nomenclature 2:6	omnibus 37:9
minds 33:18	move 2:24 3:15 20:1	normal 25:13	onerous 19:7
minor 6:14 7:3,4	Moving 22:15	North 36:25	online 27:3
		Noted 38:22	open 29:1
		notice 9:13 10:25 11:5 13:6,11	

opened 19:21		29:2 35:5	plain 6:25 7:20
operating 5:19,21	<hr/> P <hr/>	perfect 2:7 33:6	plan 39:3
operational 34:9	packet 11:25	perform 5:24	player 13:17
opinion 7:1	pari-mutuel 6:9 12:2 14:8	performance 6:7	pledge 2:9,10,15
opinions 37:25	20:4 24:5	performances 5:18,19,25	PMW 21:22 22:4
opposing 22:22	28:20,21	10:13,20	point 27:17 28:4
opposition 3:19 5:9 14:1	36:18	permanent 19:23	police 16:19 32:19
22:18 32:15	pari-mutuels 12:23 14:22	permanently 12:22	policy 7:18
options 19:16	parking 16:19	permit 5:17,20 6:19	poll 34:4
order 12:16 20:2	parlance 24:17	9:6,9,25	pool 31:21
orders 20:9	part 5:19 27:12	10:12,18	positions 21:10 22:7
ordinance 22:18,22,23	29:19 30:14	permitting 20:3	34:16
24:14,24 26:7	participate 19:10	person 15:14 16:5	potential 10:10
org 34:5	participating 16:25	30:2 35:7,8	potentially 10:7 22:23
organizations 23:10	parties 38:7	Personally 19:3	31:11
orientation 35:22	party 38:21	pertains 30:4	powers 26:13
Ostensibly 16:17	passed 24:13 33:3	ph 11:8,15 21:2	prefer 8:15
outcome 7:19 8:14,23	patron 14:5	22:11 27:21	prepared 11:19
overview 10:6	pause 15:20,22	phone 28:25	preparing 32:11
	payment 3:11 4:10	phrase 26:5	present 11:13
	people 4:23 7:12	pick 21:7	
	10:5 15:17	place 18:14	
	20:21 21:25		

presented 3:16 19:17	proper 15:1	19:4,19 20:2 32:17	2:22 34:9
president 30:18	properly 12:16 14:16	putting 19:13 23:25 31:6	real 13:13 25:24
pretty 4:17 34:4 36:10 38:3,6	proposed 22:19	<hr/>	reason 15:20
prevail 26:9	protecting 15:16	Q <hr/>	reasons 6:25
principal 7:11	protocol 2:7	question 26:17 29:25 36:9	receive 25:12
priorities 33:22	provide 5:14,16 10:6 25:3 33:25	questions 10:23 22:13 25:5 36:3	received 4:9 12:9 23:21 24:22
problem 16:24 30:16, 17 31:9,12,15	provided 3:10 10:1 11:18 22:21 25:16	quick 13:13 25:24	receiving 10:4
problematic 19:7	prudent 16:5	quickly 4:17	recent 10:16
procedure 38:23	public 4:16 18:12 23:14 28:12 30:2 31:7 36:4,5,12 38:18 39:7	<hr/>	Recently 24:9
Procedures 25:10	purchasing 21:14,16	R <hr/>	recommendation 3:12 4:11
proceedings 2:1 39:13	purpose 28:12 38:2	race 7:22 8:9	recommendations 34:1,10
process 10:7 13:1 18:24 22:9 25:17 34:16	purposes 38:19	races 6:10,13,15, 18,21 7:3,21	record 6:3 13:14 38:12,20,24
Professional 24:2	pursue 26:11	RB 5:11,17 10:6	records 28:13
prohibited 13:22 15:10 30:23 36:16, 17 37:11 38:9	purview 37:12 38:8	reach 10:5 32:4,5, 25	recourse 9:9
prohibits 37:2,18	pushed 15:21	reached 24:9,23	refer 15:2
project 22:10	put	reaching 24:25 29:17 33:3	referenced 30:9
		read 4:19	referencing 20:14
		ready	regular 2:3

regularly 20:20 35:14	resources 28:7	4:23 15:16,18	sentiment 19:3
regulated 8:5,18 16:25 31:20	respond 12:10,12,13, 18 14:14,17 15:1 23:10	satisfied 4:8	separate 11:20 35:5
Regulations 24:2	respondents 14:16	save 25:22 27:16	served 9:14 12:7,16 14:9,12,16
regulatory 7:10,15 27:19	responsibility 15:13	scandal 37:6	service 13:1,10 15:1
relates 17:6	result 19:22	scenario 15:7	set 35:24
remiss 23:24	results 13:18 25:18	schedule 6:12,15,21 7:3,5	Shaw 11:15 14:3 20:3
renewal 3:24 4:8	review 2:22	scheduled 5:18 20:20 35:15	sheriffs 32:18
renewed 4:1,12	rewrote 37:8	school 39:3	short 4:14 11:22
report 33:25 34:11	rigmarole 25:20	Scouts 2:8	show 3:20 5:10 11:3 14:2 32:16 39:11
representing 38:21,25	Ross 6:4 22:5	scratch 35:14	side 7:15 21:9,16, 18 22:6 23:8 34:9,18,24,25 35:4,13
request 13:21	round 13:19	second-guess 8:12	significant 19:11
requested 4:10	rule 4:7	section 7:1 13:5 23:13 27:22	similar 4:6 14:5,14 23:4 24:15
required 12:11,12	rule-making 34:24	security 35:7	simple 36:10 37:14
requirements 4:7,21	rules 7:13 18:5	selected 21:2	simply 36:22
requires 13:6,9,11 35:6	run 3:3 10:19	send 13:6 26:24	sir 29:5 36:1
research 27:23	runs 6:21	sending 27:25	
resolved 9:18	<hr/> S <hr/>	sense 25:19	
resource 27:15	safety	sentences 37:14	

skill 36:17,24 37:3,10 38:8	speed 39:4	stating 14:10	34:13
skill-based 37:5	spend 17:7	statute 6:12,15,17 7:17,20,21,23 8:8 37:9	Susan 23:25
sleepover 16:10	sporadically 4:3	statutes 14:11 36:15 37:8,22 38:10	system 17:22
slot 3:22,24,25 4:2,11 5:10 12:2,23 14:8, 22 20:4 22:25 37:4,9	sports 9:4	statutory 4:7,21	<hr/> T <hr/>
small 16:3 25:7	Springs 24:10,17	stay 16:7	table 3:10,12
sort 5:1,14 8:21 20:19,20 21:11 22:11, 13 26:7 35:11	staff 4:8 9:12 10:25 16:12 31:1 34:12 37:20	street 35:23	talk 31:22
space 26:9	stakeholders 24:25	struggled 9:2	talking 32:2 33:3
speak 10:3,5 30:11	start 2:5 17:20 20:19,24 22:10	subject 12:22 14:10, 22	target 35:24
speaker 38:17	started 24:24	submits 5:21	targets 34:8,15
speaking 26:9 38:18	starting 21:11 26:18	submitted 22:20	team 21:22 22:2 24:2
specific 6:13 13:10 36:15	state 7:12 9:6 10:13 12:24 17:1 20:4 23:4,11 25:1, 13 26:8,25 27:4 28:18 29:18 32:6	subpart 35:13	telephone 2:1 25:12
specifically 13:8 17:22 30:4 32:2,7 35:12,16	states 30:20 36:15	subsection 6:17	telling 7:18
specifics 17:8	statewide 13:22 15:10 19:5,14	substantial 13:7	term 6:8 25:8 30:13
spectrum 15:25 16:4		successful 21:25	terms 6:13 17:5 18:14,20 22:24 30:8
		suggest 30:24 31:12	terribly 2:19
		summarily 5:1	thick 37:24
		support 20:23 28:17	thing 19:19 25:7,25 27:16 37:19

things 7:15 17:4 22:13 31:12 36:20 38:2	trigger 27:19	Understood 20:13	volume 37:24
thought 18:17,18	triggers 15:9	unique 30:16	voting 5:3
thriving 9:5	Trombetta 3:1,2,8,16,23	United 30:20	<hr/> W <hr/>
throwing 30:13	5:13 6:5	unlike 36:15	wagering 24:5 36:18
time 2:14 4:19 8:19 17:7 26:20 35:17	10:3,4,11,14 11:5 20:8,10, 17 24:7,19 25:25 26:18 27:7,9 28:14 29:5,15,25 30:12 31:11 32:10,17	update 25:4 34:5 35:16	37:2
tip 31:21	33:8,10,21 34:7 36:1	updated 37:8	waiting 28:6
today 2:16,19 8:15 10:8 37:20 39:8	Troop 2:7	updates 20:15 22:12 33:11,22 35:16	waive 12:13
toe 31:21	trouble 23:5	USPS 12:7 13:9 14:12	waived 12:17 14:13 15:3
told 8:7	Tuesday 22:15	<hr/> v <hr/>	waiving 14:18
topic 26:2	turn 6:1	valid 18:22	walking 30:10
touch 11:21	type 13:9,10 16:20 37:2	vehicle 15:23	wanted 9:8 33:20 38:12
town 24:10,13 30:2	types 17:6	versus 30:7	warm 2:5
town's 24:23	<hr/> U <hr/>	Vice 25:24 26:12 29:8 38:15	warmer 2:13
tracking 12:8	umbrella 6:8	view 7:8	warranted 16:22
training 35:22	undergo 19:15	violation 17:9 18:9,10	watch 16:8
transition 21:21	understand 2:7	voice 22:18	watching 4:16
			ways 27:4
			website 23:14,16 24:3,4 31:3,6

week 20:25 22:15 24:23 25:2	year 4:3 8:19 18:3 33:24	
weeks 21:20	year's 6:7	
welfare 4:23 15:16,18	young 19:11	
West 3:21	younger 16:15	
White 24:10,17	<hr/> Z <hr/>	
Whitmire 23:25	Zoning 22:17	
wholeheartedly 9:2		
window 5:22		
word 26:3 27:13		
words 24:20		
work 23:9,25 32:11 36:25 37:1		
working 21:7,12,19 23:6,7 34:12		
works 30:22		
written 30:8		
<hr/> Y <hr/>		
y'all 2:13		
YAWORSKY 25:24 29:8 38:15		